

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

FORM 10-K

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

For the Fiscal Year Ended December 31, 2022
OR

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

Commission File Number 1-10485

TYLER TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation
or organization)

5101 Tennyson Parkway
Plano, Texas

(Address of principal executive offices)

75-2303920
(I.R.S. employer
identification no.)

75024
(Zip code)

Registrant's telephone number, including area code: (972) 713-3700

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

Title of each class
COMMON STOCK, \$0.01 PAR VALUE

Trading symbol
TYL

Name of each exchange
on which registered
New York Stock Exchange

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

NONE

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 15(d) of the Act. Yes No

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

Indicate by check mark if disclosure of delinquent filer pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of the Form 10-K or any amendment to the Form 10-K. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

Large accelerated filer Accelerated Filer

Non-accelerated Filer (Do not check if smaller reporting company) Smaller Reporting Company

Emerging Growth Company

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

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

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 Yes No

The aggregate market value of the voting stock held by non-affiliates of the registrant was \$13,686,594,900 based on the reported last sale price of common stock on June 30, 2022, which is the last business day of the registrant's most recently completed second fiscal quarter.

The number of shares of common stock of the registrant outstanding on February 21, 2023 was 41,819,280.

DOCUMENTS INCORPORATED BY REFERENCE

Certain information required by Part III of this annual report is incorporated by reference from the registrant's definitive proxy statement for its annual meeting of stockholders to be held on May 11, 2023.

TYLER TECHNOLOGIES, INC.
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PART I

ITEM 1. BUSINESS.

DESCRIPTION OF BUSINESS

Tyler Technologies, Inc. (“Tyler”) is a major provider of integrated information management solutions and services for the public sector. We partner with clients to make government more accessible to the public, more responsive to the needs of citizens and more efficient in its operations. We have a broad line of software solutions and services to address the information technology (“IT”) needs of major areas of operations for cities, counties, schools and other government entities. We offer clients delivery of our software applications through software as a service (“SaaS”) and on-premise solutions. In recent years, substantially all of the Tyler’s products are sold through subscriptions delivered as SaaS. We provide professional IT services to our clients, including software and hardware installation, data conversion, training and, at times, product modifications. In addition, we are the nation’s largest provider of outsourced property appraisal services for taxing jurisdictions. We also provide continuing client support services to ensure product performance and reliability, which provides us with long-term client relationships and a significant base of recurring maintenance revenue. We provide digital government services and payment solutions. In addition, we provide electronic document filing (“e-filing”) solutions, which simplify the filing and management of court documents.

MARKET OVERVIEW

The state and local government market is one of the largest and most decentralized IT markets in the country, consisting of all 50 states, approximately 3,000 counties, 36,000 cities and towns and 12,900 school districts. This market is also comprised of approximately 38,000 special districts and other agencies, each with specialized delegated responsibilities and unique information management requirements.

Traditionally, local government bodies and agencies performed state-mandated duties, including property assessment, record keeping, road maintenance, law enforcement, administration of election and judicial functions, and the provision of welfare assistance. Today, a host of emerging and urgent issues are confronting local governments, each of which demands a service response. These areas include criminal justice and corrections, administration and finance, public safety, health and human services, planning, regulatory and maintenance and records and document management. Transfers of responsibility from the federal and state governments to county and municipal governments and agencies in these and other areas also place additional service and financial requirements on these local government units. In addition, constituents of local governments are increasingly demanding improved service and better access to information from public entities. As a result, local governments recognize the increasing value of information management systems and services to, among other things, improve revenue collection, provide increased access to information, and streamline delivery of services to their constituents. Local government bodies are now recognizing that “e-government” is an additional responsibility for community development. From integrated tax systems to integrated civil and criminal justice information systems, many counties and cities have benefited significantly from the implementation of jurisdiction-wide systems that allow different agencies or government offices to share data and provide a more comprehensive approach to information management. Many city and county governmental agencies also have unique individual information management requirements, which must be tailored to the specific functions of each particular office.

Many local governments also have difficulties attracting and retaining the staff necessary to support their IT functions. As a result, they seek to establish long-term relationships with reliable providers of high quality IT products and services such as Tyler.

Although local governments often face budgetary constraints in their operations, their primary revenue sources are usually property taxes, and to a lesser extent, utility billings and other fees, which historically tend to be relatively stable. In addition, the acquisition of new technology typically enables local governments to operate more efficiently, more securely, and often provides a measurable return on investment that justifies the purchase of software and related services.

Gartner, Inc., a leading information technology research and advisory company, estimates that state and local government application and vertical specific software spending will grow from \$27.8 billion in 2023 to \$40.0 billion in 2026. The professional services and support segments of the market are expected to expand from \$33.5 billion in 2023 to \$41.9 billion in 2026. Application and vertical specific software sales in the primary and secondary education segments of the market is expected to expand from \$5.4 billion in 2023 to \$6.6 billion in 2026 while professional services and support are expected to grow from \$5.1 billion in 2023 to \$6.1 billion in 2026. For the national and international government markets, application and vertical specific software sales is expected to expand from \$42.2 billion in 2023 to \$61.5 billion in 2026 while professional services and support are expected to grow from \$65.6 billion in 2023 to \$82.1 billion in 2026.

PRODUCTS AND SERVICES

We provide a comprehensive and flexible suite of products and services that addresses the information technology needs of cities, counties, states, schools, federal agencies, and other government entities.

We design, develop, market and support a broad range of software solutions to serve mission-critical “back-office” functions of the public sector. Many of our software applications include Internet-accessible solutions that allow for real-time public access to a variety of information or that allow the public to transact business with governments online. Our software solutions and services are provided through seven business units, which focus on the following products:

- financial management, education and planning, regulatory, and maintenance software solutions;
- financial management, municipal courts, planning, regulatory, and maintenance software solutions;
- courts and justice and public safety software solutions;
- data and insights solutions;
- appraisal and tax software solutions, land and vital records management software solutions, and property appraisal services;
- development platform solutions including case management and business process management; and
- digital government and payments solutions.

Each of our core software solutions consists of several fully integrated applications. For clients who acquire software for use on premises, we generally license our solutions under standard perpetual license agreements that provide the client with a fully paid, nonexclusive, nontransferable right to use the software. In some of the product areas, such as financial management and education and property appraisal and tax, we offer multiple solutions designed to meet the needs of different sized governments.

We also offer SaaS arrangements for clients who do not wish to maintain, update and operate these systems or to make up-front capital expenditures to implement these advanced technologies. For these clients, the software and client data are hosted at our data centers or at third-party locations, and clients typically sign multi-year contracts for these subscription-based services.

A description of our suites of products and services follows:

Financial Management and Education

Our financial management and education solutions are enterprise resource planning systems for the public sector, which integrate information across all facets of a client organization. Our financial management solutions include modular fund accounting systems that can be tailored to meet the needs of virtually any government agency or not-for-profit entity. Our financial management systems include modules for general ledger, budget preparation, fixed assets, requisitions, purchase orders, bid management, accounts payable, contract management, accounts receivable, investment management, inventory control, project and grant accounting, work orders, job costing, GASB reporting, payroll and human resources. All of our financial management systems are intended to conform to government auditing and financial reporting requirements and generally accepted accounting principles.

We sell utility billing systems that support the billing and collection of metered and non-metered services, along with multiple billing cycles. Our Web-enabled utility billing solutions allow clients to access information online such as average consumption and transaction history. In addition, our systems can accept secured Internet payments via credit cards and checks.

We also offer specialized products that automate numerous city and county functions, including municipal courts, parking tickets, equipment and project costing, animal licenses, business licenses, permits and inspections, code enforcement, citizen complaint tracking, ambulance billing, fleet maintenance, and cemetery records management.

In addition to providing financial management systems to K-12 schools, we sell student information systems for K-12 schools, which manage such activities as scheduling, grades and attendance. We also offer student transportation solutions to manage school bus routing optimization, fleet management, field trips and other related functions.

Tyler’s financial management and education solutions include Web components that enhance governments’ service capabilities by facilitating online access to information for both employees and citizens and enabling online transactions.

Courts and Justice

We offer a complete, fully integrated suite of judicial solutions designed to handle complex, multi-jurisdictional county or statewide implementations as well as single county systems. Our solutions help eliminate duplicate data entry, promote more effective business procedures, and improve efficiency across the entire justice process.

Our unified court case management system is designed to automate the tracking and management of information involved in all case types, including criminal, traffic, civil, family, probate and juvenile courts. It also tracks the status of cases, processes fines and fees and generates the specialized judgment and sentencing documents, notices and forms required in the court process. Documents received by the court can be scanned into the electronic case file and easily retrieved for viewing. Documents generated by the court can be electronically signed and automatically attached to the electronic case file. Additional modules automate the management of court calendars, coordinate judges' schedules and generate court dockets. Our targeted courtroom technologies allow courts to rapidly review calendars, cases and view documents in the courtroom. Courts may also take advantage of our related jury management system. We also offer a solution for online dispute resolution that automates the flow and resolution of common and historically time-consuming disputes including debt, landlord, tenant, small claims, child custody and other case types.

Our court and law enforcement systems allow the public to access, via the Internet, a variety of information, including non-confidential criminal and civil court records, jail booking and release information, bond and bondsmen information, and court calendars and dockets. In addition, our systems allow cities and counties to accept payments for traffic and parking tickets over the Internet, with a seamless and automatic interface to back-office justice and financial systems.

Our prosecutor system enables state attorney offices to track and manage criminal cases, including detailed victim information and private case notes. Investigative reports and charging instrument documents can be generated and stored for later viewing. Prosecutors can schedule and record the outcome of grand jury hearings. When integrated with the court system, prosecutors can view the electronic case file and related documents, as well as manage witness lists and subpoenas needed for court hearings.

Our supervision system allows pre-trial and probation offices to manage offender caseloads. Supervision officers can track contact schedules, risk/needs assessments and reassessments, detailed drug test results, employment histories, compliance with conditions and payments of fees and restitution. Documents and forms, like pre-sentence investigations or revocation orders, can be generated and stored for easy viewing. When integrated with the jail and court systems, supervision officers obtain easy access and quick notification of offenders that have court hearings scheduled, are arrested locally, and have new warrants issued.

We also offer a court case management solution that automates and tracks all aspects of municipal courts and offices. It is a fully integrated, graphical application that provides effective case management, document processing and cash/bond management. This system complies with all state reporting and conviction reports and includes electronic reporting and also integrates with certain of our financial management solutions and public safety solutions.

Also our product solutions provide a suite of financial and communications applications ranging from deposit technologies for commissary, ordering, and warehouse technology to a host of informational, electronic communications, security, accounting, and financial trust management components for correctional facilities.

Public Safety

Our public safety software is a fully unified and comprehensive solution for law enforcement, fire and EMS, including 911 / computer aided dispatch ("CAD"), records management, mobile computing, corrections management, Web-based information sharing and decision support. The modules are fully integrated, utilizing a common database and providing full functionality between modules, reducing data entry. The software provides fast, efficient dispatching, and quick access to records, reports and actionable information from an agency's database.

Our 911 / CAD solutions provide real-time, critical response dispatch functions in either single- or multi-jurisdictional environments. When integrated with our records management software, a vital link exists between dispatch and the most comprehensive records database available. Within seconds, the dispatch operator and the officer in the field can access critical information, such as prior incidents and outstanding warrants, increasing officer knowledge and safety. The solutions offer strong geographic information systems integration to help dispatchers quickly locate and send the best response during an emergency. Our 911 / CAD solutions dramatically improve performance, response time and unit safety.

Our records management solutions for law enforcement and fire track statistical, operational, investigative and management data for inquiry and reporting. The systems create an efficient case processing workflow and help solve crimes with an accessible database that maintains central files on people, places, property, vehicles and criminal activity. Our public safety records management solutions enable easy access to information and simplify reporting.

Our mobile computing solutions for law enforcement and fire provide instant access to local, state, regional and federal databases via mobile devices. Officers and firefighters can experience the benefits of obtaining critical, real-time information in the field, while saving time by preparing reports directly in their vehicles.

Our jail management systems document and manage information that meets the requirements of a modern jail facility. This includes the booking and housing of persons in custody, supervising defendants on a pre-trial release, maintaining offenders sentenced to local incarceration and billing other agencies for housing inmates. Searching, reporting and tracking features are integrated, allowing reliable, up-to-date access to current arrest and incarceration data, including digital mug shots. Our systems also provide warrant checks for visitors or book-ins, inmate classification and risk assessment, commissary, property and medical processing, automation of statistics, and state and federal reporting.

Our civil processing solutions manage civil process needs from document receipt through service, payment process and final closeout. We also have a mobile electronic citation solution through which law enforcement officers can easily enter citation information in a mobile device, which is automatically uploaded into the court or public safety records management systems, rather than hand-writing citations that must be re-entered into the systems.

Property Appraisal and Tax

We provide systems and software that automate the appraisal and assessment of real and personal property, including record keeping, mass appraisal, inquiry and protest tracking, appraisal and tax roll generation, tax statement processing, and electronic state-level reporting. These systems are image and video-enabled to facilitate the storage of and access to the many property-related documents and for the online storage of digital photographs of properties for use in defending values in protest situations. Other related tax applications are available for agencies that bill and collect taxes, including cities, counties, school tax offices, and special taxing and collection agencies. These systems support billing, collections, lock box operations, mortgage company electronic payments, and various reporting requirements.

Planning, Regulatory and Maintenance

Our planning, regulatory and maintenance software solutions are designed for public sector agencies such as community development, planning, building, code enforcement, tax and revenues, public works, transportation, land control, environmental, fire safety, storm water management, regulatory controls and engineering. These solutions help public sector agencies better manage their day-to-day business functions while streamlining and automating the many aspects of their land management, permitting and planning systems. Our mobile solutions extend automation to the field and Web access brings online services to citizens 24 hours a day, 365 days a year.

Land and Vital Records Management

We also offer a number of specialized software applications designed to help local governments enhance and automate operations involving records and document management. These systems record, scan and index information for the many documents maintained by local governments, such as deeds, mortgages, liens, UCC financing statements and vital records (birth, death and marriage certificates). These applications include fully integrated imaging systems with batch and scan processing capabilities and fully integrated receipting and cashiering systems, as well as Web-enabled public access.

Our content management solutions allow state and local governments and school districts to capture, deliver, manage and archive electronic information. These solutions streamline the flow of digital information throughout the organization to increase efficiency by transforming paper forms and documents into electronic images that drive key business processes.

Data and Insights

Our data and insights solutions make existing government data discoverable, usable, and actionable for government workers and the people they serve. The data and insights solution includes a data-as-a-service platform and cloud applications for open data and citizen engagement, exclusively for city, county, state, and federal government organizations. Our data and insights solutions allow government to analyze, visualize, and securely share data across multiple departments and programs. These solutions deliver data-driven innovation and cost-savings by bringing together disparate systems and leveraging the cloud to dramatically enhance the effectiveness of government programs, to improve quality of life for residents, to positively impact local economies, and to achieve excellence in government operations.

Platform Technologies

We offer a low-code application development platform solution for case management and business process management. Whether based on premises or in the cloud, its Data-First™ approach allows the application to be implemented immediately and configured continuously, enabling clients to get to work quickly while keeping costs low. Our low code application platform allows government agencies the ability to track, collaborate, and report on the data that drives activities forward.

Digital Government Services

We deliver user-friendly digital services that make it easier and more efficient for citizens and businesses to interact with government providing valuable conveniences like applying for unemployment insurance, submitting business filings, renewing licenses, accessing information and making secure payments without visiting a government office. Our digital government services unit designs, builds, and operates digital government services on an enterprise-wide basis on behalf of state and local governments desiring to provide access to government information and to complete secure government-based transactions through multiple digital channels. These digital government services consist of websites and applications that allow consumers, such as businesses and citizens, to access government information, complete transactions and make electronic payments. We also provide payment processing services, software development and digital government services, other than those services provided under state enterprise contracts, to federal agencies as well as state and local governments.

Revenues

We derive our revenues from five primary sources:

- Subscription-based services
- Maintenance and support
- Professional services
- Software licenses and royalties
- Appraisal services

Subscription-Based Services

Subscriptions revenue primarily consists of revenues derived from our SaaS arrangements. We are able to provide the majority of our software products through our SaaS model. The clients who choose this model typically do not wish to maintain, update and operate these systems or make up-front capital expenditures to implement these advanced technologies. The contract terms for these arrangements range from one to ten years but are typically contracted for initial periods of three to five years. The majority of our SaaS or hosting arrangements include additional professional services as well as maintenance and support services. In certain arrangements, the client may also acquire a license to the software.

Other sources of subscriptions revenue are derived from transaction-based fees primarily related to digital government services, online payment solutions, which are sometimes offered with the assistance of third-party vendors, and online dispute resolution solutions. We also provide electronic document filing solutions (“e-filing”) that simplify the filing and management of court related documents for courts and law offices. E-filing revenue is derived from transaction fees and fixed fee arrangements.

Maintenance and Support

Following the implementation of our software systems, we provide ongoing software support services to assist our clients in operating the systems and to periodically update the software. Support is provided to clients over the phone or via the Web through help desks staffed by our client support representatives. For more complicated issues, our staff, with the clients' permission, can log on to clients' systems remotely. We maintain our clients' software largely through releases that contain improvements and incremental additions of features and functionality, along with updates necessary because of legislative or regulatory changes.

Virtually all of our software clients contract with us for maintenance and support, which provides us with a significant source of recurring revenue. We generally provide maintenance and support for our on-premises clients under annual, or in some cases, multi-year contracts, with a typical fee based on a percentage of the software product's license fee. These fees can generally be increased on renewal and may also increase as new license fees increase. Maintenance and support fees are generally paid annually in advance. Most maintenance contracts automatically renew unless the client or Tyler gives notice of termination prior to expiration. Similar support is provided to our SaaS clients and is included in their subscription fees, which are classified as subscription-based revenue.

Professional Services

We provide a variety of professional services to clients who utilize our software products. Virtually all of our clients contract with us for installation, training, and data conversion services in connection with their implementation of Tyler's software solutions. The complete implementation process for a typical system includes planning, design, data conversion, set-up and testing. At the culmination of the implementation process, a data implementation team is generally onsite at the client's facility or available via remote video conferencing to ensure the smooth go-live with the new system. Implementation fees are charged separately to clients on either a fixed-fee or hourly charge basis, depending on the contract.

Both in connection with the installation of new systems and on an ongoing basis, we provide extensive training services and programs related to our products and services. Training can be provided in our training centers, onsite at clients' locations, at meetings and conferences, or remotely, and can be customized to meet clients' requirements. The vast majority of our clients contract with us for training services, both to improve their employees' proficiency and productivity and to fully utilize the functionality of our systems. Training services are generally billed on an hourly or daily basis, along with travel and other expenses.

Software Licenses and Royalties

Many of our software arrangements involve "off-the-shelf" software. We recognize the revenue allocable to "off-the-shelf" software licenses and specified upgrades at a point in time when control of the software license transfers to the customer, unless the software is not considered distinct. We consider "off-the-shelf" software to be distinct when it can be added to an arrangement with minor changes in the underlying code, it can be used by the customer for the customer's purpose upon installation, and remaining services such as training are not considered highly interdependent or interrelated to the product's functionality.

For arrangements that involve significant production, modification or customization of the software, or where professional services are otherwise not considered distinct, we recognize revenue over time by measuring progress-to-completion. We measure progress-to-completion primarily using labor hours incurred as it best depicts the transfer of control to the customer which occurs as we incur costs on our contracts. These arrangements are often implemented over an extended period and occasionally require us to revise total cost estimates. Amounts recognized in revenue are calculated using the progress-to-completion measurement after giving effect to any changes in our cost estimates. Changes to total estimated contract costs, if any, are recorded in the period they are determined. Estimated losses on uncompleted contracts are recorded in the period in which we first determine that a loss is apparent.

Software license fees are billed in accordance with the contract terms. Typically, a majority of the fee is due when access to the software license is made available to the customer and the remainder of the fee due over a passage of time stipulated by the contract. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met.

We recognize royalty revenue when the sale occurs under the terms of our third-party royalty arrangements. Currently, our third-party royalties are recognized on an estimated basis and adjusted if needed, when we receive notice of amounts we are entitled to receive. We typically receive notice of royalty revenue we are entitled to and billed on a quarterly basis in the quarter immediately following the royalty reporting period and adjustments have not been significant.

Appraisal Services

We are the nation's largest provider of property appraisal outsourcing services for local government taxing authorities. These services include:

- The physical inspection of commercial and residential properties
- Data collection and processing
- Sophisticated computer analyses for property valuation
- Preparation of tax rolls
- Community education regarding the assessment process
- Arbitration between taxpayers and the assessing jurisdiction

Local government taxing authorities normally reappraise properties from time to time to update values for tax assessment purposes and to maintain equity in the taxing process. In some jurisdictions, law mandates reassessment cycles; in others, they are discretionary. While some taxing jurisdictions perform reappraisals in-house, many local governments outsource this function because of its cyclical nature and because of the specialized knowledge and expertise requirements associated with it. Our appraisal services business unit has operated in this business since 1938.

In some instances, we also provide property tax and / or appraisal software products in connection with appraisal outsourcing projects, while other clients may only engage us to provide appraisal services. Appraisal outsourcing services are somewhat seasonal in nature to the extent that winter weather conditions reduce the productivity of data collection activities in connection with those projects.

STRATEGY

Our objective is to grow our revenues and earnings organically, supplemented by focused strategic acquisitions. The key components of our business strategy are to:

- Provide high quality, value-added products and services to our clients. We compete on the basis of, among other things, delivering to clients our deep domain expertise in government operations through the highest value products and services in the market. We believe we have achieved a reputation as a premium product and service provider to the government market.

- Continue to expand our product and service offerings. While we already have what we believe to be the broadest line of software products for local governments, we continually upgrade our core software applications and expand our complementary product and service offerings to respond to technological advancements and the changing needs of our clients. We regularly add new products and services to our portfolio through internal product development as well as acquisitions. We believe that the addition of new features and applications enhances the market appeal of our core products. We have also broadened our offerings of consulting and business process reengineering services.
- Accelerate our move to the cloud. We have offered most of our core products in both an on-premises license model and a cloud-based subscription model for several years and have seen a steady increase in the percentage of new software clients choosing our cloud model in recent years. Beginning in late 2019, we moved our approach to sales from “cloud-neutral” to “cloud-first,” with an increasing preference to provide our solutions in the cloud. We are making significant investments in optimizing our products to be deployed efficiently in the public cloud and over a multi-year period are transitioning from hosting clients in Tyler’s proprietary data centers to utilizing Amazon Web Services (“AWS”) for cloud hosting.
- Expand our client base. We seek to establish long-term relationships with new clients primarily through our sales and marketing efforts. While we currently have clients in all 50 states, Canada, the Caribbean, the United Kingdom, Australia, and other international locations, some of our solutions have not fully achieved nationwide geographic penetration. We intend to continue to expand into new geographic markets by adding sales staff and targeting marketing efforts by solutions in those areas. We also intend to continue to expand our customer base to include larger jurisdictions. While our traditional market focus has primarily been on small and mid-sized governments, our increased size and market presence, together with the technological advances and improved scalability of certain of our solutions, are allowing us to achieve increasing success in selling to larger clients. We also expect to expand our presence in international markets by leveraging our leadership position in the United States through the disciplined pursuit of selected opportunities in other countries.
- Expand our existing client relationships. Our existing customer base offers significant opportunities for additional sales of solutions and services that we currently offer, but that existing clients do not fully utilize. Add-on sales to existing clients typically involve lower sales and marketing expense than sales to new clients. In particular, we believe that the acquisition of NIC in April 2021 provides us with significant opportunities to sell Tyler software products into NIC’s client base and to provide NIC’s payment services to Tyler’s client base.
- Grow recurring revenues. We have a large recurring revenue base from maintenance and support and subscription-based services, which generated revenues of \$1.5 billion, or 80% of total revenues, in 2022. We have historically experienced very low customer turnover (approximately 2% annually) and recurring revenues continue to grow as the installed customer base increases. Subscription-based revenues have been our fastest growing revenue category over the past five years, increasing from \$220.5 million in 2018 to \$1.0 billion in 2022. We monitor Annualized Recurring Revenue (“ARR”), which is calculated based on quarter-to-date end total recurring revenues multiplied by four. ARR was \$1.50 billion and \$1.39 billion as of December 31, 2022, and 2021, respectively. ARR increased 8% compared to the prior period due to an increase in subscriptions revenue resulting from an ongoing shift toward SaaS arrangements.
- Maximize economies of scale and take advantage of financial leverage in our business. We seek to build and maintain a larger client base to create economies of scale, enabling us to provide value-added products and services to our clients while expanding our operating margins. In addition, we believe that we have a marketing and administrative infrastructure in place that can be leveraged to accommodate significant long-term growth without proportionately increasing sales and marketing and general and administrative expenses.
- Attract and retain highly qualified employees. We believe that the depth and quality of our management and staff is one of our significant strengths, and that the ability to retain such employees is crucial to our continued growth and success. We believe that our stable management team, financial strength and growth opportunities, as well as our leadership position in the public sector market, enhance our attractiveness as an employer for highly skilled employees.
- Pursue strategic acquisitions. We selectively pursue strategic acquisitions that provide us with one or more of the following:
 - New products and services to complement our existing offerings
 - Entry into new markets related to the public sector
 - New clients and/or geographic expansion

- Establish strategic alliances. We have a strategic collaboration agreement with Amazon Web Services ("AWS") for cloud hosting services, which brings together Tyler, the nation's largest software company exclusively focused on the public sector, and AWS, the broadest and deepest cloud platform. Specifically, the agreement with AWS provides the framework for development, training and collaboration in order to support next-generation applications that have the scalability, resiliency, and security AWS offers. AWS is assisting us in accelerating innovation and the development of strategic initiatives. These initiatives will bring the most advanced cloud-native services to Tyler clients, improving the flow of information and providing a better experience for state, local, and federal governments.

SALES, MARKETING AND CLIENTS

We market our products and services primarily through direct sales and marketing personnel located throughout the United States. Other in-house sales staff focus on add-on sales, professional services and support. For certain products we also utilize a partner network for both sales and professional services, primarily in the state and federal markets.

Sales of new systems are typically generated from referrals from other government offices or departments within a county or municipality, referrals from other local governments, relationships established between sales representatives and county or local officials, contacts at trade shows, direct mailings, and direct contact from prospects already familiar with us. We are active in numerous national, state, county, and local government associations and participate in annual meetings, trade shows, and educational events.

Clients consist primarily of federal, state, county and municipal agencies, school districts and other local government offices. In counties, clients include the auditor, treasurer, tax assessor/collector, county clerk, district clerk, county and district court judges, probation officers, sheriff, and county appraiser. At municipal government sites, clients include directors from various departments, including administration, finance, utilities, public works, code enforcement, personnel, purchasing, taxation, municipal court and police. At the state and federal levels, clients include Chief Information Officers and agency heads. Contracts for software products and services are generally implemented over periods of three months to one year, although some complex implementations may span multiple years, with annually renewing maintenance and support update agreements thereafter. Although either the client or we can terminate these agreements, historically almost all support and maintenance agreements are automatically renewed annually. During 2022, approximately 25% of our revenue was attributable to ongoing support and maintenance agreements.

COMPETITION

We compete with numerous local, regional, and national firms that provide or offer some or many of the same solutions and services that we provide. Many of these competitors are smaller companies that may offer less expensive solutions than ours. Many of these firms operate within a specific geographic area and / or in a narrow product or service niche. We also compete with national firms, some of which have greater financial and technical resources than we do, including Oracle Corporation, Infor, SAP AG, Workday, Inc., CentralSquare Technologies, Thomson Reuters Corporation, Motorola Solutions, Inc., Axon Enterprise, Inc., and Constellation Software, Inc. In addition, we sometimes compete with consulting and systems integration firms, which develop custom systems, primarily for larger governments. We also occasionally compete with central internal information service departments of governments, which requires us to persuade the end-user department to discontinue service by its own personnel and outsource the service to us.

We compete on a variety of factors, including price, service, name recognition, reputation, technological capabilities, and the ability to modify existing products and services to accommodate the individual requirements of the client. Our ability to offer an integrated system of applications for several offices or departments is often a competitive advantage. Governmental units often are required to seek competitive proposals through a request for proposal process and some prospective clients use consultants to assist them with the proposal and vendor selection process.

SUPPLIERS

Substantially all of the computers, peripherals, printers, scanners, operating system software, office automation software, and other equipment necessary for the implementation and provision of our software systems and services are presently available from several third-party sources. Hardware is purchased on original equipment manufacturer or distributor terms at discounts from retail. We have not experienced any significant supply problems.

BACKLOG

At December 31, 2022, our revenue backlog was approximately \$1.89 billion, compared to \$1.80 billion at December 31, 2021. The backlog generally represents signed contracts under which the revenue has not been recognized. Approximately \$886 million, or 47%, of the backlog is expected to be recognized during 2023.

INTELLECTUAL PROPERTY, PROPRIETARY RIGHTS, AND LICENSES

We regard certain features of our internal operations, software, and documentation as confidential and proprietary and rely on a combination of contractual restrictions, trade secret laws and other measures to protect our proprietary intellectual property. We generally do not rely on patents. We believe that, due to the rapid rate of technological change in the computer software industry, trade secrets and copyright protection are less significant than factors such as knowledge, ability and experience of our employees, frequent product enhancements, and timeliness and quality of support services. We typically license our software products under non-exclusive license agreements, which are generally non-transferable and have a perpetual term.

HUMAN CAPITAL RESOURCES

Human Capital

Our experienced, collaborative team is one of the most significant contributors to our success in empowering the public sector to create smarter, safer, and stronger communities. Our effectiveness in attracting and developing talented team members, many of whom spend the majority of their careers at Tyler serving our public sector clients, demonstrates our commitment to providing a welcoming and safe workplace, with a culture, benefits, and opportunities for our team members to continually grow and develop their careers within Tyler.

As of December 31, 2022, we had approximately 7,200 team members. Approximately 335 of these team members are located in Canada and the Philippines; the remainder work remotely in the U.S. or are based in one of our nearly 80 U.S. offices. No Tyler employees are represented by unions. We believe our efforts in managing and supporting our workforce are effective, as evidenced by current levels of applicants, team member tenure, and high levels of engagement reported through continuous survey feedback from Tyler team members. Before we returned to office in January, the vast majority of team members worked remotely. After the return, 39% of team members became either partially or fully office based.

Our team continues to work collaboratively with and for our clients and partners across multiple work arrangements: fully office-based, fully remote and a blended approach of office-based and remote work, which we refer to as flex-work. Regardless of where team members work, we do so together to develop for, sell to, implement and support our public sector clients.

At the end of 2022, Tyler's U.S. workforce was 63% male and 37% female, and women represented 42% of Tyler's leadership. Our workforce was comprised as follows: 71% White, 7% Asian, 4% Hispanic or Latino, 5% Black or African American, and 13% Other. For our leadership, the breakdown was 93% White, 5% Asian, 2% Hispanic or Latino. We define leadership as positions which are one or two levels removed from our CEO with management responsibility. Race and gender reporting are based on information provided by team members. Voluntary workforce turnover (rolling 12-month attrition) was 10% as of December 31, 2022, a decrease from 2021 turnover of 12.5%. The average tenure of our team members continues to be approximately seven years and approximately 27% of our employees have been employed by Tyler for more than ten years. The most frequent factor cited by team members leaving Tyler in 2022 was career opportunities with compensation also cited as a factor. Job offer compensation levels for roles in the tech sector continued to increase in 2022 at levels we have not experienced in well over a decade.

Investments in Talent

We are committed to providing Tyler team members with career growth opportunities and the training and resources necessary to continually strengthen their skills. Our talent assessment and development programs provide managers and employees with the resources needed to achieve career goals, build management skills and lead their teams.

For example, in 2022:

- 974 Tyler team members participated in close to 11,000 hours of AWS cloud certification training. There were 352 AWS accreditations and 228 certifications completed, as we continue to invest in developing cloud skills across the Tyler workforce.
- Again this year, over 200 Tyler managers participated in our 9-month Tyler Manager Development program which includes more than 50 hours of interactive, experiential learning, focused on developing skills managers need to lead a high performing team, plus multiple leadership assessments, including 360-degree feedback, and a dedicated mentor to support their development. To date, 42% of our management leads have participated in the program.
- Division Presidents and Corporate Function Executives conducted annual leadership assessment and talent reviews with their HR leaders and leadership teams to plan for succession and identify development priorities within their teams.
- Our TylerU online training platform was utilized by over 8,100 team members who completed almost 35,000 hours of Tyler-sponsored AWS, management and compliance training to support continuous learning, professional training and development.

Oversight and Management

Our Human Resources team is tasked with leading and supporting our organization in managing employment-related matters, including recruiting and hiring, onboarding and training, compensation planning, talent management and development. Our executive team is responsible for periodically reviewing team member programs and initiatives, including healthcare and other benefits, as well as our management development and succession planning practices and our Diversity, Equity and Inclusion (“DEI”) efforts. Management periodically reports to the Board and its committees human capital measures and results that guide how we attract, retain and develop a workforce to enable our business strategies.

Health & Safety

We invest in the well-being of Tyler team members and their families. We provide a range of offerings in support of mental and emotional, financial, and physical health and wellness not only for our team members, but also for the family members who depend on them. The prolonged stressors of the COVID-19 pandemic continued in 2022, and we extended the new benefits introduced in 2020, including enhanced mental health and telehealth benefits and full coverage for COVID illness and vaccinations.

Diversity and Inclusion

We believe that a diverse workforce is critical to our success, and we continue to monitor and improve the application of our hiring, retention, compensation and advancement processes for women and underrepresented populations across our workforce, including our team members of color, veterans and members of our LGBTQ community. Our networks of support, made up of local diversity, equity, and inclusion committees and employee resources groups, serve to enhance our inclusive and diverse culture.

INTERNET WEBSITE AND AVAILABILITY OF PUBLIC FILINGS

We file annual, quarterly, current and other reports, proxy statements and other information with the Securities and Exchange Commission, or SEC, pursuant to the Securities Exchange Act. You may read and copy any materials we file with the SEC at the SEC’s Public Reference Room by calling the SEC at 1-800-732-0330. The SEC maintains an Internet site that contains reports, proxy and other information statements, and other information regarding issuers, including us, that file electronically with the SEC. The address of this site is <http://www.sec.gov>.

We also maintain a website at www.tylertech.com. We make available free of charge through this site our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Forms 4 and 5, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to the SEC. In addition, copies of our annual report will be made available, free of charge, upon written request.

Our “Code of Business Conduct and Ethics” is also available on our website. We intend to satisfy the disclosure requirements regarding amendments to, or waivers from, a provision of our Code of Business Conduct and Ethics by posting such information on our website.

ITEM 1A. RISK FACTORS.

An investment in our common stock involves a high degree of risk. Investors evaluating our company should carefully consider the factors described below and all other information contained in this Annual Report. Any of the following factors could materially harm our business, operating results, and financial condition. Additional factors and uncertainties not currently known to us or that we currently consider immaterial could also harm our business, operating results, and financial condition. This section should be read in conjunction with the Financial Statements and related Notes and Management’s Discussion and Analysis of Financial Condition and Results of Operations included in this Annual Report. We may make forward-looking statements from time to time, both written and oral. We undertake no obligation to revise or publicly release the results of any revisions to these forward-looking statements. Our actual results may differ materially from those projected in any such forward-looking statements due to a number of factors, including those set forth below and elsewhere in this Annual Report.

Risks Associated with Our Business, Including Our Software Products

Cyber-attacks and security vulnerabilities can disrupt our business and harm our competitive position.

Threats to IT security can take a variety of forms. Individuals and groups of hackers, and sophisticated organizations including state-sponsored organizations, may take steps that pose threats to our clients and our IT. They may, for example, develop and deploy malicious software to attack our products and services and/or gain access to our networks and data centers or act in a coordinated manner to launch distributed denial of service or other coordinated attacks. Cyber threats are constantly evolving, thereby increasing the difficulty of detecting and successfully defending against them. Cyber threats can have cascading impacts that unfold with increasing speed across our internal networks and systems and those of our partners and clients. Breaches of our network or data security could disrupt the security of our internal systems and business applications, impair our ability to provide services to our

clients and protect the privacy of their data, result in product development delays, compromise confidential or technical business information harming our competitive position, result in theft or misuse of our intellectual property or other assets, require us to allocate more resources to improve technologies, or otherwise adversely affect our business. Our business policies and internal security controls may not keep pace with these evolving threats. Despite the network and application security, internal control measures, and physical security procedures we employ to safeguard our systems, we may still be vulnerable to a security breach, intrusion, or loss or theft of confidential client data, transaction data, or proprietary company information, which may harm our business, reputation and future financial results. The lost revenue and containment, remediation, investigation, legal and other costs could be significant and may exceed our insurance policy limits or may not be covered by insurance at all. Further, we may be subject to regulatory enforcement actions and litigation that could result in financial judgments or the payment of settlement amounts and disputes with insurance carriers concerning coverage.

In September 2020, we filed a Current Report on Form 8-K reporting a security incident (the "Incident") involving ransomware disrupting access to some of our internal IT systems and telephone systems. We promptly notified our clients of the Incident and provided timely updates to our clients through direct communications and updates to our website. There is no evidence that the environments where we host client applications were affected, and our hosting services to those clients were not interrupted. There was also no evidence of malicious activity on client networks associated with the Incident. We contained the Incident and recovered from it, resuming normal operations with our clients. We deployed supplemental remediation efforts as necessary and cooperated with law enforcement's investigation.

Although we completed our investigation into the Incident and believe we contained and recovered from the Incident, we are subject to risk and uncertainties as a result of the Incident. There can be no assurance as to what the ongoing impact of the Incident will be, if any. We maintain cybersecurity insurance coverage in an amount that we believe is adequate.

Disclosure of personally identifiable information and/or other sensitive client data could result in liability and harm our reputation.

We store and process increasingly large amounts of personally identifiable information and other confidential information of our clients. The continued occurrence of high-profile data breaches provides evidence of an external environment increasingly hostile to information security. Despite our efforts to improve security controls, it is possible our security controls over personal data, our training of employees on data security, and other practices we follow may not prevent the improper disclosure of sensitive client data that we store and manage. Disclosure of personally identifiable information and/or other sensitive client data could result in liability and harm our reputation.

We depend on third parties with whom we engage or collaborate for certain projects, deliverables, and/or financial transaction processes. If these parties fail to satisfy their obligations to us or we are unable to maintain these relationships, our operating results and business prospects could be adversely affected.

To satisfy our obligations under client contracts, we often engage third parties to provide certain deliverables or fulfill certain requirements. We may also use third parties to ensure that our services and solutions integrate with the software, systems, or infrastructure requirements of other vendors and service providers. Our ability to serve our clients and deliver our solutions in a timely manner depends on our ability to retain and maintain relationships with third-party vendors and service providers and the ability of these third parties to meet their obligations in a timely manner, as well as on our effective oversight of their performance. If any third party fails to perform on a timely basis the agreed-upon services, our ability to fulfill our obligations may be jeopardized. Third-party performance deficiencies could result in breaches of our obligations with respect to, or the termination for default of, one or more of our client contracts. A breach or termination for default could expose us to liability for damages and have an adverse effect on our business prospects, results of operations, cash flows and financial condition and our ability to compete for future contracts and orders. A global economic slowdown, the COVID-19 pandemic, or similar circumstances could also adversely affect the businesses of our third-party providers, hindering their ability to provide the services on which we rely. Our agreements with third parties typically are non-exclusive and do not prohibit them from working with our competitors. If we are unsuccessful in establishing or maintaining our relationships with these third parties, our ability to compete in the marketplace or to grow our revenues could be impaired and our business, operating results or financial condition could be adversely affected.

In addition, we may act as subcontractor to a third-party prime contractor to secure new projects. Subcontracting arrangements where we are not the prime contractor pose unique risks to us because we may not have control over the customer relationship, and our ability to generate revenues under such subcontracts may depend on the prime contractor, its performance and relationship with the customer, and its relationship with us. We could suffer losses in the event a prime contract under which we serve as a subcontractor is terminated, whether for non-performance by the prime contractor or otherwise. Upon a termination of the prime contract, our subcontract would similarly terminate, and the resulting contract loss could have an adverse effect on our business prospects, results of operations, cash flows, and financial condition and our ability to compete for future contracts and orders.

We rely on third-party providers—including Amazon Web Services—for hosting services and other technology-related services needed to deliver certain of our cloud solutions. Any disruption in the services provided by such third-party providers could adversely affect our business and subject us to liability.

A material portion of our business is provided through software hosting services, which are sometimes hosted from and use computing infrastructure provided by third parties, including Amazon Web Services. These hosting services depend on the uninterrupted operation of data centers and the ability to protect computer equipment and information stored in these data centers against damage that may be caused by natural disaster, fire, power loss, telecommunications or Internet failure, acts of terrorism, unauthorized intrusion, computer viruses, and other similar damaging events. If any of our data centers were to become inoperable for an extended period, we might be unable to fulfill our contractual commitments. Although we take what we believe to be reasonable precautions against such occurrences, we can give no assurance that damaging events such as these will not result in a prolonged interruption of our services, which could result in client dissatisfaction, loss of revenues, and damage to our business.

Third-party hosting service providers have no obligation to renew their agreements with us on commercially reasonable terms or at all. If we are unable to renew these agreements on commercially reasonable terms, we may be required to transition to a new provider and we may incur significant costs and possible service interruption in connection with doing so. In addition, such service providers could decide to close their facilities or change or suspend their service offerings without adequate notice to us. Moreover, any financial difficulties, such as bankruptcy, faced by such service providers may have negative effects on our business, the nature and extent of which are difficult to predict. Because we cannot easily switch third-party hosting service providers, any disruption with respect to our current providers would impact our operations and our business could be adversely impacted. Problems faced by our hosting service providers could adversely affect the experience of our customers. For example, Amazon Web Services has experienced significant service outages in the past and may do so again in the future. In addition, the ongoing COVID-19 pandemic has disrupted and may continue to disrupt the supply chain of hardware needed to maintain these third-party systems or to run our business.

Material portions of our business require the Internet infrastructure to be reliable.

Part of our future success continues to depend on the use of the Internet as a means to access public information and perform transactions electronically, including, for example, electronic filing of court documents. This in part requires ongoing maintenance of the Internet infrastructure, especially to prevent interruptions in service, as well as additional development of that infrastructure. This requires a reliable network backbone with the necessary speed, data capacity, security, and timely development of complementary products for providing reliable Internet access and services. If this infrastructure fails to be sufficiently developed or be adequately maintained, our business would be harmed because users may not be able to access our government portals.

We employ third-party licensed software and software components for use in or with our solutions, and the inability to maintain these licenses or the presence of errors or security vulnerabilities in the software we license could limit the functionality of our products and result in increased costs or reduced service levels, which would adversely affect our business.

We incorporate and include third-party software into and with certain of our products and solutions. We also use third-party software and tools in certain areas of the development process for our solutions. We anticipate that we will continue to rely on such third-party software and development tools in the future. In addition, there can be no assurance that these third parties will continue to make their software or tools available to us on acceptable terms, or at all, not make their products available to our competitors on more favorable terms, invest the appropriate levels of resources in their products and services to maintain and enhance the capabilities of their software, or remain in business. Any impairment in our relationship with these third parties or our ability to license or otherwise use their software or tools could have a material adverse effect on our business, results of operations, cash flow, and financial condition. Although we believe that there are commercially reasonable alternatives to the third-party software and tools we currently license, this may not always be the case, or they may be difficult, time-consuming, or costly to replace. In addition, although we maintain a supplier security evaluation process, if the third-party software or tools we use has or have errors, security vulnerabilities, or otherwise malfunctions, the functionality of our solutions may be negatively impacted, our customers may experience reduced service levels, and our business may suffer.

Certain of our solutions utilize open source software, and any failure to comply with the terms of one or more of these open source licenses could adversely affect our business.

Certain of our solutions include software covered by open source licenses. The terms of various open source licenses have not been interpreted by U.S. courts, and there is a risk that such licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to market our solutions. It is possible under the terms of certain open source licenses, if we combine our proprietary software with open source software in a certain manner, that we could be required to release the source code of our proprietary software and make our proprietary software available under open source licenses. In the event that portions of our proprietary software are determined to be subject to an open source license, we could be required to publicly release the affected portions of our source code, re-engineer all or a portion of our solutions, or otherwise be limited in the licensing of our solutions, each of which could reduce or eliminate the value of our solutions. In addition to risks related to license requirements, use of open source software can lead to greater risks than use of third-party commercial software, as open source licensors generally do not provide warranties or controls on the origin of the software. Many of the risks associated with the use of open source software cannot be eliminated and could adversely affect our business.

We run the risk of errors or defects with new products or enhancements to existing products.

Our software products are complex and may contain errors or defects, especially when first introduced or when new versions or enhancements are released. Any such defects could result in a loss of revenues or delay market acceptance. Our license agreements typically contain provisions designed to limit our exposure to potential liability. However, it is possible we may not always successfully negotiate such provisions in our client contracts or the limitation of liability provisions may not be effective due to existing or future federal, state, or local laws, ordinances, or judicial decisions. Although we maintain errors and omissions and general liability insurance, and we try to structure contracts to limit liability, we cannot assure you that a successful claim could not be made or would not have a material adverse effect on our future operating results.

We must timely respond to technological changes to be competitive.

The market for our products is characterized by technological change, evolving industry standards in software technology, changes in client requirements, and frequent new product introductions and enhancements. The introduction of products embodying new technologies and the emergence of new industry standards can render existing products obsolete and unmarketable. As a result, our future success will depend, in part, upon our ability to enhance existing products and develop and introduce new products that keep pace with technological developments, satisfy increasingly sophisticated client requirements, and achieve market acceptance. We cannot assure you that we will successfully identify new product opportunities and develop and bring new products to market in a timely and cost-effective manner. The products, capabilities, or technologies developed by others could also render our products or technologies obsolete or noncompetitive. Our business may be adversely affected if we are unable to develop or acquire new software products or develop enhancements to existing products on a timely and cost-effective basis, or if such new products or enhancements do not achieve market acceptance.

We may be unable to protect our proprietary rights.

Many of our product and service offerings incorporate proprietary information, trade secrets, know-how, and other intellectual property rights. We rely on a combination of contracts, copyrights, and trade secret laws to establish and protect our proprietary rights in our technology. We cannot be certain that we have taken all appropriate steps to deter misappropriation of our intellectual property. There has also been an apparent evolution in the legal standards and regulations courts and the U.S. patent office may apply in favorably evaluating software patent rights. We are not currently involved in any material intellectual property litigation; however, we may be a party to such litigation in the future to protect our proprietary information, trade secrets, know-how, and other intellectual property rights. We cannot assure you that third parties will not assert infringement or misappropriation claims against us with respect to current or future products. Any claims or litigation, with or without merit, could be time-consuming, costly, and a diversion to management. Any such claims and litigation could also cause product shipment delays or require us to enter into royalty or licensing arrangements. Such royalty or licensing arrangements, if required, may not be available on terms acceptable to us, if at all. Therefore, litigation to defend and enforce our intellectual property rights could have a material adverse effect on our business, regardless of the final outcome of such litigation.

Clients may elect to terminate our maintenance contracts and manage operations internally.

It is possible that our clients may elect to not renew maintenance contracts for our software, trying instead to maintain and operate the software themselves using their perpetual license rights (excluding software applications that we provide on a hosted or cloud basis). Alternatively, clients may elect to drop maintenance on certain modules that they ultimately decide not to use. This could adversely affect our revenues and profits. Additionally, they may inadvertently allow our intellectual property or other information to fall into the hands of third parties, including our competitors, which could adversely affect our business.

Risks Associated with Selling Products and Services into the Public Sector Marketplace

Selling products and services into the public sector poses unique challenges.

We derive substantially all of our revenues from sales of software and services to state, county, and city governments, other federal or municipal agencies, and other public entities. We expect that sales to public sector clients will continue to account for substantially all of our revenues in the future. We face many risks and challenges associated with contracting with governmental entities, including:

- Resource limitations caused by budgetary constraints, which may provide for a termination of executed contracts due to a lack of future funding
- Long and complex sales cycles
- Contract payments at times being subject to achieving implementation milestones, and we may have differences with clients as to whether milestones have been achieved
- Political resistance to the concept of contracting with third parties to provide IT solutions
- Legislative changes affecting a local government's authority to contract with third parties
- Varying bid procedures and internal processes for bid acceptance
- Various other political factors, including changes in governmental administrations and personnel

Each of these risks is outside our control. If we fail to adequately adapt to these risks and uncertainties, our financial performance could be adversely affected.

COVID-19 may adversely affect our business and results of operations.

We expect that the continued global presence of COVID-19 may negatively impact our business and financial results in fiscal year 2023. As the virus continues to persist, increased infection rates (generally or as the result of new strains of the virus) may result in government authorities returning to stricter measures to contain the virus, including travel bans and restrictions, quarantines, and business limitations and shutdowns. While we are unable to accurately predict the full impact that COVID-19 will continue to have on our results from operations, financial condition, liquidity and cash flows due to numerous uncertainties, including the duration and severity of the pandemic and containment measures and associated compliance, the pandemic may negatively impact our revenues and other financial results.

Because an increasing portion of our revenues are recurring, the effect of COVID-19 on our results of operations may also not be fully reflected for some time. We may see some more immediate impact on our business should there be new delays in government procurement processes and uncertainty around public sector budgets, or new delays in implementations caused by travel restrictions, closed offices, or clients shifting focus to more pressing issues.

Appraisal and software implementations projects may be delayed if clients put projects on hold or slow projects by extending go-live dates. While we have the ability to deliver most of our professional services remotely, some of our professional services, including appraisal assessments, are more effective when performed on-site, and certain clients may continue to insist on on-site services in any event. In addition, our delivery of some professional services requires the availability of client personnel. There may be a negative impact on our revenues if we are unable to deliver these services. Also, we expect software licenses and subscriptions revenues to be negatively affected if there are delays in procurement processes. Some clients could request changes to payment terms, negatively impacting the timing of collections of accounts receivables in future periods. For the twelve months ended December 31, 2022, 80% of our total revenues and earnings are relatively predictable as a result of our subscription and maintenance revenue, which is recurring in nature; thus the effect of the COVID-19 pandemic may not be fully reflected in our results of operations and overall financial performance until future periods.

We have historically evaluated goodwill for impairment annually as of October 1, or more frequently if impairment indicators arose. Subsequent to our annual goodwill impairment analysis, we monitor for any events or changes in circumstances, such as significant adverse changes in business climate or operating results, changes in management's business strategy, an inability to successfully introduce new products in the marketplace, an inability to successfully achieve internal forecasts or significant declines in our stock price, which may represent an indicator of impairment. The occurrence of any of these events, which could be caused or impacted by the COVID-19 pandemic, may require us to record future goodwill impairment charges.

A prolonged economic slowdown could harm our operations.

A prolonged economic slowdown or recession could reduce demand for our software products and services. Governments may face financial pressures that could in turn affect our growth rate and profitability in the future. There is no assurance that government spending levels will be unaffected by declining or stagnant general economic conditions, and if budget shortfalls occur, they may negatively impact government IT spending and could adversely affect our business.

The open bidding process creates uncertainty in predicting future contract awards.

Many governmental agencies purchase products and services through an open bidding process. Generally, a governmental entity will publish an established list of requirements requesting potential vendors to propose solutions for the established requirements. To respond successfully to these requests for proposals, we must accurately estimate our cost structure for servicing a proposed contract, the time required to establish operations for the proposed client, and the likely terms of any other third-party proposals submitted. We cannot guarantee that we will win any bids in the future through the request for proposal process, or that any winning bids will ultimately result in contracts on favorable terms. Our failure to secure contracts through the open bidding process, or to secure such contracts on favorable terms, may adversely affect our revenues and gross margins.

We face significant competition from other vendors and potential new entrants into our markets.

We believe we are a leading provider of integrated solutions for the public sector. However, we face competition from a variety of software vendors that offer products and services similar to those offered by us, as well as from companies offering to develop custom software. We compete based on a number of factors, including:

- The attractiveness of our “evergreen” business model
- The breadth, depth, and quality of our product and service offerings
- The ability to modify our offerings to accommodate particular clients’ needs
- Technological innovation
- Name recognition, reputation and references
- Price
- Our financial strength and stability

Our market is highly fragmented with a large number of competitors that vary in size, product platform, and product scope. Our competitors include consulting firms, publicly held companies that focus on selected segments of the public sector market, and a significant number of smaller, privately held companies. Certain competitors have greater technical, marketing, and financial resources than we do. We cannot assure you that such competitors will not develop products or offer services that are superior to our products or services or that achieve greater market acceptance.

We also compete with internal, centralized IT departments of governmental entities, which requires us to persuade the end-user to stop the internal service and outsource to us. In addition, our clients and prospective clients could elect to provide information management services internally through new or existing departments, which could reduce the market for our services.

We could face additional competition as other established and emerging companies enter the public sector software market and new products and technologies are introduced. Increased competition could result in pricing pressure, fewer client orders, reduced gross margins, and loss of market share. Current and potential competitors may make strategic acquisitions or establish cooperative relationships among themselves or with third parties, thereby increasing the ability of their products to address the needs of our prospective clients. It is possible that new competitors or alliances may emerge and rapidly gain significant market share. We cannot assure you that we will be able to compete successfully against current and future competitors, and the failure to do so would have a material adverse effect upon our business.

Fixed-price contracts may affect our profits.

Some of our contracts are structured on a fixed-price basis, which can lead to various risks, including:

- The failure to accurately estimate the resources and time required for an engagement
- The failure to effectively manage our clients’ expectations regarding the scope of services delivered for a fixed fee
- The failure to timely and satisfactorily complete fixed-price engagements within budget

If we do not adequately assess and manage these and other risks, we may be subject to cost overruns and penalties, which may harm our financial performance.

Changes in the insurance markets may affect our business.

Some of our clients, primarily those for our property appraisal services, require that we secure performance bonds before they will select us as their vendor. In addition, we have in the past been required to provide letters of credit as security for the issuance of a performance bond. We cannot guarantee that we will be able to secure such performance bonds in the future on terms that are favorable to us, if at all. Our inability to obtain performance bonds on favorable terms or at all could impact our future ability to win some contract awards, particularly large property appraisal services contracts, which could negatively impact revenues. In addition, the general insurance markets may experience volatility and/or restrictive coverage trends, which may lead to future increases in our general and administrative expense and negatively impact our operating results.

Risks Related to Our Indebtedness

Servicing our indebtedness requires a significant amount of cash. We may not have sufficient cash flow from our business to pay our indebtedness, and we may not otherwise have the ability to raise the funds necessary to settle for cash conversions of the Convertible Senior Notes or to repurchase the Convertible Senior Notes upon a fundamental change, or to repay our indebtedness obligations under our 2021 Credit Agreement, each of which could adversely affect our business and results of operations.

As of December 31, 2022, we had outstanding an aggregate principal amount of \$600 million of our Convertible Senior Notes and \$395 million under our 2021 Credit Agreement. In April 2021, we entered into the 2021 Credit Agreement with significantly increased borrowing capacity of up to \$1.4 billion and on the closing of the acquisition of NIC on April 21, 2021, we borrowed initial loans in the aggregate principal amount of \$1.15 billion. The 2021 Credit Agreement also has an option to increase the amount available up to an additional \$500 million subject to our leverage and other factors. The proceeds from the issuance of our Convertible Senior Notes and from loans under the 2021 Credit Agreement were used as sources of funding for the acquisition of NIC. Our indebtedness may increase our vulnerability to any generally adverse economic and industry conditions, and we and our subsidiaries may, subject to the limitations in the terms of our existing and future indebtedness, incur additional debt, secure existing or future debt or recapitalize our debt. If we incur additional indebtedness, the risks related to our business would increase and our ability to service or repay our indebtedness may be adversely impacted.

Pursuant to their terms, holders may convert their Convertible Senior Notes at their option prior to the scheduled maturities of their Convertible Senior Notes under certain circumstances. Upon conversion of the Convertible Senior Notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be obligated to make cash payments. In addition, holders of our Convertible Senior Notes will have the right to require us to repurchase their Convertible Senior Notes upon the occurrence of a fundamental change (as defined in the Indenture, dated as of March 9, 2021, between the Company and U.S. Bank National Association, as trustee (the “Trustee”) (the “Indenture”), at a repurchase price equal to 100% of the principal amount of the Convertible Senior Notes to be repurchased, plus accrued and unpaid interest, if any. Although it is our intention, and we currently expect to have the ability, to settle the Convertible Senior Notes in cash, there is a risk that we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of Convertible Senior Notes surrendered or Convertible Senior Notes being converted. In addition, our ability to make payments may be limited by law, by regulatory authority, or by agreements governing our future indebtedness. Our failure to repurchase Convertible Senior Notes at a time when the repurchase is required by the Indenture or to pay any cash payable on future conversions of the Convertible Senior Notes as required by the Indenture would constitute a default under the Indenture. A default under the Indenture or the fundamental change itself could also lead to a default under agreements governing our other existing or future indebtedness. If the repayment of other indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the other indebtedness and repurchase the Convertible Senior Notes or make cash payments upon conversions thereof.

Our ability to make scheduled payments of the principal and interest on our indebtedness when due or to make payments upon conversion or repurchase demands with respect to our Convertible Senior Notes, or to refinance our indebtedness as we may need or desire, depends on our future performance, which is subject to economic, financial, competitive, and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to satisfy our obligations under our existing indebtedness, and any future indebtedness we may incur, and to make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as reducing or delaying investments or capital expenditures, selling assets, refinancing, or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance existing or future indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our existing or future indebtedness and have a material adverse effect on our business, results of operations, and financial condition.

Covenant restrictions under our indebtedness may limit our ability to operate our business and may adversely affect our financial condition, results of operations, and earnings per share.

The Indenture governing the Convertible Senior Notes and the 2021 Credit Agreement do, and our future indebtedness agreements may, contain covenants that may restrict our ability to finance future operations or capital needs or to engage in other business activities. Subject to customary carve-outs, thresholds and baskets, the 2021 Credit Agreement (and the Indenture by means of a cross-default) restricts, absent consent of the agent and lenders under the 2021 Credit Agreement, our ability and the ability of our restricted subsidiaries to, among other things:

- Incur additional indebtedness,
- Permit liens on our assets,
- Make certain investments, acquisitions and dispositions,
- Make certain specified fundamental changes, and
- Make certain restricted payments.

In addition, the 2021 Credit Agreement (and the Indenture by means of a cross-default) contains other customary affirmative and negative covenants, and events of default. The 2021 Credit Agreement is unsecured but requires us to maintain certain financial ratios regarding our total leverage and interest coverage and other financial conditions in addition to the restrictions described above. Events beyond our control, including changes in general economic and business conditions, may result in a breach of any of these covenants and result in a default under the 2021 Credit Agreement that may, in turn, result in a default under the Indenture. If an event of default under the 2021 Credit Agreement occurs, the lenders could terminate all commitments to lend and elect to declare all amounts outstanding thereunder, together with accrued interest, to be immediately due and payable. If we were unable to pay such amounts, the lenders could proceed against the guarantees by our direct and indirect material domestic subsidiaries. Should the lenders proceed against the guarantees, we cannot give assurance that we would have sufficient assets to pay amounts due on the 2021 Credit Agreement and the Convertible Senior Notes.

Variable rate indebtedness subjects the Company to interest rate risk, which could cause our debt service obligations to increase significantly.

Our borrowings under the 2021 Credit Agreement are, and are expected to continue to be, at variable rates of interest and expose Tyler to interest rate risk. If interest rates continue to increase, our debt service obligations on the variable rate indebtedness would increase even though the amount borrowed remained the same, and our net income would decrease. Revolving credit facility loans and Term A-1 Loans under the 2021 Credit Agreement bear interest at a per annum rate equal to, at our option, either (1) the administrative agent's prime commercial lending rate (subject to certain higher rate determinations) (the "Base Rate") plus a margin of 0.125% to 0.75% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 1.125% to 1.75%. Our Term A-2 Loans bear interest, at our option, at a per annum rate of either (1) the Base Rate plus a margin of 0% to 0.5% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 0.875% to 1.5%. The margin in each case is based upon our total net leverage ratio, as determined pursuant to the 2021 Credit Agreement. Based on the debt under the 2021 Credit Agreement, the aggregate principal outstanding balance as of December 31, 2022 is \$395.0 million, and each quarter point change in interest rates would result in a \$1.0 million change in annual interest expense.

LIBOR, the London Inter-Bank Offered Rate, is currently anticipated to be phased out in June 2023 and is expected to transition to a new standard rate, the Secured Overnight Financing Rate ("SOFR"), which will incorporate certain overnight repo market data collected from multiple data sets. In January 2023, we amended our 2021 Credit Agreement to replace the LIBOR reference rate with the SOFR reference rate. Assuming that SOFR replaces LIBOR and is appropriately adjusted to equate to one-month LIBOR, we expect that there should be minimal impact on our operations.

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

In the event the conditional conversion feature of the notes is triggered, holders of our Convertible Senior Notes will be entitled to convert the Convertible Senior Notes at any time during specified periods at their option. If one or more holders elect to convert their Convertible Senior Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Convertible Senior Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

Transactions relating to our Convertible Senior Notes may affect the value of our common stock.

Our Convertible Senior Notes may become convertible in the future at the option of their holders under certain circumstances. If holders of our Convertible Senior Notes elect to convert their notes, we may settle our conversion obligation by delivering to them a significant number of shares of our common stock, which would cause dilution to our existing shareholders.

Risks Associated with Our Periodic Results and Stock Price

Fluctuations in quarterly revenues could adversely impact our operating results and stock price.

Our revenues and operating results are difficult to predict and may fluctuate substantially from quarter to quarter for a variety of reasons, including:

- The size of license transactions can vary significantly
- Clients may unexpectedly postpone or cancel procurement processes due to changes in strategic priorities, project objectives, budget, or personnel
- Client purchasing processes vary significantly and a client's internal approval, expenditure authorization, and contract negotiation processes can be difficult and time consuming to complete, even after selection of a vendor
- The number, timing, and significance of software product enhancements and new software product announcements by us and our competitors may affect purchase decisions
- We may have to defer revenues under our revenue recognition policies and GAAP
- Clients may elect subscription-based arrangements, which result in lower software license revenues in the initial year as compared to traditional, on-premise software license arrangements, but generate higher recurring revenues over the term of the contract

In each fiscal quarter, our expense levels, operating costs, and hiring plans are based to some extent on projections of future revenues and are relatively fixed. If our actual revenues fall below expectations, we could experience a reduction in operating results. Also, if actual revenues or earnings for any given quarter fall below expectations, it may lead to a decline in our stock price.

Increases in investment in research and development could decrease overall margins.

An important element of our corporate strategy is to continue to dedicate a significant amount of resources to research and development and related product and service opportunities both through internal investments and the acquisition of intellectual property from companies that we have acquired. We believe that we must continue to dedicate a significant amount of resources to our research and development efforts to maintain our competitive position, and research and development expense could adversely affect operating margins.

Our stock price may be volatile.

The market price of our common stock may be volatile. Examples of factors that may significantly impact our stock price include:

- Actual or anticipated fluctuations in our operating results
- Announcements of technological innovations, new products, or new contracts by us or our competitors
- Developments with respect to patents, copyrights, or other proprietary rights
- Conditions and trends in the software and other technology industries
- Changes in financial estimates by securities analysts
- General market conditions and other factors

In addition, the stock market has from time to time experienced significant price and volume fluctuations that have particularly affected the market prices of technology company stocks and may in the future adversely affect the market price of our stock. Sometimes, securities class action litigation is filed following periods of volatility in the market price of a particular company's securities. We cannot assure you that similar litigation will not occur in the future with respect to us. Such litigation could result in substantial costs and a diversion of management's attention and resources, which could have a material adverse effect upon our financial performance.

Our financial outlook may not be realized.

From time to time, in press releases and otherwise, we may publish forecasts or other forward-looking statements regarding our results, including estimated revenues or earnings. Any forecast of our future performance reflects various assumptions. These assumptions are subject to significant uncertainties, and as a matter of course, any number of them may prove to be incorrect. Further, the achievement of any forecast depends on numerous risks and other factors (including those described in this discussion), many of which are beyond our control. As a result, we cannot be certain that our performance will be consistent with any management forecasts or that the variation from such forecasts will not be material and adverse. Current and potential stockholders are cautioned not to base their entire analysis of our business and prospects upon isolated predictions, but instead are encouraged to utilize our entire publicly available mix of historical and forward-looking information, as well as other available information regarding us, our products and services, and the software industry when evaluating our prospective results of operations.

Risks Associated with Our Growth Strategy and Other General Corporate Risks

We may experience difficulties in executing our acquisition strategy.

A material portion of our historical growth has resulted from strategic acquisitions. Although our focus is on organic internal growth, we will continue to identify and pursue strategic acquisitions with suitable candidates. These transactions involve significant challenges and risks, including risks that a transaction does not advance our business strategy; that we do not achieve the expected return on our investment; that we have difficulty integrating business systems and technology; that we have difficulty retaining or integrating new employees; that the transactions distract management from our other businesses; that we acquire unforeseen liabilities; and other unanticipated events. Our future success will depend, in part, on our ability to successfully integrate future acquisitions into our operations. It may take longer than expected to realize the full benefits of these transactions, such as increased revenue, enhanced efficiencies, or increased market share, or the benefits may be ultimately less than we expected. Although we conduct due diligence reviews of potential acquisition candidates, we may not identify all material liabilities or risks related to acquisition candidates. There can be no assurance that any such strategic acquisitions will be accomplished on favorable terms or will result in profitable operations.

Our failure to properly manage growth could adversely affect our business.

We continue to expand our operations by pursuing existing and potential market opportunities. This growth places significant demands on management and operational resources. In order to manage growth effectively, we must implement and improve our operational systems, procedures, and controls on a timely basis. If we fail to implement these systems, our business may be materially adversely affected.

We may be unable to hire, integrate, and retain qualified personnel.

Our continued success will depend upon the availability and performance of our key management, sales, marketing, client support, and product development personnel. The loss of key management or technical personnel could adversely affect us. We believe that our continued success will depend in large part upon our ability to attract, integrate, and retain such personnel. We have at times experienced and continue to experience challenges in recruiting qualified personnel. Competition for qualified software development, sales, and other personnel is intense, and we cannot assure you that we will be successful in attracting and retaining such personnel. In addition, competitive job markets may increase our costs relating to compensation packages due to higher salary expectations and pressures.

Compliance with changing regulation of corporate governance may result in additional expenses.

Changing laws, regulations, and standards relating to corporate governance, compliance, and public disclosure can create uncertainty for public companies. The costs required to comply with such evolving laws across the various states and at the federal level are difficult to predict and/or harmonize. To maintain high standards of corporate governance, compliance, and public disclosure, we intend to invest all reasonably necessary resources to comply with evolving standards. This investment may result in an unforeseen increase in general and administrative expense and a diversion of management's time and attention from revenue-generating activities, which may harm our operating results.

We do not foresee paying dividends on our common stock.

We have not declared nor paid a cash dividend since we entered the business of providing software solutions and services to the public sector in 1998. We intend to retain earnings for use in the operation and expansion of our business. We do not anticipate paying any cash dividends on our common stock in the foreseeable future.

Provisions in our certificate of incorporation, bylaws, and Delaware law could deter takeover attempts.

Our board of directors may issue up to 1,000,000 shares of preferred stock and may determine the price, rights, preferences, privileges, and restrictions, including voting and conversion rights, of these preferred shares. These determinations may be made without any further vote or action by our stockholders. The rights of the holders of our common stock will be subject to, and may be adversely affected by, the rights of the holders of any preferred stock that may be issued in the future. The issuance of preferred stock may make it more difficult for a third-party to acquire a majority of our outstanding voting stock. In addition, some provisions of our Certificate of Incorporation, Bylaws, and the Delaware General Corporation Law could also delay, prevent, or make more difficult a merger, tender offer, or proxy contest involving us.

ITEM 1B. UNRESOLVED STAFF COMMENTS.

Not applicable.

ITEM 2. PROPERTIES.

We occupy a total of approximately 1.3 million square feet of office space, of which approximately 746,000 square feet is in various office facilities we own. We own or lease offices for our major operations in the states of Arkansas, Arizona, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Kansas, Massachusetts, Maine, Michigan, Missouri, Montana, North Carolina, New York, Ohio, Tennessee, Texas, Virginia, Washington, Washington D.C., Wisconsin, Ontario and British Columbia, Canada and the Philippines.

ITEM 3. LEGAL PROCEEDINGS.

During the first quarter 2022, the Company received a notice of termination for convenience for professional services under a contractual arrangement with a state client. Upon receipt of the termination notice, we ceased performing services under the contractual arrangement and sought payment of contractually owed fees of approximately \$15 million in connection with the termination for convenience. As of December 31, the total exposure in our financial statements included the remaining balance of net billed accounts receivable for licenses and services rendered under the contract of approximately \$12 million.

The client was unresponsive to company outreach for several months. On August 23, 2022, the Company filed a lawsuit to enforce our rights and remedies under the applicable contractual arrangement. The client has not filed responsive pleadings and no other significant activity has occurred in the lawsuit. Although we believe our products and services were delivered in accordance with the terms of our contract and that we are entitled to payment in connection with the termination for convenience, at this time the matter remains unresolved. We are unable to estimate the probability of a favorable or unfavorable outcome with respect to the dispute or estimate the amount of potential loss, if any, related to this matter. We can provide no assurances that we will not incur additional costs as we pursue our rights and remedies under the contract.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.

Not applicable.

PART II

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

Our common stock is traded on the New York Stock Exchange under the symbol "TYL". At December 31, 2022, we had approximately 1,065 stockholders of record. Most of our stockholders hold their shares in street name; therefore, there are substantially more than 1,065 beneficial owners of our common stock.

We did not pay any cash dividends in 2022 or 2021. Our bank credit agreement contains restrictions on the payment of cash dividends. We intend to retain earnings for use in the operation and expansion of our business and do not anticipate paying a cash dividend in the foreseeable future.

The following table summarizes certain information related to our stock incentive plan, restricted stock units and our employee stock purchase plan. There are no warrants or rights related to our equity compensation plans as of December 31, 2022.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants, purchase rights and vesting of restricted stock units as of December 31, 2022	Weighted average exercise price of outstanding options and unvested restricted stock units	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in initial column as of December 31, 2022)
Equity compensation plans approved by security shareholders:			
2018 Incentive Stock Plan	2,078,261	263.59	1,254,531
Employee Stock Purchase Plan	11,092	274.05	576,343
Equity compensation plans not approved by security shareholders	—	—	—
	2,089,353	\$ 263.64	1,830,874

As of December 31, 2022, we had authorization to repurchase up to approximately 2.3 million additional shares of Tyler common stock. During 2022, we purchased no shares of our common stock.

A summary of the repurchase activity during 2022 is as follows:

Period	Total number of shares repurchased	Additional number of shares authorized that may be repurchased	Average price paid per share	Maximum number of shares that may be repurchased under current authorization
Three months ended March 31	—	—	—	2,344,200
Three months ended June 30	—	—	—	2,344,200
Three months ended September 30	—	—	—	2,344,200
October 1 through October 31	—	—	—	2,344,200
November 1 through November 30	—	—	—	2,344,200
December 1 through December 31	—	—	—	2,344,200
	—	—	—	—

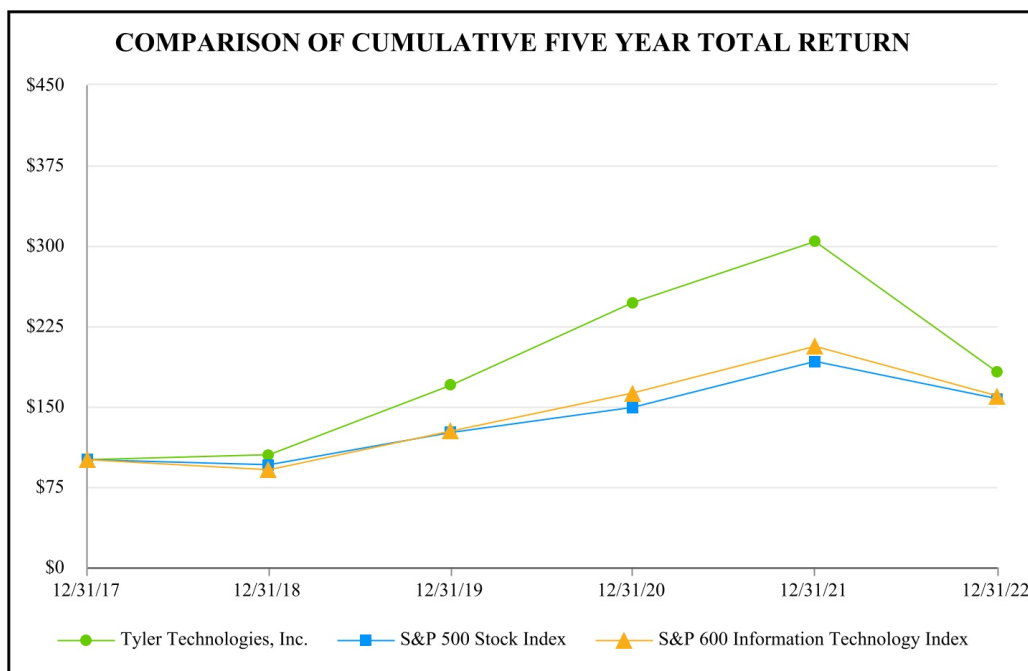
The repurchase program, which was approved by our board of directors, was announced in October 2002, and was amended at various times from 2003 through 2019. There is no expiration date specified for the authorization, and we intend to repurchase stock under the program from time to time.

As of February 22, 2023, we had remaining authorization to repurchase up to 2.3 million additional shares of our common stock.

Performance Graph

The following Performance Graph and related information shall not be deemed “soliciting material” or to be “filed” with the Securities and Exchange Commission, nor shall such information be incorporated by reference into any future filing under the Securities Act of 1933 or Securities Exchange Act of 1934, each as amended, except to the extent that we specifically incorporate it by reference into such filing.

The following table compares total shareholder returns for Tyler over the last five years to the Standard and Poor’s 500 Stock Index and the Standard and Poor’s 600 Information Technology Index assuming a \$100 investment made on December 31, 2017. Each of the three measures of cumulative total return assumes reinvestment of dividends. The stock performance shown on the graph below is not necessarily indicative of future price performance.



Company / Index	12/31/17	12/31/18	12/31/19	12/31/20	12/31/21	12/31/22
Tyler Technologies, Inc.	100	104.95	169.45	246.55	303.84	182.10
S&P 500 Stock Index	100	95.62	125.72	148.85	191.58	156.88
S&P 600 Information Technology Index	100	91.07	127.12	162.47	206.09	160.00

ITEM 6.

This section has been eliminated as a result of adopting the November 19, 2020, amendment to Item 301 of Regulation S-K.

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

The following discussion and analysis should be read in conjunction with our consolidated financial statements and related notes included in Item 8 of this Annual Report on Form 10-K. For a comparison of our Results of Operations for the years ended December 31, 2021, and 2020, and our Cash Flow discussion for the year ended December 2021, see "Part II, Item 7. Management's Discussion and Analysis of Financial Conditions and Results of Operations" of our Annual Report on Form 10-K for the year ended December 31, 2021, as filed with the SEC on February 23, 2022.

CAUTIONARY NOTE CONCERNING FORWARD-LOOKING STATEMENTS

This document contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 that are not historical in nature and typically address future or anticipated events, trends, expectations or beliefs with respect to our financial condition, results of operations or business. Forward-looking statements often contain words such as "believes," "expects," "anticipates," "foresees," "forecasts," "estimates," "plans," "intends," "continues," "may," "will," "should," "projects," "might," "could" or other similar words or phrases. Similarly, statements that describe our business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. We believe there is a reasonable basis for our forward-looking statements, but they are inherently subject to risks and uncertainties and actual results could differ materially from the expectations and beliefs reflected in the forward-looking statements. We presently consider the following to be among the important factors that could cause actual results to differ materially from our expectations and beliefs: (1) the continuing effects of the COVID-19 pandemic, including its potential effects on the economic environment, our customers and our operations, as well as any changes to federal, state or local government laws, regulations or orders in connection with the pandemic; (2) changes in the budgets or regulatory environments of our clients, primarily local and state governments, that could negatively impact information technology spending; (3) disruption to our business and harm to our competitive position resulting from cyber-attacks and security vulnerabilities; (4) our ability to protect client information from security breaches and provide uninterrupted operations of data centers; (5) our ability to achieve growth or operational synergies through the integration of acquired businesses, while avoiding unanticipated costs and disruptions to existing operations; (6) material portions of our business require the internet infrastructure to be adequately maintained; (7) our ability to achieve our financial forecasts due to various factors, including project delays by our clients, reductions in transaction size, fewer transactions, delays in delivery of new products or releases or a decline in our renewal rates for service agreements; (8) general economic, political and market conditions, including inflation and changes in interest rates; (9) technological and market risks associated with the development of new products or services or of new versions of existing or acquired products or services; (10) competition in the industry in which we conduct business and the impact of competition on pricing, client retention and pressure for new products or services; (11) the ability to attract and retain qualified personnel and dealing with the loss or retirement of key members of management or other key personnel; and (12) costs of compliance and any failure to comply with government and stock exchange regulations. A detailed discussion of these factors and other risks that affect our business are described in Item 1A, "Risk Factors". We expressly disclaim any obligation to publicly update or revise our forward-looking statements.

OVERVIEW

General

We provide integrated information management solutions and services for the public sector. We develop and market a broad line of software products and services to address the IT needs of public sector entities. We provide subscription-based services such as software as a service ("SaaS"), transaction-based fees primarily related to digital government services and online payment processing, and electronic document filing solutions ("e-filing"), which simplify the filing and management of court related documents. In addition, we provide professional IT services to our clients, including software and hardware installation, data conversion, training, and for certain clients, product modifications, along with continuing maintenance and support for clients using our systems. Additionally, we provide property appraisal outsourcing services for taxing jurisdictions.

We provide our software systems and related professional services and appraisal services through seven business units, which focus on the following products:

- financial management, education and planning, regulatory, and maintenance software solutions;
- financial management, municipal courts, planning, regulatory, and maintenance software solutions;
- courts and justice and public safety software solutions;
- data and insights solutions;
- appraisal and tax software solutions, land and vital records management software solutions, and property appraisal services;
- development platform solutions including case management and business process management; and
- digital government and payments solutions.

In accordance with ASC 280-10, *Segment Reporting*, we report our results in two reportable segments. The Enterprise Software (“ES”) reportable segment provides public sector entities with software systems and services to meet their information technology and automation needs for mission-critical “back-office” functions such as: financial management and education; planning, regulatory and maintenance; courts and justice; public safety; data and insights; appraisal and tax software solutions; land and vital records management software solutions; and property appraisal services. The Platform Technologies (“PT”) reportable segment provides public sector entities with software solutions to perform transaction processing, streamline data processing, and improve operations and workflows such as digital government and payments solutions and development platform solutions.

We evaluate performance based on several factors, of which the primary financial measure is business segment operating income. We define segment operating income for our business units as income before non-cash amortization of intangible assets associated with their acquisitions, interest expense, and income taxes. Segment operating income includes intercompany transactions. The majority of intercompany transactions relate to contracts involving more than one unit and are valued based on the contractual arrangement. Corporate segment operating loss primarily consists of compensation costs for the executive management team, certain shared services staff, and share-based compensation expense for the entire company. Corporate segment operating income also includes revenues and expenses related to a company-wide user conference.

As of January 1, 2022, the appraisal and tax software solutions, land and vital records management software solutions, and property appraisal service business unit, which was previously reported in the Appraisal & Tax (“A&T”) reportable segment, was moved to the ES reportable segment. The digital government and payments solutions, which was previously reported in the NIC reportable segment, and development platform solutions moved to the PT reportable segment to reflect changes in the way in which management makes operating decisions, allocates resources, and manages the growth and profitability of the Company. As a result of the changes in our reportable segments, the former A&T and NIC reportable segments are no longer considered separate segments. Prior period amounts for the ES and PT reportable segments have been adjusted to reflect the segment change. See Note 17, “Segment and Related Information,” in the notes to the consolidated financial statements for additional information.

Certain amounts for previous years have been reclassified to conform to the current year presentation. We have elected to present amortization of software development, previously included in the cost of revenues software licenses and royalties line item, in a separate category line item on the consolidated statements of income for all reporting periods presented. Previously disclosed as selling, general and administrative expense is now disclosed in separate line items: sales and marketing expense and general and administrative expense on the consolidated statements of income for all reporting periods presented.

Recent Acquisitions

2022

On October 31, 2022, we acquired Rapid Financial Solutions, LLC, a principal provider of reliable, scalable, and secure payments with best-in-class card issuance and digital disbursement capabilities. The total purchase price, net of cash acquired of \$2.2 million, was approximately \$67.7 million, consisting of \$51.2 million paid in cash, \$18.2 million of common stock, and \$500,000 related to working capital holdbacks, subject to certain post-closing adjustments.

On February 8, 2022, we acquired US eDirect Inc. (US eDirect), a leading provider of technology solutions for campground and outdoor recreation management. The total purchase price, net of cash acquired of \$6.4 million, was approximately \$116.5 million, consisting of \$118.8 million paid in cash and approximately \$4.1 million related to indemnity holdbacks.

2021

On September 9, 2021, we acquired all the equity interest of Ultimate Information Systems, Inc. (dba Arx). Arx is a cloud-based platform which creates accessible technology to enable a modern-day police force that is fully transparent, accountable, and a trusted resource to the community it serves. The total purchase price, net of cash acquired, was approximately \$12.8 million.

On September 1, 2021, we acquired VendEngine, Inc (VendEngine), a cloud-based software provider focused on financial technology for the corrections market. The total purchase price, net of cash acquired of \$1.7 million, was approximately \$83.6 million, consisting of \$81.6 million paid in cash, and approximately \$3.8 million related to indemnity holdbacks.

On April 21, 2021, we acquired NIC, a leading digital government solutions and payment company that primarily serves federal and state government agencies. The total purchase price, net of cash acquired of \$331.8 million, was approximately \$2.0 billion, consisting of cash paid of \$2.3 billion and \$1.9 million of purchase consideration related to the conversion of unvested restricted stock awards.

On March 31, 2021, we completed two acquisitions, Glass Arc, Inc. (dba ReadySub) and DataSpec, Inc. (DataSpec), for the combined purchase price of \$12.1 million.

2022 Operating Results

For the twelve months ended December 31, 2022, total revenues increased 16% compared to the prior period. Excluding the 2022 impact of recent acquisitions¹, total revenues increased 4% compared to prior period. Revenues from acquisitions contributed 12.4% of growth for the twelve months ended December 31, 2022.

Subscriptions revenue grew 29.0% for the twelve months ended December 31, 2022, due to an ongoing shift toward a cloud-based, software as a service business model, as well as the inclusion of transaction-based revenue from NIC's digital government and payments processing businesses. Excluding the 2022 impact of recent acquisitions¹, subscriptions revenue increased 6.3% for the twelve months ended December 31, 2022.

The majority of our revenues are comprised of revenues from subscriptions and maintenance, which we consider to be recurring revenues. Annualized recurring revenues ("ARR") is calculated based on quarter-to-date end total recurring revenues multiplied by four. ARR was \$1.50 billion and \$1.39 billion as of December 31, 2022, and 2021, respectively. ARR increased 8% compared to the prior period, due to an increase in subscriptions revenue due to an ongoing shift toward SaaS arrangements.

For the twelve months ended December 31, 2022, total revenues include COVID-related subscriptions revenue of \$10.8 million from NIC's Tour Health offering and professional services revenue of \$40.2 million from pandemic unemployment and Virginia rent relief offerings. These programs all ended in 2022 and we do not expect to generate COVID-related subscriptions revenue and professional services revenue in future periods.

We monitor and analyze several key performance indicators in order to manage our business and evaluate our financial and operating performance. These indicators include the following:

Revenues – We derive our revenues from five primary sources: subscription-based arrangements; maintenance; professional services; sale of software licenses and royalties; and appraisal services. Subscriptions and maintenance are considered recurring revenue sources and comprised approximately 80% of our revenues in 2022. The number of new SaaS clients and the number of existing clients who convert from our traditional software arrangements to our SaaS model are a significant driver of our revenue growth, together with new software license sales and maintenance rate increases. We monitor ARR which is calculated based on quarter-to-date end total recurring revenues multiplied by four. As of December 31, 2022, ARR was \$1.50 billion. In addition, we also monitor our customer base and turnover, which historically is very low. During 2022, based on our number of customers, turnover was approximately 2%.

Cost of Revenues and Gross Margins – Our primary cost component is personnel expenses in connection with providing software implementation, subscription-based services, maintenance and support, and appraisal services to our clients. We can improve gross margins by controlling headcount and related costs and by expanding our revenue base, especially from those products and services that produce incremental revenue with minimal incremental cost, such as software licenses and royalties, subscription-based services, and maintenance and support. Our appraisal projects are cyclical in nature, and we often employ appraisal personnel on a short-term basis to coincide with the life of a project. As of December 31, 2022, our total employee count included in cost of revenues increased to 5,021 from 4,746 at December 31, 2021, including 56 employees who joined us through acquisitions completed since December 31, 2021.

Sales and Marketing ("S&M") Expense – The primary components of S&M expense include sales personnel salaries and share-based compensation expense, sales commissions, travel-related expenses, advertising and marketing materials, and allocated depreciation, facilities, and IT support. Sales commissions typically fluctuate with revenues and share-based compensation expense generally increases based increased level of awards issues during the period and as the market price of our stock increases. Other administrative expenses tend to grow at a slower rate than revenues.

General and Administrative ("G&A") Expense – The primary components of G&A expense include personnel salaries and share-based compensation expense for general corporate functions, including senior management, finance, accounting, legal, human resources and corporate development, third party professional fees, travel-related expenses, insurance, allocation of depreciation, facilities and IT support costs, acquisition-related expenses and other administrative expenses. Share-based compensation expense generally increases as the market price of our stock increases. Other administrative expenses tend to grow at a slower rate than revenues.

Liquidity and Cash Flows – The primary driver of our cash flows is net income. Uses of cash include acquisitions, capital investments in property and equipment and discretionary purchases of treasury stock. Our working capital needs are fairly stable throughout the year with the significant components of cash outflows being payment of personnel expenses offset by cash inflows representing collection of accounts receivable and cash receipts from clients in advance of revenue being earned. In recent years,

¹ Excludes the 2022 incremental impact as a result of not having the recent acquisition for a full fiscal year.

we have also received significant amounts of cash from employees exercising stock options and contributing to our Employee Stock Purchase Plan.

Balance Sheet – Cash, accounts receivable and days sales outstanding and deferred revenue balances are important indicators of our business.

Outlook

The local government software market continues to be active with sales activity trending at or near pre-pandemic levels in most sectors of our business, and our backlog at December 31, 2022 reached \$1.89 billion, a 5% increase from the prior period. We expect to continue to achieve solid growth in revenues and earnings. With our strong financial position and cash flow, we plan to continue to make significant investments in product development and accelerating our move to the cloud to better position us to continue to expand our addressable market and strengthen our competitive position over the long term. The expenses associated with the cloud transition are expected to pressure operating margins in 2023 and 2024.

CRITICAL ACCOUNTING ESTIMATES

Our discussion and analysis of financial condition and results of operations is based upon our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”). The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities at the date of the financial statements, the reported amounts of revenues, cost of revenues and expenses during the reporting period, and related disclosure of contingencies. The Notes to the Financial Statements included as part of this Annual Report describe our significant accounting policies used in the preparation of the financial statements. Significant items subject to such estimates and assumptions include the application of the progress toward completion methods of revenue recognition, estimated standalone selling price (“SSP”) for distinct performance obligations, the fair value amount and estimated useful lives of intangible assets, determination of share-based compensation expense and allowance for losses and sales adjustments. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the 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. Actual results may differ from these estimates under different assumptions or conditions.

We believe the following critical accounting policies require significant judgments and estimates used in the preparation of our financial statements.

Revenue Recognition. We earn revenues from software licenses, royalties, subscription-based services, professional services, post-contract customer support (“PCS” or “maintenance”), hardware, and appraisal services. Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration we expect to receive in exchange for those products or services. We determine revenue recognition through the following steps:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, we satisfy a performance obligation

Our software arrangements with customers contain multiple performance obligations that range from software licenses and SaaS arrangements, installation, training, and consulting to software modification and customization to meet specific customer needs (services), hosting, and PCS. For these contracts, we account for individual performance obligations separately when they are distinct. We evaluate whether separate performance obligations can be distinct or should be accounted for as one performance obligation. Arrangements that include professional services, such as training or installation, are evaluated to determine whether the customer can benefit from the services either on their own or together with other resources readily available to the customer and whether the services are separately identifiable from other promises in the contract. Many of our software arrangements involve “off-the-shelf” software. We recognize the revenue allocable to “off-the-shelf” software licenses and specified upgrades at a point in time when control of the software license transfers to the customer, unless the software is not considered distinct. We consider off-the-shelf software to be distinct when it can be added to an arrangement with minor changes in the underlying code, it can be used by the customer for the customer’s purpose upon installation, and remaining services such as training are not considered highly interdependent or highly interrelated to the product’s functionality.

For arrangements that involve significant production, modification or customization of the software, or where professional services are otherwise not considered distinct, we recognize revenue over time by measuring progress-to-completion. We measure progress-to-completion primarily using labor hours incurred as it best depicts the transfer of control to the customer which occurs as we incur costs on our contracts. These arrangements are often implemented over an extended period and occasionally require us to revise total cost estimates. Amounts recognized in revenue are calculated using the progress-to-completion measurement after giving effect to any changes in our cost estimates. Changes to total estimated contract costs, if any, are recorded in the period they are determined. Estimated losses on uncompleted contracts are recorded in the period in which we first determine that a loss is apparent. When professional services are distinct, the fee allocable to the service element is recognized over the time we perform the services and is billed on a time and material or milestones basis.

Subscription-based services consist of revenues derived from SaaS arrangements, transaction and payment processing, electronic filing transactions, and digital government services. Revenue from subscription-based services is generally recognized over time on a ratable basis over the contract term, beginning on the date that our service is made available to the customer. For SaaS arrangements, we evaluate whether the customer has the contractual right to take possession of our software at any time during the hosting period without significant penalty and whether the customer can feasibly maintain the software on the customer's hardware or enter into another arrangement with a third-party to host the software. We allocate contract value to each performance obligation of the arrangement that qualifies for treatment as a distinct element based on estimated SSP. We recognize SaaS arrangements ratably over the terms of the arrangements, which range from one to ten years, but are typically for periods of three to five years. For professional services associated with certain SaaS arrangements, we have concluded that the services are not distinct, and we recognize the revenue ratably over the remaining contractual period once we have provided the customer access to the software. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met.

For transaction and payments revenue and e-filing transaction fees, we have the right to charge the customer an amount that directly corresponds with the value to the customer of our performance to date. Therefore, we recognize revenue for these services over time based on the amount billable to the customer in accordance with the 'as invoiced' practical expedient in ASC 606-10-55-18. In some cases, we are paid on a fixed fee basis and recognize the revenue ratably over the contractual period. Typically, the structure of our arrangements does not give rise to variable consideration. However, in those instances whereby variable consideration exists, we include in our estimates, additional revenue for variable consideration when we believe we have an enforceable right, the amount can be estimated reliably and its realization is probable.

The transaction price is allocated to the separate performance obligations on a relative SSP basis. We determine the SSP based on our overall pricing objectives, taking into consideration market conditions and other factors, including the value of our contracts, the applications sold, customer demographics, and the number and types of users within our contracts. We use a range of amounts to estimate SSP when we sell each of the products and services separately and need to determine whether there is a discount to be allocated based on the relative SSP of the various products and services. In instances where SSP is not directly observable, such as when we do not sell the product or service separately, we determine SSP using the expected cost-plus margin approach. Revenue is recognized net of allowances for sales adjustments and any taxes collected from customers, which are subsequently remitted to governmental authorities.

We maintain allowances for losses and sales adjustments, which losses are recorded against revenues at the time the loss is incurred. Since most of our clients are domestic governmental entities, we rarely incur a credit loss resulting from the inability of a client to make required payments. Events or changes in circumstances that indicate the carrying amount for the allowances for losses and sales adjustments may require revision, include, but are not limited to, managing our client's expectations regarding the scope of the services to be delivered and defects or errors in new versions or enhancements of our software products. Our allowance for losses and sales adjustments of \$14.8 million and \$12.1 million at December 31, 2022, and December 31, 2021, respectively, does not include provisions for credit losses. As of January 1, 2020, we adopted ASU 2016-13, *Financial Instruments - Credit Losses*, and primarily evaluated our historical experience with credit losses related to trade and other receivables. Because we rarely experience credit losses with our clients, we have not recorded a material reserve for credit losses.

In connection with certain of our contracts, we have recorded retentions receivable or unbilled receivables consisting of costs and estimated profit in excess of billings as of the balance sheet date. Many of the contracts which give rise to unbilled receivables at a given balance sheet date are subject to billings in the subsequent accounting period. We review unbilled receivables and related contract provisions to ensure we are justified in recognizing revenue prior to billing the customer and that we have objective evidence which allows us to recognize such revenue. In addition, we have a sizable amount of deferred revenue, which represents billings in excess of revenue earned. The majority of this liability consists of subscriptions and maintenance billings for which payments are made in advance and the revenue is ratably earned over the subscription or maintenance billing period, generally one year. We also have deferred revenue for those contracts in which we receive a deposit and the conditions in which to record revenue for the service or product have not been met. On a periodic basis, we review by customer the detail components of our deferred revenue to ensure our accounting remains appropriate.

Business Combinations. Accounting for the acquisition of a business requires the allocation of the purchase price to the various assets acquired and liabilities assumed at their respective fair values. The determination of fair value requires the use of significant estimates and assumptions, and in making these determinations, management uses all available information.

For tangible and identifiable intangible assets acquired in a business combination, management estimates the fair value of assets acquired and liabilities assumed based on quoted market prices, the carrying value of the acquired assets and widely accepted valuation techniques, including discounted cash flows and market multiple analyses. The assumptions made in performing these valuations include, but are not limited to, discount rates, future revenues and operating costs, projections of capital costs, and other assumptions believed to be consistent with those used by principal market participants.

Due to the specialized nature of these calculations, we engage third-party specialists to assist management in evaluating our assumptions as well as appropriately measuring the fair value of assets acquired and liabilities assumed. We adjust the preliminary purchase price allocation, as necessary, up to one year after the acquisition closing date as we obtain new information about facts and circumstances that existed as of the closing date. If actual results are materially different than the assumptions we used to determine fair value of the assets acquired and liabilities assumed through a business combination as well as the estimated useful lives of the acquired intangible assets, it is possible that adjustments to the carrying values of such assets and liabilities will have a material impact on our financial position and results of operations.

Intangible Assets and Goodwill. Our business acquisitions typically result in the creation of goodwill and other intangible asset balances, and these balances affect the amount and timing of future period amortization expense, as well as expense we could possibly incur as a result of an impairment charge. The cost of acquired companies is allocated to identifiable tangible and intangible assets based on estimated fair value, with the excess allocated to goodwill. Accordingly, we have a significant balance of acquisition date intangible assets, including software, customer related intangibles, trade name, leases and goodwill. These intangible assets (other than goodwill) are amortized over their estimated useful lives. We currently have no intangible assets with indefinite lives other than goodwill.

We assess goodwill for impairment annually, or more frequently whenever events or changes in circumstances indicate its carrying value may not be recoverable. We begin with the qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value before applying the quantitative assessment described below. When testing goodwill for impairment quantitatively, we first compare the fair value of each reporting unit with its carrying amount. If the carrying amount of reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized. The fair values calculated in our impairment tests are determined using discounted cash flow models involving several assumptions (Level 3 inputs). The assumptions that are used are based upon what we believe a hypothetical marketplace participant would use in estimating fair value. We base our fair value estimates on assumptions we believe to be reasonable but that are unpredictable and inherently uncertain. We evaluate the reasonableness of the fair value calculations of our reporting units by comparing the total of the fair value of all of our reporting units to our total market capitalization.

During the fourth quarter, as part of our annual impairment test as of October 1, we performed qualitative assessments for the reporting units containing the recently acquired data and insights, digital government and payments solutions, and development platform solutions, and concluded no impairment existed as of our annual assessment date. Approximately \$1.7 billion, or 70%, of total goodwill as of December 31, 2022, relates to these reporting units, which as a result of these recent acquisitions, do not have significant excess fair values over carrying values. We performed qualitative assessments for the remaining reporting units in which we determined that it not more likely than not that the fair value exceeded the carrying value; therefore, we did not perform a Step 1 quantitative impairment test. Our annual goodwill impairment analysis did not result in an impairment charge. During 2022, we have recorded no impairment to goodwill as no triggering events or change in circumstances indicating a potential impairment has occurred as of period-end.

Determining the fair value of our reporting units involves the use of significant estimates and assumptions and considerable management judgment. We base our fair value estimates on assumptions we believe to be reasonable at the time, but such assumptions are subject to inherent uncertainty. Changes in market conditions or other factors outside of our control, such as the COVID-19 pandemic, could cause us to change key assumptions and our judgment about a reporting unit's prospects. Similarly, in a specific period, a reporting unit could significantly underperform relative to its historical or projected future operating results. Either situation could result in a meaningfully different estimate of the fair value of our reporting units, and a consequent future impairment charge.

All intangible assets (other than goodwill) are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of other intangible assets is measured by comparison of the carrying amount to estimated undiscounted future cash flows. The assessment of recoverability or of the estimated useful life for amortization purposes will be affected if the timing or the amount of estimated future operating cash flows is not achieved. Such indicators may include, among others: a significant decline in expected future cash flows; a sustained, significant decline in stock price and market capitalization; a significant adverse change in legal factors or in the business climate; unanticipated competition; and reductions in growth rates. In addition, products, capabilities, or technologies developed by others may render our software products obsolete or non-competitive. Any adverse change in these factors could have a significant impact on the recoverability of goodwill or other intangible assets. During 2022, we did not identify any triggering events that would indicate that the carrying amount of our intangible assets may not be recoverable.

Recent adoption of new accounting pronouncements

In October 2021, the FASB issued ASU 2021-08 - *Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* (ASC 805) ("ASU 2021-08"). ASU 2021-08 requires an acquirer in a business combination to recognize and measure contract assets and contract liabilities (deferred revenue) from acquired contracts using the revenue recognition guidance in Topic 606. Under this "Topic 606 approach," the acquirer applies the revenue model as if it had originated the contracts. This is a departure from the current requirement to measure contract assets and contract liabilities at fair value. ASU 2021-08 is effective for all public business entities in annual and interim periods starting after December 15, 2022, and early adoption is permitted. An entity that early adopts should apply the amendments (1) retrospectively to all business combinations for which the acquisition date occurs on or after the beginning of the fiscal year that includes the interim period of early application and (2) prospectively to all business combinations that occur on or after the date of initial application. We early adopted as of January 1, 2022. The adoption of ASU 2021-08 resulted in no adjustments to the fair value of the deferred revenue balances assumed in our 2022 acquisitions. See Note 2, "Acquisitions," to the consolidated financial statements for further discussion.

Recent Accounting Guidance not yet Adopted

There were no new not yet adopted accounting pronouncements currently issued that would affect the Company or have a material impact on its consolidated financial position or results of operations in future periods.

ANALYSIS OF RESULTS OF OPERATIONS AND OTHER

The following discussion compares the historical results of operations on a basis consistent with GAAP for the years ended December 31, 2022, 2021 and 2020.

	Percentage of Total Revenues Years Ended December 31,		
	2022	2021	2020
Revenues:			
Subscriptions	54.7 %	49.3 %	31.4 %
Maintenance	25.3	29.8	41.9
Professional services	13.1	13.2	16.7
Software licenses and royalties	3.2	4.6	6.5
Appraisal services	1.9	1.7	1.9
Hardware and other	1.8	1.4	1.6
Total revenues	100.0	100.0	100.0
Cost of revenues:			
Subscriptions, maintenance, and professional services	51.6	50.3	45.8
Software licenses, royalties, and amortization of acquired software	3.1	3.1	3.2
Amortization of software development	0.4	0.1	—
Appraisal services	1.3	1.2	1.4
Hardware and other	1.3	0.8	1.1
Sales and marketing expense	7.3	7.4	8.8
General and administrative expense	14.4	17.1	14.4
Research and development expense	5.7	5.9	7.9
Amortization of customer and trade name intangibles	3.3	2.8	1.9
Operating income	11.6	11.3	15.5
Interest expense	(1.5)	(1.5)	(0.1)
Other income, net	0.1	0.1	0.3
Income before income taxes	10.2	9.9	15.7
Income tax provision (benefit)	1.3	(0.2)	(1.8)
Net income	8.9 %	10.1 %	17.5 %

2022 Compared to 2021

Revenues

Recent Acquisitions

On October 31, 2022, we acquired Rapid Financial Solutions, LLC (Rapid), a provider of reliable, scalable, and secure payments with best-in-class card issuance and digital disbursement capabilities. On February 8, 2022, we acquired US eDirect Inc. (US eDirect), a leading provider of technology solutions for campground and outdoor recreation management. On April 21, 2021, we acquired NIC, Inc., a leading digital government solutions and payment company that serves federal, state and local government agencies. US eDirect and Rapid are operated as a part of the digital government and payment solutions business unit (also known as the NIC division) and the results of NIC, US eDirect, and Rapid from their respective dates of acquisition, are included with the operating results of the PT segment.

The following table details revenues for the NIC division for the period from acquisition through December 31, 2022 and 2021, which are presented in our consolidated statements of income from the date of acquisition and included in the operating results of the PT reportable segment (in thousands).

	2022	2021
Revenues:		
Subscriptions	\$ 470,904	\$ 344,692
Maintenance	810	560
Professional services	50,006	23,665
Software licenses and royalties	—	—
Appraisal services	—	—
Hardware and other	—	—
Total revenues	<u>\$ 521,720</u>	<u>\$ 368,917</u>

Subscriptions.

The following table sets forth a comparison of our subscriptions revenue for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
ES	\$ 526,323	\$ 425,078	\$ 101,245	24 %
PT	485,981	359,357	126,624	35
Total subscriptions revenue	<u>\$ 1,012,304</u>	<u>\$ 784,435</u>	<u>\$ 227,869</u>	<u>29 %</u>
Less: Revenue from recent acquisitions ²	(178,363)	—	(178,363)	
Total subscriptions revenue excluding acquisitions	<u>\$ 833,941</u>	<u>\$ 784,435</u>	<u>\$ 49,506</u>	<u>6 %</u>

Subscriptions revenue consists of revenue derived from our SaaS arrangements and transaction-based fees primarily related to digital government services and payment processing. We also provide electronic document filing solutions (“e-filing”) that simplify the filing and management of court related documents for courts and law offices. E-filing revenue is derived from transaction fees and fixed fee arrangements.

Subscriptions revenue grew 29% compared to 2021, primarily due to the inclusion of transaction-based revenues from NIC including Rapid and US eDirect from the respective dates of acquisition. Excluding the incremental impact of recent acquisitions, subscriptions revenue increased 6%. New SaaS clients as well as existing clients who converted to our SaaS model provided the majority of the subscriptions revenue increase. In 2022, we added 609 new SaaS clients and 336 existing clients elected to convert to our SaaS model. Our mix of new software contracts in 2022 was approximately 23% perpetual software license arrangements and approximately 77% subscription-based arrangements compared to total new client mix in 2021 of approximately 33% perpetual software license arrangements and approximately 67% subscription-based arrangements.

Total subscriptions revenue derived from transaction-based fees was \$600.8 million and \$454.8 million for the twelve months ended December 31, 2022 and 2021, respectively. The increase of \$146.0 million or 32% is attributable to inclusion of the NIC division, including Rapid and US eDirect transaction-based revenues from the respective dates of acquisition. Transaction-based revenue from the NIC division was \$470.9 million and \$344.7 million for the twelve months ended December 31, 2022, and 2021, respectively. Excluding NIC, transaction-based fees contributed \$19.8 million to the increase in subscriptions revenue due to the increased volumes of online payments and e-filing services in 2022.

² Excludes the 2022 incremental impact as a result of not having the recent acquisition for a full fiscal year.

Maintenance.

The following table sets forth a comparison of our maintenance revenue for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
ES	\$ 444,143	\$ 439,589	\$ 4,554	1 %
PT	24,312	34,698	(10,386)	(30)
Total maintenance revenue	\$ 468,455	\$ 474,287	\$ (5,832)	(1)%
Less: Revenue from recent acquisitions ²	(689)	—	(689)	
Total maintenance revenue excluding acquisitions	\$ 467,766	\$ 474,287	\$ (6,521)	(1)%

We provide maintenance and support services for our software products and certain third-party software. Maintenance revenue decreased 1% compared to the prior period. Maintenance revenue declined mainly due to attrition related to a legacy case management solution and clients converting from on-premises license arrangements to SaaS, partially offset by annual maintenance rate increases and maintenance associated with new software license sales.

Annualized Recurring Revenues

Subscriptions and maintenance are considered recurring revenue sources. Annualized recurring revenues ("ARR") is calculated based on quarter-end total recurring revenues multiplied by four. ARR was \$1.50 billion and \$1.39 billion as of December 31, 2022, and 2021, respectively. ARR increased 8% compared to the prior period due to an increase in subscriptions revenue resulting from an ongoing shift toward SaaS arrangements.

Professional services.

The following table sets forth a comparison of our professional services revenue for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
ES	\$ 170,462	\$ 165,396	\$ 5,066	3 %
PT	72,655	43,995	28,660	65
Total professional services revenue	\$ 243,117	\$ 209,391	\$ 33,726	16 %
Less: Revenue from recent acquisitions ²	(17,073)	—	(17,073)	
Total professional services revenue excluding acquisitions	\$ 226,044	\$ 209,391	\$ 16,653	8 %

Professional services revenue primarily consists of professional services billed in connection with implementing our software, converting client data, training client personnel, custom development activities and consulting. New clients who purchase our proprietary software licenses or subscriptions generally also contract with us to provide the related professional services. Existing clients also periodically purchase additional training, consulting and minor programming services.

Professional services revenue increased 16% compared to the prior year, primarily due to the inclusion of revenues from recent acquisitions from the date of acquisition. Excluding the incremental impact of recent acquisitions, professional services revenue increased 8%. The increase in professional services revenue is primarily attributed to higher revenues generated by the continued COVID pandemic-related rent relief services and the return of billable travel revenue as onsite services have increased since 2021. The increases are partially offset by more clients selecting our cloud solutions instead of our on-premises license arrangements which typically require more professional services.

Software licenses and royalties.

The following table sets forth a comparison of our software licenses and royalties revenue for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
ES	\$ 55,158	\$ 66,816	\$ (11,658)	(17)%
PT	4,248	7,636	(3,388)	(44)
Total software licenses and royalties revenue	\$ 59,406	\$ 74,452	\$ (15,046)	(20)%
Less: Revenue from recent acquisitions ²	—	—	—	—
Total software licenses and royalties revenue excluding acquisitions	\$ 59,406	\$ 74,452	\$ (15,046)	(20)%

Software licenses and royalties revenue decreased 20% compared to the prior period. The decline is primarily attributed to the shift in the mix of new software contracts toward more subscription-based agreements compared to the prior period.

Although the mix of new contracts between subscription-based and perpetual license arrangements may vary from quarter to quarter and year to year, we expect the decline in software license revenues will accelerate as we continue to shift our model away from perpetual licenses to SaaS. Subscription-based arrangements result in lower software license revenue in the initial year as compared to perpetual software license arrangements but generate higher overall revenue over the term of the contract.

Appraisal services.

The following table sets forth a comparison of our appraisal services revenue for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
ES	\$ 34,508	\$ 27,788	\$ 6,720	24 %
PT	—	—	—	—
Total appraisal services revenue	\$ 34,508	\$ 27,788	\$ 6,720	24 %
Less: Revenue from recent acquisitions ²	—	—	—	—
Total appraisal services revenue excluding acquisitions	\$ 34,508	\$ 27,788	\$ 6,720	24 %

In 2022, appraisal services revenue grew 24% compared to the prior period primarily due to relaxed travel restrictions allowing for the ramp-up of appraisal services for several new revaluation contracts which started in recent quarters. The appraisal services business is somewhat cyclical and driven in part by statutory revaluation cycles in various states.

Cost of revenues and gross margins

The following table sets forth a comparison of the key components of our cost of revenues for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Subscriptions, maintenance, and professional services	\$ 953,897	\$ 799,158	\$ 154,739	19 %
Software licenses and royalties	6,083	3,552	2,531	71
Amortization of software development	6,507	2,325	4,182	180
Amortization of acquired software	52,192	45,601	6,591	14
Appraisal services	23,988	19,061	4,927	26
Hardware and other	23,674	12,946	10,728	83
Total cost of revenues	\$ 1,066,341	\$ 882,643	\$ 183,698	21 %

The following table sets forth a comparison of gross margin percentage by revenue type for the years ended December 31:

	2022	2021	Change
Subscriptions, maintenance, and professional services	44.7 %	45.6 %	(0.9)%
Software licenses, royalties, software development, and acquired software	(9.0)	30.9	(39.9)
Appraisal services	30.5	31.4	(0.9)
Hardware and other	27.0	41.0	(14.0)
Overall gross margin	42.4 %	44.6 %	(2.2)%

Gross margin percentage by revenue type, excluding the incremental impact of recent acquisitions ², for the years ended December 31:

	2022	2021	Change
Subscriptions, maintenance, and professional services	45.8 %	45.6 %	0.2 %
Software licenses, royalties, software development, and acquired software	7.1	30.9	(23.8)
Appraisal services	30.5	31.4	(0.9)
Hardware and other	27.9	41.0	(13.1)
Overall gross margin	43.8 %	44.6 %	(0.8)%

Subscriptions, maintenance, and professional services. Cost of subscriptions, maintenance and professional services primarily consists of personnel costs related to installation of our software, conversion of client data, training client personnel and support activities and various other services such as custom client development, on-going operation of SaaS, digital government, and other transaction-based services such as e-filing. Other costs included are interchange fees required to process credit/debit card transactions and bank fees to process automated clearinghouse transactions related to our payments business. In 2022, the subscriptions, maintenance and professional services gross margin declined 0.9% compared to the prior period primarily due to several factors, including lower maintenance revenue resulting from attrition related to a legacy case management solution; a post-COVID return of low-margin revenues such as billable travel; higher personnel costs related to inflation, as well as costs related to onboarding new professional services employees who are not yet billable; and higher hosting costs related to our accelerated shift to the cloud. Our implementation and support staff grew by 225 employees since December 31, 2021, as we increased hiring to ensure that we are well-positioned to deliver our current backlog and anticipated new business. Excluding the incremental impact from recent acquisitions of \$70 million, gross margin was 45.8% in 2022, a slight increase of 0.2% which is attributable to an increase in SaaS arrangements and the decline in low margin COVID-related transaction-based revenues compared to the prior period.

Software licenses, royalties, software development, and acquired software. Amortization expense for acquired software comprises the majority of costs of software licenses, royalties, software development, and acquired software. We do not have any direct costs associated with royalties. The gross margin for software licenses, royalties, software development, and acquired software was negative 9.0% in 2022 and 30.9% in 2021. Excluding the impact of amortization expense of acquired software, the margin was 78.8% in 2022 and 92.1% in 2021. The decline in software licenses, royalties, software development, and acquired software gross margin compared to the prior period is due to lower revenue from software licenses.

Appraisal services. Appraisal services revenue comprised approximately 1.9% of total revenues. The appraisal services gross margin decrease of 0.9% compared to 2021 is primarily due to higher personnel costs related to inflation, as well as increased low margin billable travel revenue. The appraisal services business is somewhat cyclical and driven in part by statutory revaluation cycles in various states.

Overall gross margin. Our 2022 blended gross margin decreased 2.2% compared to 2021, principally due to the inclusion of NIC's revenues (including lower margin COVID related revenues), which historically have lower margins than Tyler's software-related revenues. Excluding the incremental impact from recent acquisitions of \$60 million, overall gross margin was 43.8% in 2022. The decrease of 0.8% in overall gross margin compared to the prior period is due to lower revenue from software licenses and maintenance, higher hosting costs related to our accelerated shift to the cloud, and higher personnel costs. Excluding employees from recent acquisitions, our implementation and support, and appraisal staff grew by 219 employees since December 31, 2021, as we increased hiring to ensure that we are well-positioned to deliver our current backlog and anticipated new business.

Sales and marketing expense

Sales and Marketing expense (“S&M”) consists primarily of salaries, employee benefits, travel, share-based compensation expense, commissions and related overhead costs for sales and marketing employees, as well as professional fees, trade show activities, advertising costs and other marketing costs. The following table sets forth a comparison of our S&M expenses for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Sales and marketing expense	\$ 135,743	\$ 118,624	\$ 17,119	14 %

S&M as a percentage of revenue was 7.3% in 2022 compared to 7.4% in 2021. S&M expense increased approximately 14% compared to the prior period, primarily due to the inclusion of recent acquisitions’ S&M expense. Excluding the incremental impact of S&M expense from recent acquisitions of \$5.6 million, S&M increased 10% compared to the prior period. Higher S&M expense is due to higher bonus and commission expense relating to improved operating results, increase in road show and user conference expenses, increase in travel-related expenses, and higher sales and marketing personnel costs from increased employee headcount.

General and administrative expense

General and administrative (“G&A”) expense consists primarily of personnel salaries and share-based compensation expense for general corporate functions, including senior management, finance, accounting, legal, human resources and corporate development, third party professional fees, travel-related expenses, insurance, allocation of depreciation, facilities and IT support costs, acquisition-related expenses and other administrative expenses. The following table sets forth a comparison of our G&A expense for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
General and administrative expense	\$ 267,324	\$ 271,955	\$ (4,631)	(2)%

G&A as a percentage of revenue was 14.4% in 2022 compared to 17.1% in 2021. G&A expense decreased approximately 2% compared to the prior period. The decrease in G&A is primarily attributed to lower transaction costs related to recent acquisitions and lower share-based compensation expense. G&A includes \$2.0 million of transaction expenses related to acquisitions completed in 2022 compared to \$23.5 million of transaction expense related to acquisitions completed in 2021. During 2022, stock compensation expense declined \$5.5 million compared to 2021, generally due to a lower fair value of each share-based award resulting from the decline in our stock price. The decreases are offset by inclusion of G&A expense from acquisitions of \$21.5 million, higher bonus expense due to improved operating results, increases in amortization of software development for internal use, increases in travel-related expenses and other administrative costs, and higher personnel costs from increased employee headcount. In 2022, G&A expense also included \$2.8 million related to lease restructuring and other asset write-offs.

Research and development expense

Research and development expense consists primarily of salaries, employee benefits and related overhead costs associated with new product development. The following table sets forth a comparison of our research and development expense for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Research and development expense	\$ 105,184	\$ 93,481	\$ 11,703	13 %

Research and development expense consists mainly of costs associated with development of new products and technologies from which we do not currently generate significant revenue.

Research and development expense as a percent of total revenue was 5.7% in 2022 compared to 5.9% in 2021. Research and development expense increased 13% in 2022 compared to the prior period, mainly due to a number of new Tyler product development initiatives across our product suites, including increased investments in research and development at recently acquired businesses.

Amortization of other intangibles

Other intangibles are comprised of the excess of the purchase price over the fair value of net tangible assets acquired that are allocated to acquired software and customer related, trade name, and leases acquired intangibles. The remaining excess purchase price is allocated to goodwill that is not subject to amortization. Amortization expense related to acquired software is included with cost of revenues while amortization expense of customer and trade name intangibles is recorded as operating expense. The estimated useful lives of other intangibles range from one to 25 years. The following table sets forth a comparison of our amortization of other intangibles for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Amortization of other intangibles	\$ 61,363	\$ 44,849	\$ 16,514	37%

Amortization of other intangibles increased due to the impact of intangibles added with several acquisitions completed in 2022 and 2021.

Estimated annual amortization expense relating to customer related, trade name, and acquired lease intangibles, excluding acquired software for which the amortization expense is recorded as cost of revenues, for the next five years and thereafter is as follows (in thousands):

2023	\$ 70,233
2024	54,141
2025	53,404
2026	52,586
2027	52,143
Thereafter	524,162

Interest expense

The following table sets forth a comparison of our interest expense for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Interest expense	\$ (28,379)	\$ (23,298)	\$ (5,081)	22%

Interest expense is comprised of interest expense and non-usage and other fees associated with our borrowings. The change in interest expense compared to the prior period is attributable to an increase in amortization expense related to debt issuance costs, resulting from our accelerated repayment of the term loans, coupled with an increase in interest rates compared to the prior period.

Other income, net

The following table sets forth a comparison of our other income, net for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Other income, net	\$ 1,723	\$ 1,544	\$ 179	12%

Other income, net, is primarily comprised of interest income from invested cash. The change in other income, net, compared to the prior period is due to increased interest income generated from invested cash as a result of higher interest rates in 2022 compared to 2021.

Income tax provision

The following table sets forth a comparison of our income tax provision for the years ended December 31 (\$ in thousands):

	2022	2021	Change	
			\$	%
Income tax provision (benefit)	\$ 23,353	\$ (2,477)	\$ 25,830	(1,043)%
Effective income tax rate	12.4 %	(1.6)%		

The increase in the income tax provision and the effective income tax rate in 2022 compared to the prior period is principally driven by a decrease in excess tax benefits from share-based compensation and an increase in liabilities for uncertain tax positions, offset by an increase in research tax credit benefits. The share-based exercise and vesting activity in 2022 generated \$7.8 million of excess tax benefits, while exercise and vesting activity in 2021 generated \$47.7 million of excess tax benefits. The tax benefits related to research tax credits totaled \$31.3 million in 2022 compared to \$5.0 million in 2021, as a result of completing a multiyear research and development tax credit study during 2022.

The effective income tax rates for the periods presented were different from the statutory United States federal income tax rate of 21% primarily due to excess tax benefits from share-based compensation and the tax benefits of research tax credits, offset by an increase in liabilities for uncertain tax positions, state income taxes, and non-deductible business expenses. Excluding the impact of the excess tax benefits, uncertain tax positions and research credits, our income tax provision and effective tax rate in 2022 would have been \$54.1 million and 28.8%, respectively, and in 2021, would have been \$50.6 million and 31.8%, respectively.

FINANCIAL CONDITION AND LIQUIDITY

As of December 31, 2022, we had cash and cash equivalents of \$173.9 million compared to \$309.2 million at December 31, 2021. We also had \$55.5 million invested in investment grade corporate bonds, municipal bonds and asset-backed securities as of December 31, 2022, compared to \$98.7 million at December 31, 2021. These investments have varying maturity dates through 2027 and are held as available-for-sale. As of December 31, 2022, we had \$395.0 million outstanding borrowings under our 2021 Credit Agreement and one outstanding letter of credit totaling \$1.5 million in favor of a client contract. We believe our cash on hand, cash from operating activities, availability under our revolving line of credit, and access to the credit markets provide us with sufficient flexibility to meet our long-term financial needs.

The following table sets forth a summary of cash flows for the years ended December 31 (in thousands):

	2022	2021	2020
Cash flows provided (used) by:			
Operating activities	\$ 381,455	\$ 371,753	\$ 355,089
Investing activities	(172,530)	(2,090,935)	(98,320)
Financing activities	(344,239)	1,424,730	114,172
Net (decrease) increase in cash and cash equivalents	\$ (135,314)	\$ (294,452)	\$ 370,941

Net cash provided by operating activities continues to be our primary source of funds to finance operating needs and capital expenditures. Other potential capital resources include cash on hand, public and private issuances of debt or equity securities, and bank borrowings. It is possible that our ability to access the capital and credit markets in the future may be limited by economic conditions or other factors. We currently believe that our cash on hand, cash provided by operating activities, and available credit are sufficient to fund our working capital requirements, capital expenditures, income tax obligations, and share repurchases for at least the next twelve months.

In 2022, operating activities provided cash of \$381.5 million compared to \$371.8 million in 2021. Operating activities that provided cash were primarily comprised of net income of \$164.2 million, non-cash depreciation and amortization charges of \$159.1 million, non-cash share-based compensation expense of \$103.0 million and non-cash amortization of operating lease right-of-use assets of \$13.0 million. Working capital, excluding cash, decreased approximately \$60.6 million mainly due to timing of payments to and receipts from our government partners, timing of payments of payroll related taxes and vendor invoices, and deferred taxes associated with tax research credits and stock option activity during the period. These decreases were offset by the timing of tax payments, prepaid expenses, and increase in deferred revenue during the period. In general, changes in deferred revenue are cyclical and primarily driven by the timing of our maintenance renewal billings. Our renewal dates occur throughout the year, but our largest renewal billing cycles occur in the second and fourth quarters. Subscription renewals are billed throughout the year.

Days sales outstanding (DSO) in accounts receivable were 115 days at December 31, 2022, compared to 108 days at December 31, 2021. DSO is calculated based on quarter-end accounts receivable divided by the quotient of annualized quarterly revenues divided by 360 days. The increase in DSO compared to December 31, 2021, is attributed to slower payments from certain large clients and timing of receipts from our government partners.

Investing activities used cash of \$172.5 million in 2022 compared to \$2.1 billion in 2021. On October 31, 2022, we acquired Rapid Financial Solutions, LLC, for the total purchase price, net of cash acquired of \$2.2 million, of approximately \$67.7 million, consisting of \$51.2 million paid in cash, \$18.2 million of common stock, and \$500,000 related to working capital holdbacks, subject to certain post-closing adjustments. On May 31, 2022, we completed the acquisition of Quatred, LLC for the total cash price of approximately \$637,000. On February 8, 2022, we acquired US eDirect Inc, for the total purchase price, net of cash acquired of \$6.4 million, of approximately \$116.5 million, consisting of \$118.8 million paid in cash and approximately \$4.1 million related to indemnity holdbacks. During 2022, we also paid approximately \$1.9 million in indemnity and working capital holdbacks related to acquisitions completed in late 2021. In addition, approximately \$27.6 million of software development costs were capitalized. Approximately \$22.5 million was invested in property and equipment, including \$4.5 million related to real estate. The remaining additions were for computer equipment and furniture and fixtures in support of growth, particularly with respect to data centers supporting growth in our cloud-based offerings.

Investing activities used cash of \$2.1 billion in 2021. We invested \$77.5 million and received \$131.4 million in proceeds from investment grade corporate bonds, municipal bonds and asset-backed securities with maturity dates ranging from 2022 through 2027. On March 31, 2021, we completed two acquisitions with the total purchase price, net of cash acquired, of \$12.1 million paid in cash. On April 21, 2021, we completed the acquisition of NIC for the total purchase price of \$2.0 billion, net of cash acquired of \$331.8 million, including cash paid of \$2.3 billion and \$1.9 million of purchase consideration related to the conversion of unvested restricted stock awards. On September 1, 2021, we acquired VendEngine for the total purchase price, net of cash acquired of \$1.7 million, of approximately \$83.8 million consisting of \$80.2 million paid in cash and approximately \$5.4 million related to indemnity holdbacks, subject to certain post-closing adjustments. On September 9, 2021, we acquired all of the equity interest of Arx for the total purchase price, net of cash acquired, of approximately \$12.8 million, of which \$12.3 million was paid in cash and approximately \$500,000 was accrued for indemnity holdbacks. Approximately \$33.9 million was invested in property and equipment, including \$12.8 million related to real estate. In addition, approximately \$21.7 million of software development was capitalized in 2021. The remaining additions were for computer equipment and furniture and fixtures in support of internal growth, with the majority associated with our data centers supporting growth in our cloud-based offerings. These expenditures were funded from cash generated from operations.

Financing activities used cash of \$344.2 million in 2022 compared to cash provided of \$1.4 billion in 2021, primarily attributable to repayment of \$360.0 million of term debt, partially offset by payments received from stock option exercises, net of withheld shares for taxes upon equity award and employee stock purchase plan activity.

Financing activities provided cash of \$1.4 billion in 2021. Financing activities in 2021 were primarily comprised of proceeds from the issuance of the Convertible Senior Notes and the 2021 Credit Agreement. On March 9, 2021, we issued \$600.0 million aggregate principal amount of Convertible Senior Notes. The net proceeds from the issuance of the Convertible Senior Notes were \$591.4 million, net of initial purchasers' discounts of \$6.0 million and debt issuance costs of \$2.6 million. On April 21, 2021, in connection with the completion of the NIC acquisition, the Company, as borrower, entered into a new 2021 Credit Agreement with various lenders consisting of an unsecured revolving credit facility of up to \$500.0 million and unsecured term loans totaling \$900.0 million. The net proceeds from the borrowings under the 2021 Credit Agreement were \$1.1 billion, net of debt discounts of \$7.2 million and debt issuance costs of \$4.9 million and \$6.4 million of commitment fees paid related to the terminated \$1.6 billion unsecured bridge loan facility. During the twelve months ended December 31, 2021, we repaid \$250.0 million of the unsecured revolving credit facility and \$145.0 million of the term debt. The remainder of the financing activities was comprised of receipts of \$109.9 million from stock option exercises and employee stock purchase plan activity. We also purchased approximately 33,000 shares of our common stock for an aggregate purchase price of \$13.0 million.

In February 2019, our board of directors authorized the repurchase of an additional 1.5 million shares of our common stock. The repurchase program, which was approved by our board of directors, was originally announced in October 2002 and was amended at various times from 2003 through 2019. As of February 22, 2023, we have authorization from our board of directors to repurchase up to 2.3 million additional shares of our common stock. Our share repurchase program allows us to repurchase shares at our discretion. Market conditions influence the timing of the buybacks and the number of shares repurchased, as well as the volume of employee stock option exercises. Share repurchases are generally funded using our existing cash balances and borrowings under our credit facility and may occur through open market purchases and transactions structured through investment banking institutions, privately negotiated transactions and/or other mechanisms. There is no expiration date specified for the authorization and we intend to repurchase stock under the plan from time to time.

As of December 31, 2022, we had \$600 million in outstanding principal for the Convertible Senior Notes due 2026. Under our 2021 Credit Agreement, we had \$395 million in outstanding principal for the Term Loans, no outstanding borrowings under the 2021 Revolving Credit Facility, and an available borrowing capacity of \$500 million as of December 31, 2022. As of December 31, 2022, we had one outstanding letter of credit totaling \$1.5 million. The letter of credit, which guarantees our performance under a client contract, renews automatically annually unless canceled in writing and expires in the third quarter of 2026. For the twelve months ended December 31, 2022, we repaid \$360 million of the Term Loans under 2021 Credit Agreement.

We paid interest of \$21.3 million in 2022, \$17.7 million in 2021, including \$6.4 million related to the senior unsecured bridge loan facility commitment fee in 2021, and \$610,000 in 2020. See Note 6, “Debt,” to the consolidated financial statements for discussions of the Convertible Senior Notes and the 2021 Credit Agreement.

We paid income taxes, net of refunds received, of \$38.5 million in 2022, \$2.2 million in 2021, and \$3.3 million in 2020. In 2022, stock option exercise activity generated net tax benefits of \$7.8 million and reduced tax payments accordingly, as compared to \$47.7 million and \$60.2 million in 2021 and 2020, respectively.

For tax years beginning on or after January 1, 2022, the Tax Cuts and Jobs Act of 2017 (“TCJA”) eliminates the option to currently deduct research and development expenses and requires taxpayers to capitalize and amortize them over five years for research activities performed in the United States and 15 years for research activities performed outside the United States pursuant to IRC Section 174. Although Congress is considering legislation that would repeal or defer this capitalization and amortization requirement, it is not certain that this provision will be repealed or otherwise modified. If the requirement is not repealed or replaced, it will increase our U.S. federal and state cash tax payments and reduce cash flows in fiscal year 2023 and future years.

We anticipate that 2023 capital spending will be between \$68 million and \$70 million, including approximately \$16 million related to real estate and approximately \$37 million of software development. We expect the majority of the other capital spending will consist of computer equipment and software for infrastructure replacements and expansion. We also expect cash tax payments to be higher as a result of IRC Section 174. Capital spending and cash tax payments are expected to be funded from existing cash balances and cash flows from operations.

From time to time we engage in discussions with potential acquisition candidates. In order to pursue such opportunities, which could require significant commitments of capital, we may be required to incur debt or to issue additional potentially dilutive securities in the future. No assurance can be given as to our future acquisition opportunities and how such opportunities will be financed.

We lease office facilities for use in our operations, as well as transportation and other equipment. Most of our leases are non-cancelable operating lease agreements and they expire from one to 12 years. Some of these leases include options to extend for up to six years.

Our estimated future obligations consist of debt, uncertain tax positions, leases, and purchase commitments as of December 31, 2022. Refer to Note 6, “Debt,” Note 10, “Income Tax,” Note 14, “Leases,” and Note 16, “Commitment and Contingencies,” to the consolidated financial statements for related discussions.

CAPITALIZATION

At December 31, 2022, our capitalization consisted of \$987.4 million of outstanding debt and \$2.6 billion of shareholders’ equity.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Market risk represents the risk of loss that may affect us due to adverse changes in financial market prices and interest rates.

As of December 31, 2022, we had \$395.0 million of outstanding borrowings under our 2021 Credit Agreement and available borrowing capacity under the 2021 Credit Agreement was \$500.0 million.

Borrowings under the Revolving Credit Facility and the Term Loan A-1 bear interest, at the Company’s option, at a per annum rate of either (1) the Administrative Agent’s prime commercial lending rate (subject to certain higher rate determinations) (the “Base Rate”) plus a margin of 0.125% to 0.75% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 1.125% to 1.75%. The Term Loan A-2 bears interest, at the Company’s option, at a per annum rate of either (1) the Base Rate plus a margin of 0% to 0.5% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 0.875% to 1.5%.

During the twelve months ended December 31, 2022, the effective interest rate for our borrowings was 3.79%. Based on the aggregate outstanding principal balance under the 2021 Credit Agreement as of December 31, 2022, of \$395.0 million, each quarter point change in interest rates would result in a \$1.0 million change in annual interest expense.

In January 2023, we amended our 2021 Credit Agreement to replace the LIBOR reference rate with the SOFR reference rate. Assuming that SOFR replaces LIBOR and is appropriately adjusted to equate to one-month LIBOR, we expect that there should be minimal impact on our operations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

The reports of our independent registered public accounting firm and our financial statements, related notes, and supplementary data are included as part of this Annual Report beginning on page F-1.

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

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) of the Securities Exchange Act) designed to provide reasonable assurance that the information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. These include controls and procedures designed to ensure that this information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosures. Management, with the participation of the chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2022. Based on this evaluation, the chief executive officer and chief financial officer have concluded that our disclosure controls and procedures were effective as of December 31, 2022.

Management's Report on Internal Control Over Financial Reporting

Tyler's management is responsible for establishing and maintaining effective internal control over financial reporting as defined in Securities Exchange Act Rule 13a-15(f). Tyler's internal control over financial reporting is designed to provide reasonable assurance to Tyler's management and board of directors regarding the preparation and fair presentation of published financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Management assessed the effectiveness of Tyler's internal control over financial reporting as of December 31, 2022. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). Based on our assessment, we concluded that, as of December 31, 2022, Tyler's internal control over financial reporting was effective based on those criteria.

Tyler's internal control over financial reporting as of December 31, 2022 has been audited by Ernst & Young LLP, the independent registered public accounting firm who also audited Tyler's financial statements. Ernst & Young's attestation report on Tyler's internal control over financial reporting appears on page F-1 hereof.

Changes in Internal Control over Financial Reporting

During the quarter ended December 31, 2022, there were no changes in our internal control over financial reporting, as defined in Securities Exchange Act Rule 13a-15(f), that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION.

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS.

None.

PART III

See the information under the following captions in Tyler's definitive Proxy Statement, which is incorporated herein by reference. Only those sections of the Proxy Statement that specifically address the items set forth herein are incorporated by reference. Such incorporation by reference does not include the Compensation Discussion and Analysis, the Compensation Committee Report or the Audit Committee Report, which are included in the Proxy Statement.

	<u>Headings in Proxy Statement</u>
ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE.	"Tyler Management" and "Corporate Governance Principles and Board Matters"
ITEM 11. EXECUTIVE COMPENSATION.	"Executive Compensation"
ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.	"Security Ownership of Certain Beneficial Owners and Management"
ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.	"Executive Compensation" and "Certain Relationships and Related Transactions"
ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.	

The information required under this item may be found under the section captioned "Proposals For Consideration – Proposal Two – Ratification of Our Independent Auditors for Fiscal Year 2022" in our Proxy Statement when filed.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.

The following documents are filed as part of this Annual Report:

- (a) (1) The financial statements are filed as part of this Annual Report.

[Reports of Independent Registered Public Accounting Firm](#) (PCAOB ID: 42)

[Consolidated Statements of Income for the years ended December 31, 2022, 2021, and 2020](#)

[Consolidated Statements of Comprehensive Income for the years ended December 31, 2022, 2021, and 2020](#)

[Consolidated Balance Sheets as of December 31, 2022 and 2021](#)

[Consolidated Statements of Cash Flows for the years ended December 31, 2022, 2021, and 2020](#)

[Consolidated Statements of Shareholders' Equity for the years ended December 31, 2022, 2021, and 2020](#)

[Notes to Consolidated Financial Statements](#)

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- (2) Financial statement schedules:

There are no financial statement schedules filed as part of this Annual Report, since the required information is included in the financial statements, including the notes thereto, or the circumstances requiring inclusion of such schedules are not present.

- (3) Exhibits

Certain of the exhibits to this Annual Report are hereby incorporated by reference, as specified:

Exhibit Number	Description
3.1	Restated Certificate of Incorporation of Tyler Three, as amended through May 14, 1990, and Certificate of Designation of Series A Junior Participating Preferred Stock (filed as Exhibit 3.1 to our Form 10-Q for the quarter ended June 30, 1990, and incorporated by reference herein).
3.2	Certificate of Amendment to the Restated Certificate of Incorporation (filed as Exhibit 3.1 to our Form 8-K, dated February 19, 1998, and incorporated by reference herein).
3.3	Amended and Restated By-Laws of Tyler Technologies Inc., dated February 1, 2022 (filed as Exhibit 3.1 to our Form 8-K dated February 7, 2022, and incorporated by reference herein).
3.4	Certificate of Amendment dated May 19, 1999 to the Restated Certificate of Incorporation (filed as Exhibit 3.4 to our Form 10-K for the year ended December 31, 2000, and incorporated by reference herein).
4.1	Specimen of Common Stock Certificate (filed as Exhibit 4.1 to our registration statement no. 33-33505 and incorporated by reference herein).
4.2	Third Amendment to the Credit Agreement dated January 27, 2023, among Tyler Technologies, Inc. and Wells Fargo Bank, N. A. as Administrative Agent and other lenders party hereto (filed as Exhibit 4.2 to our Form 10-K dated February 22, 2023, and incorporated by reference herein).
4.3	Credit Agreement dated April 21, 2021, among Tyler Technologies, Inc. and Wells Fargo Bank, N. A. as Administrative Agent and other lenders party hereto (filed as Exhibit 10.1 to our Form 8-K dated April 21, 2021, and incorporated by reference herein).
4.4	Agreement and Plan of Merger, dated February 9, 2021 by and among Tyler Technologies, Inc., Topos Acquisition, Inc., and NIC, Inc. (filed as Exhibit 2.1 to our Form 8-K, dated February 10, 2021, and incorporated by reference herein).
4.5	Indenture, dated as of March 9, 2021, between Tyler Technologies, Inc. and U.S. Bank National Association, as trustee, relating to the 0.25% Convertible Senior Notes due 2026. (filed as Exhibit 4.1 to our Form 8-K, dated March 9, 2021, and incorporated by reference herein).
10.1	Employee Stock Purchase Plan (filed as Exhibit 10.1 to our registration statement 333-182318 dated June 25, 2012 and incorporated by reference herein).
10.2	Employment and Non-Competition Agreement between Tyler Technologies, Inc. and John S. Marr Jr. effective February 26, 2018 (filed as Exhibit 10.1 to our Form 8-K dated March 9, 2018 and incorporated by reference herein).

Exhibit Number	Description
<u>10.3</u>	<u>Employment and Non-Competition Agreement between Tyler Technologies, Inc. and Brian K. Miller effective February 26, 2018 (filed as Exhibit 10.3 to our Form 8-K dated March 9, 2018 and incorporated by reference herein).</u>
<u>10.4</u>	<u>Employment and Non-Competition Agreement between Tyler Technologies, Inc. and H. Lynn Moore, Jr effective February 26, 2018 (filed as Exhibit 10.2 to our Form 8-K dated March 9, 2018 and incorporated by reference herein).</u>
<u>10.5</u>	<u>Agreement and plan of merger by and among Tyler Technologies, Inc., TMP Subsidiary, Inc., MP Holding Parent, Inc. (filed as Exhibit 10.7 to our Form 10-K dated February 20, 2019 and incorporated by reference herein).</u>
<u>10.6</u>	<u>Tyler Technologies, Inc. 2018 Stock Option Plan effective as of May 9, 2018 (filed as Appendix A to the registrant's Proxy Statement filed with the Commission on March 28, 2018 and incorporated by reference herein).</u>
<u>*21.1</u>	<u>Subsidiaries of Tyler Technologies, Inc.</u>
<u>*23</u>	<u>Consent of Independent Registered Public Accounting Firm.</u>
<u>*31.1</u>	<u>Rule 13a-14(a) Certification by Principal Executive Officer.(a) Certification by Principal Executive Officer.</u>
<u>*31.2</u>	<u>Rule 13a-14(a) Certification by Principal Financial Officer.</u>
<u>*32.1</u>	<u>Section 1350 Certification of Principal Executive Officer and Principal Financial Officer.</u>
*101.INS	Inline XBRL Instance Document - the Instance Document does not appear in the interactive data file because its XBRL tags, including Cover Page XBRL tags, are embedded within the Inline XBRL Document.
*101.SCH	Inline XBRL Taxonomy Extension Schema Document.
*101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
*101.LAB	Inline XBRL Extension Labels Linkbase Document.
*101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
*101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

* — Filed herewith.

A copy of each exhibit may be obtained at a price of 15 cents per page, with a \$10.00 minimum order, by writing Investor Relations, 5101 Tennyson Parkway, Plano, Texas 75024.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: February 22, 2023

TYLER TECHNOLOGIES, INC.

By: /s/ H. Lynn Moore, Jr.
H. Lynn Moore, Jr.
President and Chief Executive Officer
(principal executive officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, the following persons on behalf of the registrant and in the capacities and on the dates indicated have signed this report below.

Date: February 22, 2023

By: /s/ John S. Marr, Jr.
John S. Marr, Jr.
Executive Chairman of the Board
Director

Date: February 22, 2023

By: /s/ H. Lynn Moore, Jr.
H. Lynn Moore, Jr.
President and Chief Executive Officer
(principal executive officer)

Date: February 22, 2023

By: /s/ Brian K. Miller
Brian K. Miller
Executive Vice President and Chief Financial Officer
(principal financial officer)

Date: February 22, 2023

By: /s/ Jason P. Durham
Jason P. Durham
Chief Accounting Officer
(principal accounting officer)

Date: February 22, 2023

By: /s/ Glenn A. Carter
Glenn A. Carter
Director

Date: February 22, 2023

By: /s/ Brenda A. Cline
Brenda A. Cline
Director

Date: February 22, 2023

By: /s/ Ronnie D. Hawkins, Jr.
Ronnie D. Hawkins, Jr.
Director

Date: February 22, 2023

By: /s/ Mary Landrieu
Mary Landrieu
Director

Date: February 22, 2023

By: /s/ Daniel M. Pope
Daniel M. Pope
Director

Date: February 22, 2023

By: /s/ Dustin R. Womble
Dustin R. Womble
Director

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Tyler Technologies, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Tyler Technologies, Inc. (the Company) as of December 31, 2022 and 2021, the related consolidated statements of income, comprehensive income, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2022, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2022, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 22, 2023, expressed an unqualified opinion thereon.

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 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. 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 matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosure to which it relates.

*Description of
the Matter*

Goodwill impairment tests

As of December 31, 2022, the Company's goodwill balance of \$2.5 billion was attributable to multiple reporting units. As disclosed in Note 1 to the consolidated financial statements, goodwill is assessed for impairment annually, or more frequently whenever events or changes in circumstances indicate its carrying value may not be recoverable. The Company begins with a qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value before applying a quantitative assessment. During the fourth quarter of 2022, the Company performed a quantitative assessment for goodwill associated with reporting units comprised of more recently acquired businesses, which do not have significant excess fair values over carrying values.

Auditing management's quantitative analyses for goodwill impairment was complex and highly judgmental due to the significant judgement required to determine the fair value of these reporting units. In particular, the Company's fair value estimates for these reporting units were sensitive to significant assumptions, such as weighted average cost of capital and revenue growth rates which are forward looking and affected by expectations about future market or economic conditions.

*How We Addressed the
Matter in Our Audit*

We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls over the Company's review process for quantitative goodwill impairment assessments, including controls over management's review of the significant assumptions described above.

To test the estimated fair value of the applicable reporting units, we performed audit procedures that included, among others, assessing the methodologies and testing the significant assumptions discussed above and the underlying data used by the Company in its analyses. We evaluated management's forecasted revenue to identify, understand and evaluate changes as compared to historical results 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 the assumptions. We also involved internal valuation specialists to assist in evaluating management's methodologies and significant assumptions applied in developing the fair value estimates.

/s/ ERNST & YOUNG LLP

We have served as the Company's auditor since 1966.

Dallas, Texas

February 22, 2023

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Tyler Technologies, Inc.

Opinion on Internal Control over Financial Reporting

We have audited Tyler Technologies, Inc.'s internal control over financial reporting as of December 31, 2022, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Tyler Technologies, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2022 and 2021, the related consolidated statements of comprehensive income, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2022, and the related notes and our report dated February 22, 2023 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the 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 audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting 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 generally accepted accounting principles, 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.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ ERNST & YOUNG LLP

Dallas, Texas

February 22, 2023

Tyler Technologies, Inc.
Consolidated Statements of Income
For the years ended December 31,
(In thousands, except per share amounts)

	2022	2021	2020
Revenues:			
Subscriptions	\$ 1,012,304	\$ 784,435	\$ 350,648
Maintenance	468,455	474,287	467,513
Professional services	243,117	209,391	186,409
Software licenses and royalties	59,406	74,452	73,164
Appraisal services	34,508	27,788	21,127
Hardware and other	32,414	21,934	17,802
Total revenues	<u>1,850,204</u>	<u>1,592,287</u>	<u>1,116,663</u>
Cost of revenues:			
Subscriptions, maintenance and professional services	953,897	799,158	510,504
Software licenses and royalties	6,083	3,552	3,339
Amortization of software development	6,507	2,325	—
Amortization of acquired software	52,192	45,601	31,962
Appraisal services	23,988	19,061	15,945
Hardware and other	23,674	12,946	12,401
Total cost of revenues	<u>1,066,341</u>	<u>882,643</u>	<u>574,151</u>
Gross profit	783,863	709,644	542,512
Sales and marketing expense	135,743	118,624	98,466
General and administrative expense	267,324	271,955	161,095
Research and development expense	105,184	93,481	88,363
Amortization of other intangibles	61,363	44,849	21,662
Operating income	214,249	180,735	172,926
Interest expense	(28,379)	(23,298)	(1,013)
Other income, net	1,723	1,544	3,129
Income before income taxes	187,593	158,981	175,042
Income tax provision (benefit)	23,353	(2,477)	(19,778)
Net income	<u>\$ 164,240</u>	<u>\$ 161,458</u>	<u>\$ 194,820</u>
Earnings per common share:			
Basic	<u>\$ 3.95</u>	<u>\$ 3.95</u>	<u>\$ 4.87</u>
Diluted	<u>\$ 3.87</u>	<u>\$ 3.82</u>	<u>\$ 4.69</u>

See accompanying notes.

Tyler Technologies, Inc.
Consolidated Statements of Comprehensive Income
For the years ended December 31,
(In thousands)

	2022	2021	2020
Net income	\$ 164,240	\$ 161,458	\$ 194,820
Other comprehensive loss, net of tax:			
Securities available-for-sale and transferred securities:			
Change in net unrealized holding losses on available for sale securities during the period	(850)	—	—
Reclassification adjustment of unrealized losses on securities transferred from held-to-maturity	(27)	—	—
Reclassification adjustment for net loss on sale of available for sale securities, included in net income	79	—	—
Other comprehensive loss, net of tax	(798)	—	—
Comprehensive income	<u>\$ 163,442</u>	<u>\$ 161,458</u>	<u>\$ 194,820</u>

See accompanying notes.

Tyler Technologies, Inc.
Consolidated Balance Sheets
(In thousands, except par value and share amounts)

	December 31, 2022	December 31, 2021
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 173,857	\$ 309,171
Accounts receivable (less allowance for losses and sales adjustments of \$14,761 in 2022 and \$12,086 in 2021)	577,257	521,059
Short-term investments	37,030	52,300
Prepaid expenses	50,859	55,513
Income tax receivable	—	18,137
Other current assets	8,239	8,151
Total current assets	847,242	964,331
Accounts receivable, long-term	8,271	13,937
Operating lease right-of-use assets	50,989	39,720
Property and equipment, net	172,786	181,193
Other assets:		
Software development costs, net	48,189	28,489
Goodwill	2,489,308	2,359,674
Other intangibles, net	1,002,164	1,052,493
Non-current investments	18,508	46,353
Other non-current assets	49,960	45,971
	\$ 4,687,417	\$ 4,732,161
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 104,813	\$ 119,988
Accrued liabilities	131,941	158,424
Operating lease liabilities	10,736	10,560
Income tax payable	43,667	—
Deferred revenue	568,538	510,529
Current portion of term loans	30,000	30,000
Total current liabilities	889,695	829,501
Revolving line of credit	—	—
Term loans, net	362,905	718,511
Convertible senior notes due 2026, net	594,484	592,765
Deferred revenue, long-term	2,037	38
Deferred income taxes	148,891	228,085
Operating lease liabilities, long-term	48,049	36,336
Other long-term liabilities	16,967	2,893
Total liabilities	2,063,028	2,408,129
Commitments and contingencies		
Shareholders' equity:		
Preferred stock, \$10.00 par value; 1,000,000 shares authorized; none issued	—	—
Common stock, \$0.01 par value; 100,000,000 shares authorized; 48,147,969 shares issued in 2022 and 2021	481	481
Additional paid-in capital	1,209,725	1,075,650
Accumulated other comprehensive loss, net of tax	(844)	(46)
Retained earnings	1,437,854	1,273,614
Treasury stock, at cost; 6,364,991 and 6,832,640 shares in 2022 and 2021, respectively	(22,827)	(25,667)
Total shareholders' equity	2,624,389	2,324,032
	\$ 4,687,417	\$ 4,732,161

See accompanying notes.

Tyler Technologies, Inc.
Consolidated Statements of Cash Flows
For the years ended December 31
(In thousands)

	2022	2021	2020
Cash flows from operating activities:			
Net income	\$ 164,240	\$ 161,458	\$ 194,820
Adjustments to reconcile net income to cash provided by operating activities:			
Depreciation and amortization	159,072	135,624	81,657
Losses from sale of investments	45	—	—
Share-based compensation expense	102,985	104,726	67,365
Provision for losses and sales adjustments - accounts receivable	2,781	2,831	3,517
Amortization of operating lease right-of-use assets	12,969	10,216	5,782
Deferred income tax benefit	(87,192)	(13,271)	(7,936)
Changes in operating assets and liabilities, exclusive of effects of acquired companies:			
Accounts receivable	(51,410)	17,608	(10,733)
Income tax receivable	61,940	10,258	(15,117)
Prepaid expenses and other current assets	910	(23,863)	(8,304)
Accounts payable	(17,537)	(44,947)	(967)
Operating lease liabilities	(12,396)	(6,952)	(6,549)
Accrued liabilities	(24,344)	(24,822)	2,870
Deferred revenue	59,460	44,874	48,684
Other long-term liabilities	9,932	(1,987)	—
Net cash provided by operating activities	<u>381,455</u>	<u>371,753</u>	<u>355,089</u>
Cash flows from investing activities:			
Additions to property and equipment	(22,529)	(33,919)	(22,690)
Purchase of marketable security investments	(29,935)	(77,450)	(156,618)
Proceeds and maturities from marketable security investments	71,034	131,449	82,742
Purchase of investment in common shares	—	—	(10,000)
Proceeds from the sale of investment in preferred shares	—	—	15,000
Investment in software development	(27,622)	(21,693)	(5,776)
Cost of acquisitions, net of cash acquired	(163,921)	(2,089,706)	(1,292)
Other	443	384	314
Net cash used by investing activities	<u>(172,530)</u>	<u>(2,090,935)</u>	<u>(98,320)</u>
Cash flows from financing activities:			
Net borrowings on revolving credit facility	—	—	—
Payment on term loans	(360,000)	(145,000)	—
Proceeds from term loans	—	900,000	—
Proceeds from issuance of convertible senior notes	—	600,000	—
Payment of debt issuance costs	—	(27,165)	—
Purchase of treasury shares	—	(12,977)	(15,484)
Payment of contingent consideration	—	—	(5,619)
Proceeds from exercise of stock options, net of withheld shares for taxes upon equity award	(890)	96,714	124,363
Contributions from employee stock purchase plan	16,651	13,158	10,912
Net cash (used) provided by financing activities	<u>(344,239)</u>	<u>1,424,730</u>	<u>114,172</u>
Net (decrease) increase in cash and cash equivalents	(135,314)	(294,452)	370,941
Cash and cash equivalents at beginning of period	309,171	603,623	232,682
Cash and cash equivalents at end of period	<u>\$ 173,857</u>	<u>\$ 309,171</u>	<u>\$ 603,623</u>

See accompanying notes.

	2022	2021	2020
Supplemental cash flow information:			
Cash paid for interest	\$ 21,256	\$ 17,728	\$ 610
Cash paid for income taxes, net	38,490	2,212	3,263
Non-cash investing and financing activities:			
Non-cash additions to property and equipment	\$ 169	\$ 233	\$ 189
Issuance of shares for acquisitions	18,169	—	—
Purchase consideration for conversion of unvested restricted stock awards	—	1,872	—

Tyler Technologies, Inc.
Consolidated Statements of Shareholders' Equity
For the years ended December 31, 2022, 2021, and 2020
(In thousands)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Treasury Stock		Total Shareholders' Equity
	Shares	Amount				Shares	Amount	
Balance at December 31, 2019	48,148	\$ 481	\$ 739,478	\$ (46)	\$ 917,336	(8,839)	\$ (40,191)	\$ 1,617,058
Net income	—	—	—	—	194,820	—	—	194,820
Issuance of shares pursuant to stock compensation plan	—	—	90,636	—	—	1,283	33,727	124,363
Employee taxes paid for withheld shares upon equity award settlement	—	—	—	—	—	(34)	(12,923)	(12,923)
Stock compensation	—	—	67,365	—	—	—	—	67,365
Issuance of shares pursuant to employee stock purchase plan	—	—	7,853	—	—	40	3,059	10,912
Treasury stock purchases	—	—	—	—	—	(59)	(15,484)	(15,484)
Balance at December 31, 2020	48,148	481	905,332	(46)	1,112,156	(7,609)	(31,812)	1,986,111
Net income	—	—	—	—	161,458	—	—	161,458
Exercise of stock options and vesting of restricted stock units	—	—	50,831	—	—	832	45,883	96,714
Employee taxes paid for withheld shares upon equity award settlement	—	—	—	—	—	(58)	(27,030)	(27,030)
Stock compensation	—	—	104,726	—	—	—	—	104,726
Issuance of shares pursuant to employee stock purchase plan	—	—	12,889	—	—	35	269	13,158
Treasury stock purchases	—	—	—	—	—	(33)	(12,977)	(12,977)
Purchase consideration for conversion of unvested restricted stock awards	—	—	1,872	—	—	—	—	1,872
Balance at December 31, 2021	48,148	481	1,075,650	(46)	1,273,614	(6,833)	(25,667)	2,324,032
Net income	—	—	—	—	164,240	—	—	164,240
Other comprehensive loss, net of tax	—	—	—	(798)	—	—	—	(798)
Exercise of stock options and vesting of restricted stock units	—	—	(3,218)	—	—	433	29,547	26,329
Employee taxes paid for withheld shares upon equity award settlement	—	—	—	—	—	(70)	(27,219)	(27,219)
Stock compensation	—	—	102,985	—	—	—	—	102,985
Issuance of shares pursuant to employee stock purchase plan	—	—	16,365	—	—	49	286	16,651
Treasury stock purchases	—	—	—	—	—	—	—	—
Issuance of shares for acquisitions	—	—	17,943	—	—	56	226	18,169
Balance at December 31, 2022	48,148	\$ 481	\$ 1,209,725	\$ (844)	\$ 1,437,854	(6,365)	\$ (22,827)	\$ 2,624,389

See accompanying notes.

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

DESCRIPTION OF BUSINESS

We provide integrated software systems and related services for the public sector. We develop and market a broad line of software solutions and services to address the information technology (“IT”) needs primarily of cities, counties, states, schools, federal agencies, and other government entities. We provide subscription-based services such as software as a service (“SaaS”), transaction-based fees primarily related to digital government services and online payment processing, and electronic document filing solutions (“e-filing”), which simplify the filing and management of court related documents. In addition, we provide professional IT services, including software and hardware installation, data conversion, training, and for certain customers, product modifications, along with continuing maintenance and support for customers using our systems. Additionally, we provide property appraisal outsourcing services for taxing jurisdictions.

PRINCIPLES OF CONSOLIDATION

The consolidated financial statements include our parent company and 62 subsidiaries, which are wholly-owned. All significant intercompany balances and transactions have been eliminated in consolidation. Comprehensive income (loss) is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources and includes all components of net income (loss) and other comprehensive income (loss). During the twelve months ended December 31, 2022, we had approximately \$798,000 of other comprehensive loss, net of taxes, from our available-for-sale investment holdings. We did not have material items of other comprehensive income during the years ended December 31, 2021, and 2020.

RECLASSIFICATIONS

Certain amounts for previous years have been reclassified to conform to the current year presentation. We have elected to present amortization of software development, previously included in the cost of revenues software licenses and royalties line item, in a separate category line item on the consolidated statements of income for all reporting periods presented. We also have elected to present sales and marketing expense and general and administrative expense, previously disclosed as selling, general, and administrative expense, as separate category line items on the consolidated statements of income for all reporting periods presented.

CASH AND CASH EQUIVALENTS

Cash in excess of that necessary for operating requirements is invested in short-term, highly liquid, income-producing investments. Investments with original maturities of three months or less are classified as cash and cash equivalents, which primarily consist of cash on deposit with several banks and money market funds. Cash and cash equivalents are stated at cost, which approximates market value.

REVENUE RECOGNITION

Nature of Products and Services

We earn revenues from subscription-based services, post-contract customer support (“PCS” or “maintenance”), professional services, software licenses and royalties, appraisal services, and hardware and other. Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration we expect to receive in exchange for those products or services. We determine revenue recognition through the following steps:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, we satisfy a performance obligation

Our software arrangements with customers contain multiple performance obligations that range from software licenses, installation, training, and consulting to software modification and customization to meet specific customer needs (services), hosting, and PCS. For these contracts, we account for individual performance obligations separately when they are distinct. We evaluate whether separate performance obligations can be distinct or should be accounted for as one performance obligation. Arrangements that include professional services, such as training or installation, are evaluated to determine whether those services are highly interdependent or interrelated to the product's functionality. The transaction price is allocated to the distinct performance obligations on a relative standalone selling price ("SSP") basis. We determine the SSP based on our overall pricing objectives, taking into consideration market conditions and other factors, including the value of our contracts, the applications sold, customer demographics, and the number and types of users within our contracts. Revenue is recognized net of allowances for sales adjustments and any taxes collected from customers, which are subsequently remitted to governmental authorities.

Subscription-Based Services:

Subscription-based services consist primarily of revenue derived from SaaS arrangements, digital government services, payment processing, and e-filing. For SaaS arrangements, we evaluate whether the customer has the contractual right to take possession of our software at any time during the hosting period without significant penalty and whether the customer can feasibly maintain the software on the customer's hardware or enter into another arrangement with a third-party to host the software. We allocate contract value to each performance obligation of the arrangement that qualifies for treatment as a distinct element based on estimated SSP. We recognize SaaS services ratably over the term of the arrangement, which range from one to 10 years, but are typically for a period of three to five years. For professional services associated with certain SaaS arrangements, we have concluded that the services are not distinct, and we recognize the revenue ratably over the remaining contractual period once we have provided the customer access to the software. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met.

Transaction-based fees primarily relate to digital government services and online payment services, which are sometimes offered with the assistance of third-party vendors. In general, when we are the principal in a transaction, we record the revenue and related costs on a gross basis. Otherwise, we net the cost of revenue associated with the service against the gross revenue (amount billed to the customer) and record the net amount as revenue.

E-filing transaction fees primarily pertain to documents filed with the courts by attorneys and other third-parties via our e-filing services and retrieval of filed documents via our access services. For each document filed with a court, the filer generally pays a transaction fee and a court filing fee to us and we remit a portion of the transaction fee and the filing fee to the court. We record as revenue the transaction fee, while the portion of the transaction fee remitted to the courts is recorded as cost of revenues as we are acting as an agent in the arrangement. Court filing fees collected on behalf of the courts and remitted to the courts are recorded on a net basis and thus do not affect our consolidated statements of income.

For e-filing transaction fees and transaction-based revenues from digital government services and online payments, we have the right to charge the customer an amount that directly corresponds with the value to the customer of our performance to date. Therefore, we recognize revenues for these services over time based on the amount billable to the customer. In some cases, we are paid on a fixed fee basis and recognize the revenue ratably over the contractual period. Typically, the structure of our arrangements does not give rise to variable consideration. However, in those instances whereby variable consideration exists, we include in our estimates, additional revenues for variable consideration when we believe we have an enforceable right, the amount can be estimated reliably and its realization is probable.

Costs of performing services under subscription-based arrangements are expensed as incurred, except for certain direct and incremental contract origination and set-up costs associated with SaaS arrangements. Such direct and incremental costs are capitalized and amortized ratably over the period of benefit.

Software Arrangements:

Software Licenses and Royalties

Many of our software arrangements involve "off-the-shelf" software. We recognize the revenue allocable to "off-the-shelf" software licenses and specified upgrades at a point in time when control of the software license transfers to the customer, unless the software is not considered distinct. We consider "off-the-shelf" software to be distinct when it can be added to an arrangement with minor changes in the underlying code, it can be used by the customer for the customer's purpose upon installation, and remaining services such as training are not considered highly interdependent or interrelated to the product's functionality.

For arrangements that involve significant production, modification or customization of the software, or where professional services are otherwise not considered distinct, we recognize revenue over time by measuring progress-to-completion. We measure progress-to-completion primarily using labor hours incurred as it best depicts the transfer of control to the customer which occurs as we incur costs on our contracts. These arrangements are often implemented over an extended period and occasionally require us to revise total cost estimates. Amounts recognized in revenue are calculated using the progress-to-completion measurement after giving effect to any changes in our cost estimates. Changes to total estimated contract costs, if any, are recorded in the period they are determined. Estimated losses on uncompleted contracts are recorded in the period in which we first determine that a loss is apparent.

Software license fees are billed in accordance with the contract terms. Typically, a majority of the fee is due when access to the software license is made available to the customer and the remainder of the fee due over a passage of time stipulated by the contract. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met.

We recognize royalty revenue when the sale occurs under the terms of our third-party royalty arrangements. Currently, our third-party royalties are recognized on an estimated basis and adjusted if needed, when we receive notice of amounts we are entitled to receive. We typically receive notice of royalty revenue we are entitled to and amounts are billed on a quarterly basis in the quarter immediately following the royalty reporting period, and adjustments have not been significant.

Professional Services

As noted above, some of our software arrangements include services considered highly interdependent or highly interrelated or require significant customization to meet the customer's desired functionality. For these software arrangements, both the software licenses and related professional services revenue are not distinct and are recognized over time using the progress-to-completion method. We measure progress-to-completion primarily using labor hours incurred as it best depicts the transfer of control to the customer which occurs as we incur costs on our contracts. Contract fees are typically billed on a milestone basis as defined within contract terms. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met. When professional services are distinct, the fee allocable to the service element is recognized over the time we perform the services and is billed on a time and material basis.

Post-Contract Customer Support

Our customers generally enter into PCS agreements when they purchase our software licenses. PCS includes telephone support, bug fixes, and rights to upgrades on a when-and-if available basis. PCS is considered distinct when purchased with our software licenses. Our PCS agreements are typically renewable annually. PCS is recognized over time on a straight-line basis over the period the PCS is provided. All significant costs and expenses associated with PCS are expensed as incurred.

Computer Hardware Equipment

Revenue allocable to computer hardware equipment is recognized at a point in time when control of the equipment is transferred to the customer.

Appraisal Services:

For our property appraisal projects, we recognize revenue using the progress-to-completion method since many of these projects are executed over one to three-year periods and consist of various unique activities. Appraisal services require a significant level of integration and interdependency with various individual service components; therefore, the service components are not considered distinct. Appraisal services are recognized over time by measuring progress-to-completion primarily using labor hours incurred as it best depicts the transfer of control to the customer which occurs as we incur costs on our contracts. These arrangements are often executed over an extended period and occasionally require us to revise total cost estimates. Amounts recognized in revenue are calculated using the progress-to-completion measurement after giving effect to any changes in our cost estimates. Changes to total estimated contract costs, if any, are recorded in the period they are determined. Estimated losses on uncompleted contracts are recorded in the period in which we first determine that a loss is apparent. Contract fees are typically billed on a milestone basis as defined within contract terms. We record amounts that have been invoiced in accounts receivable and in deferred revenue or revenues, depending on whether the revenue recognition criteria have been met.

Significant Judgments:

Our contracts with customers often include multiple performance obligations to a customer. When a software arrangement (license or subscription) includes both software licenses and professional services, judgment is required to determine whether the software license is considered distinct and accounted for separately, or not distinct and accounted for together with the professional services and recognized over time.

The transaction price is allocated to the separate performance obligations on a relative SSP basis. We determine the SSP based on our overall pricing objectives, taking into consideration market conditions and other factors, including the value of our contracts, the applications sold, customer demographics, and the number and types of users within our contracts. We use a range of amounts to estimate SSP when we sell each of the products and services separately and need to determine whether there is a discount to be allocated based on the relative SSP of the various products and services. In instances where SSP is not directly observable, such as when we do not sell the product or service separately, we determine SSP using the expected cost-plus margin approach.

For arrangements that involve significant production, modification, or customization of the software, or where professional services otherwise cannot be considered distinct, we recognize revenue as control is transferred to the customer over time using progress-to-completion methods. Depending on the contract, we measure progress-to-completion primarily using labor hours incurred, or value added. The progress-to-completion method generally results in the recognition of reasonably consistent profit margins over the life of a contract because we can provide reasonably dependable estimates of contract billings and contract costs. These arrangements are often implemented over an extended time period and occasionally require us to revise total cost estimates. Amounts recognized in revenue are calculated using the progress-to-completion measurement after giving effect to any changes in our cost estimates. Changes to total estimated contract costs, if any, are recorded in the period they are determined. Estimated losses on uncompleted contracts are recorded in the period in which we first determine that a loss is apparent.

Refer to Note 18 - "Disaggregation of Revenue" for further information, including the economic factors that affect the nature, amount, timing, and uncertainty of revenues and cash flows of our various revenue categories.

Contract Balances:

Accounts receivable and allowance for losses and sales adjustments

Timing of revenue recognition may differ from the timing of invoicing to customers. We record an unbilled receivable when revenue is recognized prior to invoicing, or deferred revenue when invoicing occurs prior to revenue recognition. For multi-year agreements, we generally invoice customers annually at the beginning of each annual coverage period. We record an unbilled receivable related to revenue recognized for on-premises licenses as we have an unconditional right to invoice and receive payment in the future related to those licenses.

In connection with our appraisal services contracts and certain professional services contracts, we may perform work prior to when the software and services are billable and/or payable pursuant to the contract. Unbilled revenue is not billable at the balance sheet date but is recoverable over the remaining life of the contract through billings made in accordance with contractual agreements. The termination clauses in most of our contracts provide for the payment for the value of products delivered or services performed in the event of early termination. We have historically recorded such unbilled receivables (costs and estimated profit in excess of billings) in connection with (1) property appraisal services contracts accounted for using progress-to-completion method of revenue recognition using labor hours as a measure of progress towards completion in which the services are performed in one accounting period but the billing normally occurs subsequently and may span another accounting period; (2) professional services contracts accounted for using progress-to-completion method of revenue recognition using labor hours as a measure of progress towards completion in which the services are performed in one accounting period but the billing for the software element of the arrangement may be based upon the specific phase of the implementation; (3) software revenue for which we have recognized revenue at the point in time when the software is made available to the customer but the billing has not yet been submitted to the customer; (4) some of our contracts which provide for an amount to be withheld from a progress billing (generally between 5% and 15% retention) until final and satisfactory project completion is achieved; and (5) in a limited number of cases, extended payment terms, which may be granted to customers with whom we generally have a long-term relationship and favorable collection history.

As of December 31, 2022, and December 31, 2021, total current and long-term accounts receivable, net of allowance for losses and sales adjustments, was \$585.5 million and \$535.0 million, respectively. We have recorded unbilled receivables of \$135.4 million and \$140.3 million at December 31, 2022, and December 31, 2021, respectively. Included in unbilled receivables are retention receivables of \$8.6 million and \$7.7 million at December 31, 2022, and December 31, 2021, respectively, which become payable upon the completion of the contract or completion of our fieldwork and formal hearings. Unbilled receivables expected to be collected within one year have been included with accounts receivable, current portion in the accompanying consolidated balance sheets. Unbilled receivables and retention receivables expected to be collected past one year have been included with accounts receivable, long-term portion in the accompanying consolidated balance sheets.

Payment terms and conditions vary by contract type, although terms generally include a requirement of payment within 30 to 90 days. In instances where the timing of revenue recognition differs from the timing of invoicing, we have determined our contracts generally do not include a significant financing component. The primary purpose of our invoicing terms is to provide customers with simplified and predictable ways of purchasing our products and services, not to receive financing from our customers or to provide customers with financing. Examples include invoicing at the beginning of a subscription term with revenue recognized ratably over the contract period, and multi-year on-premises term licenses that are invoiced annually with revenue recognized upfront.

We maintain allowances for losses and sales adjustments, which losses are recorded against revenue at the time the loss is incurred. Since most of our clients are domestic governmental entities, we rarely incur a credit loss resulting from the inability of a client to make required payments. Events or changes in circumstances that indicate the carrying amount for the allowances for losses and sales adjustments may require revision, include, but are not limited to, managing our client's expectations regarding the scope of the services to be delivered and defects or errors in new versions or enhancements of our software products. Our allowance for losses and sales adjustments of \$14.8 million and \$12.1 million at December 31, 2022, and December 31, 2021, respectively. Because we rarely experience credit losses with our clients, we have not recorded a material reserve for credit losses.

The following table summarizes the changes in the allowance for losses and sales adjustments:

	Years ended December 31,	
	2022	2021
Balance at beginning of year	\$ 12,086	\$ 9,255
Provisions for losses and sales adjustments - accounts receivable	2,781	2,831
Collections of accounts previously written off	(106)	—
Balance at end of year	\$ 14,761	\$ 12,086

Deferred Revenue

The majority of deferred revenue consists of deferred subscription-based services revenue that has been billed based on contractual terms in the underlying arrangement, with the remaining balance consisting of payments received in advance of revenue being earned under maintenance, software licensing, software and appraisal services, and hardware installation. Refer to Note 19 - "Deferred Revenue and Performance Obligations" for further information, including deferred revenue by segment and changes in deferred revenue during the period.

Deferred Commissions

Sales commissions earned by our sales force are considered incremental and recoverable costs of obtaining a contract with a customer. Sales commissions for initial contracts are deferred and then amortized commensurate with the recognition of associated revenue over a period of benefit that we have determined to be three to seven years. We utilized the "portfolio approach" practical expedient, which allows entities to apply the guidance to a portfolio of contracts with similar characteristics because the effects on the financial statements of this approach would not differ materially from applying the guidance to individual contracts. Using the "portfolio approach", we determined the period of benefit by taking into consideration our customer contracts, our technology life-cycle and other factors. Sales commissions for renewal contracts are generally not paid in connection with the renewal of a contract. In the small number of instances where a commission is paid on a renewal, it is not commensurate with the commission paid on the initial sale and is recognized over the term of renewal, which is generally one year. Amortization expense related to deferred commissions is included in sales and marketing expense in the accompanying consolidated statements of income. Refer to Note 20 - "Deferred Commissions" for further information.

Prepaid expenses and other current assets include direct and incremental costs such as commissions associated with arrangements for which revenue recognition has been deferred. Such costs are expensed at the time the related revenue is recognized.

USE OF ESTIMATES

The preparation of our financial statements in conformity with accounting principles generally accepted in the United States (“GAAP”) requires us 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. Significant items subject to such estimates and assumptions include revenue recognition, determining the nature and timing of satisfaction of performance obligations, determining the SSP of performance obligations, variable consideration, and other obligations such as returns and refunds; loss contingencies; the estimated useful life of deferred commissions; the fair value amount and estimated useful lives of intangible assets; the carrying amount of operating lease right-of-use assets and operating lease liabilities; determining share-based compensation expense; the allowance for losses and sales adjustments; and determining the potential outcome of future tax consequences of events that have been recognized on our consolidated financial statements or tax returns. Actual results could differ from estimates.

PROPERTY AND EQUIPMENT, NET

Property, equipment and purchased software are recorded at original cost and increased by the cost of any significant improvements after purchase. We expense maintenance and repairs when incurred. Depreciation and amortization is calculated using the straight-line method over the shorter of the asset’s estimated useful life or the term of the lease in the case of leasehold improvements. For income tax purposes, we use accelerated depreciation methods as allowed by tax laws.

RESEARCH AND DEVELOPMENT COSTS

We expensed research and development expense of \$105.2 million in 2022, \$93.5 million in 2021, and \$88.4 million in 2020.

INCOME TAXES

Income taxes are accounted for under the asset and liability method. Deferred taxes arise because of different treatment between financial statement accounting and tax accounting, known as “temporary differences”. We record the tax effect of these temporary differences as “deferred tax assets” (generally items that can be used as a tax deduction or credit in the future periods) and “deferred tax liabilities” (generally items that we received a tax deduction for, which have not yet been recorded in the income statement). The deferred tax assets and liabilities are measured using enacted tax rules and laws that are expected to be in effect when the temporary differences are expected to be recovered or settled. A valuation allowance is established to reduce deferred tax assets if it is more likely than not that a deferred tax asset will not be “realized”.

We do not recognize a tax benefit for uncertain tax positions unless management’s assessment concludes that it is “more likely than not” that the position is sustainable based on its technical merits. If the recognition threshold is met, we recognize a tax benefit based upon the largest amount of the tax benefit that is more likely than not probable, determined by cumulative probability, of being realized upon settlement with the taxing authority. We recognize interest and penalties, if any, related to unrecognized tax benefits in income tax expense in the consolidated statements of income.

Internal Revenue Code (“IRC”) Section 174

For the tax years beginning on or after January 1, 2022, the Tax Cuts and Jobs Act of 2017 (“TCJA”) eliminates the option to currently deduct research and development expenses and requires taxpayers to capitalize and amortize them over five years for research activities performed in the United States and 15 years for research activities performed outside the United States pursuant to IRC Section 174. Although Congress is considering legislation that would repeal or defer this capitalization and amortization requirement, it is not certain that this provision will be repealed or otherwise modified. If the requirement is not repealed or replaced, it will increase our U.S. federal and state cash tax payments and reduce cash flows in fiscal year 2023 and future years.

SHARE-BASED COMPENSATION

We have a share-based award plan that provides for the grant of stock options, restricted stock units, and performance share units to key employees, directors and non-employee consultants. Stock options generally vest after three to six years of continuous service from the date of grant and have a contractual term of 10 years. Restricted stock unit grants generally vest ratably over three to five years of continuous service from the date of grant. Each performance share unit represents the right to receive one share of our common stock based on our achievement of certain financial performance targets during applicable performance periods, which generally cliff vest in one or three years. We account for share-based compensation utilizing the fair value recognition pursuant to ASC 718, *Stock Compensation*. See Note 12, “Share-Based Compensation,” for further information.

BUSINESS COMBINATIONS

Accounting for the acquisition of a business requires the allocation of the purchase price to the various assets acquired and liabilities assumed at their respective fair values. The determination of fair value requires the use of significant estimates and assumptions, and in making these determinations, management uses all available information.

For tangible and identifiable intangible assets acquired in a business combination, management estimates the fair value of assets acquired and liabilities assumed based on quoted market prices, the carrying value of the acquired assets and widely accepted valuation techniques, including discounted cash flows and market multiple analyses. The assumptions made in performing these valuations include, but are not limited to, discount rates, future revenues and operating costs, projections of capital costs, and other assumptions believed to be consistent with those used by principal market participants.

Due to the specialized nature of these calculations, we engage third-party specialists to assist management in evaluating our assumptions as well as appropriately measuring the fair value of assets acquired and liabilities assumed. We adjust the preliminary purchase price allocation, as necessary, up to one year after the acquisition closing date as we obtain new information about facts and circumstances that existed as of the closing date. If actual results are materially different than the assumptions we used to determine fair value of the assets acquired and liabilities assumed through a business combination as well as the estimated useful lives of the acquired intangible assets, it is possible that adjustments to the carrying values of such assets and liabilities will have a material impact on our financial position and results of operations. See Note 2, "Acquisitions," for further information.

GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill

We assess goodwill for impairment annually, or more frequently whenever events or changes in circumstances indicate its carrying value may not be recoverable. We begin with the qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value before applying the quantitative assessment described below. When testing goodwill for impairment quantitatively, we first compare the fair value of each reporting unit with its carrying amount. If the carrying amount of reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized. The fair values calculated in our impairment tests are determined using discounted cash flow models involving several assumptions (Level 3 inputs). The assumptions that are used are based upon what we believe a hypothetical marketplace participant would use in estimating fair value. We base our fair value estimates on assumptions we believe to be reasonable but that are unpredictable and inherently uncertain. We evaluate the reasonableness of the fair value calculations of our reporting units by comparing the total of the fair value of all of our reporting units to our total market capitalization.

During the fourth quarter, as part of our annual impairment test as of October 1, we performed qualitative assessments for the reporting units containing the recently acquired data and insights, digital government and payments solutions, and development platform solutions, and concluded no impairment existed as of our annual assessment date. Approximately \$1.7 billion, or 70%, of total goodwill as of December 31, 2022, relates to these reporting units, which as a result of these recent acquisitions, do not have significant excess fair values over carrying values. We performed qualitative assessments for the remaining reporting units in which we determined that it not more likely than not that the fair value exceeded the carrying value; therefore, we did not perform a Step 1 quantitative impairment test. Our annual goodwill impairment analysis did not result in an impairment charge. During 2022, we have recorded no impairment to goodwill as no triggering events or change in circumstances indicating a potential impairment has occurred as of period-end.

Determining the fair value of our reporting units involves the use of significant estimates and assumptions and considerable management judgment. We base our fair value estimates on assumptions we believe to be reasonable at the time, but such assumptions are subject to inherent uncertainty. Changes in market conditions or other factors outside of our control could cause us to change key assumptions and our judgment about a reporting unit's prospects. Similarly, in a specific period, a reporting unit could significantly underperform relative to its historical or projected future operating results. Either situation could result in a meaningfully different estimate of the fair value of our reporting units, and a consequent future impairment charge.

There have been no impairments to goodwill in any of the periods presented. See Note 4, "Goodwill and Other Intangible Assets," for additional information.

Other Intangible Assets

We make judgments about the recoverability of purchased intangible assets other than goodwill whenever events or changes in circumstances indicate that an impairment may exist. Customer base and acquired software each comprise approximately half of our purchased intangible assets other than goodwill. We review our customer turnover each year for indications of impairment. Our customer turnover has historically been very low. If indications of impairment are determined to exist, we measure the recoverability of assets by a comparison of the carrying amount of the asset to the estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the assets exceeds their estimated future cash flows, an impairment charge is recognized for the amount by which the carrying amount of the assets exceeds the fair value of the assets. There have been no impairments of intangible assets in any of the periods presented.

IMPAIRMENT OF LONG-LIVED ASSETS

We periodically evaluate whether current facts or circumstances indicate that the carrying value of our property and equipment or other long-lived assets to be held and used may not be recoverable. If such circumstances are determined to exist, we measure the recoverability of assets to be held and used by a comparison of the carrying amount of the asset or appropriate grouping of assets and the estimated undiscounted future cash flows expected to be generated by the assets. If the carrying amount of the assets exceeds their estimated future cash flows, an impairment charge is recognized for the amount by which the carrying amount of the assets exceeds the fair value of the assets. There was no impairment of long-lived assets in any of the periods presented.

COSTS OF COMPUTER SOFTWARE

We capitalize software development costs upon the establishment of technological feasibility and prior to the availability of the product for general release to customers for software sold to third parties and for application development costs of software developed for internal use. Software development costs primarily consist of personnel costs. During the twelve months period ended December 31, 2022 and 2021, respectively, we capitalized approximately \$27.6 million and \$21.7 million of software development costs. We begin to amortize capitalized costs when a product is available for general release to customers and internal use software is ready for its intended use. Amortization expense is determined on a product-by-product basis at a rate not less than straight-line basis over the software's remaining estimated economic life of, generally, three to five years.

CONTINGENT PURCHASE CONSIDERATION

Contingent future cash payments related to acquisitions are recognized at fair value as of the acquisition date and included in the determination of the acquisition date purchase price. Subsequent changes in the fair value of the contingent future cash payments are recognized in earnings in the period that the change occurs. We have no contingent consideration outstanding as of December 31, 2022.

CONCENTRATIONS OF CREDIT RISK

Financial instruments that potentially subject us to significant concentrations of credit risk consist principally of cash and cash equivalents, accounts receivable from trade customers, and investments in marketable securities. Our cash and cash equivalents primarily consist of operating account balances and money market funds, which are maintained at several major domestic financial institutions and the balances often exceed insured amounts. As of December 31, 2022, we had cash and cash equivalents of \$173.9 million. We perform periodic evaluations of the credit standing of these financial institutions.

Concentrations of credit risk with respect to receivables are limited due to the size and geographical diversity of our customer base. As a result, we do not believe we have any significant concentrations of credit risk as of December 31, 2022.

We maintain allowances for losses and sales adjustments, which losses are recorded against revenues at the time the loss is incurred. Since most of our customers are domestic governmental entities, we rarely incur a loss resulting from the inability of a customer to make required payments. Events or changes in circumstances that indicate the carrying amount for the allowances for losses and sales adjustments may require revision include, but are not limited to, failure to manage our customer's expectations regarding the scope of the services to be delivered, and defects or errors in new versions or enhancements of our software products. Historically, our credit losses have not been significant.

LEASES

We determine if an arrangement is a lease at inception. Operating leases are included in operating lease right-of-use ("ROU") assets, and operating lease liabilities, current and long-term, on our consolidated balance sheets. We currently do not have any finance lease arrangements.

Operating lease ROU assets and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at commencement date. As most of our leases do not provide an implicit rate, we use our incremental borrowing rate based on the information available at commencement date of the lease in determining the present value of future payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives and initial direct costs incurred. Our lease terms may include options to extend or terminate the lease when it is reasonably certain that we will exercise that option. Lease expense for minimum lease payments is recognized on a straight-line basis over the lease term. Leases with an initial term of 12 months or less are not recorded on the balance sheet; we recognize lease expense for these leases on a straight-line basis over the lease term. We have lease agreements with lease and non-lease components, which are generally accounted for as a single lease component.

INDEMNIFICATION

Most of our software license agreements indemnify our customers in the event that the software sold infringes upon the intellectual property rights of a third-party. These agreements typically provide that in such event we will either modify or replace the software so that it becomes non-infringing or procure for the customer the right to use the software. We have not recorded a liability associated with these indemnifications, as we are not aware of any pending or threatened infringement actions that are possible losses. We believe the estimated fair value of these intellectual property indemnification clauses is minimal.

We have also agreed to indemnify certain officers and our board members if they are named or threatened to be named as a party to any proceeding by reason of the fact that they acted in such capacity. We maintain directors' and officers' liability insurance coverage to protect against any such losses. We have not recorded a liability associated with these indemnifications. Because of our insurance coverage, we believe the estimated fair value of these indemnification agreements is minimal.

RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS

In October 2021, the FASB issued ASU 2021-08 - *Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* (ASC 805) ("ASU 2021-08"). ASU 2021-08 requires an acquirer in a business combination to recognize and measure contract assets and contract liabilities (deferred revenue) from acquired contracts using the revenue recognition guidance in Topic 606. Under this "Topic 606 approach," the acquirer applies the revenue model as if it had originated the contracts. This is a departure from the current requirement to measure contract assets and contract liabilities at fair value. ASU 2021-08 is effective for all public business entities in annual and interim periods starting after December 15, 2022, and early adoption is permitted. An entity that early adopts should apply the amendments (1) retrospectively to all business combinations for which the acquisition date occurs on or after the beginning of the fiscal year that includes the interim period of early application and (2) prospectively to all business combinations that occur on or after the date of initial application. We early adopted as of January 1, 2022. The adoption of ASU 2021-08 did not result in an adjustment to the fair value of the deferred revenue balances assumed in our 2022 acquisitions. See Note 2, "Acquisitions," for further discussion.

NEW ACCOUNTING PRONOUNCEMENTS

There were no new not yet adopted accounting pronouncements currently issued that would affect the Company or have a material impact on its consolidated financial position or results of operations in future periods.

(2) ACQUISITIONS

2022

On October 31, 2022, we acquired Rapid Financial Solutions, LLC (Rapid), a provider of reliable, scalable, and secure payments with best-in-class card issuance and digital disbursement capabilities. The total purchase price, net of cash acquired of \$2.2 million, was approximately \$67.7 million, consisting of \$51.2 million paid in cash, \$18.2 million of common stock, and \$500,000 related to working capital holdbacks, subject to certain post-closing adjustments.

We have performed a preliminary valuation analysis of the fair market value of Rapid's assets and liabilities. In connection with this transaction, we acquired total tangible assets of \$2.9 million and assumed liabilities of approximately \$635,000. We recorded goodwill of approximately \$40.0 million, all of which is expected to be deductible for tax purposes, and other identifiable intangible assets of approximately \$27.6 million. The goodwill arising from this acquisition is primarily attributed to our ability to generate increased revenues, earnings and cash flow by expanding our addressable market and client base. The \$27.6 million of intangible assets are attributable to customer relationships, acquired software, and trade name and will be amortized over a weighted average period of approximately 10 years.

On May 31, 2022, we completed the acquisition of Quatred, LLC (Quatred), a systems integrator and barcode technology solutions provider. The total cash price was approximately \$637,000.

On February 8, 2022, we acquired US eDirect Inc. (US eDirect), a leading provider of technology solutions for campground and outdoor recreation management. The total purchase price, net of cash acquired of \$6.4 million, was approximately \$116.5 million, consisting of \$118.8 million paid in cash and approximately \$4.1 million related to indemnity holdbacks.

We have performed a valuation analysis of the fair market value of US eDirect's assets and liabilities. The following table summarizes the preliminary allocation of the purchase price as of the acquisition date:

Cash	\$	6,361
Accounts receivable		1,730
Other current assets		594
Other noncurrent assets		698
Goodwill and identifiable intangible assets		125,541
Accounts payable		(1,881)
Accrued expenses		(357)
Other noncurrent liabilities		(742)
Deferred revenue		(688)
Deferred tax liabilities, net		(8,326)
Total consideration	\$	<u>122,930</u>

In connection with this transaction, we acquired total tangible assets of \$9.4 million and assumed liabilities of approximately \$3.7 million. We recorded goodwill of approximately \$91.4 million, none of which is expected to be deductible for tax purposes, and other identifiable intangible assets of approximately \$34.1 million. The goodwill arising from this acquisition is primarily attributed to our ability to generate increased revenues, earnings, and cash flow by expanding our addressable market and client base. The identifiable intangible assets are attributable to customer relationships, acquired software, and trade name and will be amortized over a weighted average period of approximately 13 years. We recorded net deferred tax liabilities of \$8.3 million related to the tax effect of our estimated fair value allocations. Since the acquisition date, we recorded adjustments to the preliminary opening balance sheet attributed to decreases in other current assets, other noncurrent assets, identifiable intangible assets, accrued expenses, and deferred revenue, and increases in accounts receivable, accounts payable, and deferred tax liabilities, resulting in a net increase to goodwill of approximately \$10.3 million.

As of December 31, 2022, the purchase price allocations for US eDirect and Quatred are complete, while the purchase price allocation for Rapid is not final; therefore, certain preliminary valuation estimates of fair value assumed at the acquisition date for intangible assets, receivables, and related deferred taxes are subject to change as valuations are finalized. Our balance sheet as of December 31, 2022, reflects the allocation of the purchase price to the net assets acquired based on their estimated fair value at the date of the acquisition. The fair value of the assets and liabilities acquired are based on valuations using Level 3 unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Rapid and US eDirect are operated as a part of the digital government and payments solutions business unit (also known as the NIC division), therefore the following unaudited pro forma consolidated operating results information has been prepared as if the acquisitions of Rapid and US eDirect had occurred on January 1, 2021, and NIC had occurred on January 1, 2020, after giving effect to certain adjustments, including amortization of intangibles, transaction costs, and tax effects.

	Years ended December 31,		
	2022	2021	2020
Revenues	\$ 1,867,011	\$ 1,785,623	\$ 1,577,117
Net income	147,028	157,765	183,994
Basic earnings per share	\$ 3.54	\$ 3.86	\$ 4.60
Diluted earnings per share	\$ 3.47	\$ 3.73	\$ 4.43

The pro forma information above does not include acquisitions that are not considered material to our results of operations. The pro forma information does not purport to represent what our results of operations actually would have been had such transaction occurred on the date specified or to project our results of operations for any future period.

The actual operating results of Rapid, US eDirect, and NIC from their respective dates of acquisition are included with the operating results of the Platform Technologies segment. The operating results of Quatred are included in the operating results of the Enterprise Software segment since the date of acquisition. The impact of the 2022 acquisitions on our operating results, assets, and liabilities is not material. In the twelve months ended December 31, 2022, we incurred fees of approximately \$2.0 million for financial advisory, legal, accounting, due diligence, valuation, and other various services necessary to complete acquisitions. These costs were expensed in 2022 and are included in general and administrative expense in the accompanying consolidated statements of income.

2021

On September 9, 2021, we acquired all the equity interest of Ultimate Information Systems, Inc. (dba Arx). Arx is a cloud-based platform which creates accessible technology to enable a modern-day police force that is fully transparent, accountable, and a trusted resource to the community it serves. The total purchase price, net of cash acquired, was approximately \$12.8 million.

On September 1, 2021, we acquired VendEngine, Inc., a cloud-based software provider focused on financial technology for the corrections market. The total purchase price, net of cash acquired of \$1.7 million, was approximately \$83.6 million, consisting of \$81.6 million paid in cash, and approximately \$3.8 million related to indemnity holdbacks.

In connection with this transaction, we acquired total tangible assets of \$5.8 million and assumed liabilities of approximately \$3.0 million. We recorded goodwill of approximately \$54.3 million, none of which is expected to be deductible for tax purposes, and other identifiable intangible assets of approximately \$37.9 million. The \$37.9 million of intangible assets are attributable to customer relationships, acquired software, and trade name and will be amortized over a weighted average period of approximately 13 years. We recorded net deferred tax liabilities of \$9.6 million related to the tax effect of our estimated fair value allocations. In the twelve months ended December 31, we recorded adjustments to the preliminary opening balance sheet attributed to a decrease to accounts receivable, accounts payable, deferred income taxes, and an adjustment to the accrual for indemnity holdbacks and increases in identifiable intangible assets and accrued expenses resulting in a net decrease to goodwill of approximately \$4.4 million.

On April 21, 2021, we acquired NIC, Inc., a leading digital government solutions and payment company that primarily serves federal and state government agencies. The total purchase price, net of cash acquired of \$331.8 million, was approximately \$2.0 billion, consisting of cash paid of \$2.3 billion and \$1.9 million of purchase consideration related to the conversion of unvested restricted stock awards.

We have performed the valuation analysis of the fair market value of NIC's assets and liabilities. The following table summarizes the allocation of the purchase price as of the acquisition date:

Cash	\$	331,783
Accounts receivable		149,515
Other current assets		12,988
Other noncurrent assets		20,974
Identifiable intangible assets		777,000
Goodwill		1,446,868
Accounts payable		(150,099)
Accrued expenses		(63,154)
Other noncurrent liabilities		(11,493)
Deferred revenue		(3,294)
Deferred tax liabilities, net		(190,596)
Total consideration	\$	<u>2,320,492</u>

In connection with this transaction, we acquired total tangible assets of \$515.3 million and assumed liabilities of approximately \$228.0 million. We recorded goodwill of approximately \$1.4 billion, none of which is expected to be deductible for tax purposes, and other identifiable intangible assets of approximately \$777.0 million. The \$777.0 million of intangible assets are attributable to customer relationships, acquired software, and trade name and will be amortized over a weighted average period of approximately 17 years. We recorded net deferred tax liabilities of \$190.6 million related to the tax effect of our estimated fair value allocations. In the twelve months ended December 31, 2021, we recorded adjustments to the preliminary opening balance sheet attributed to a decrease to accounts receivable and increases in identifiable intangible assets, deferred revenue and related deferred taxes resulting in a net decrease to goodwill of approximately \$17.2 million.

NIC delivers user-friendly digital services that make it easier and more efficient for citizens and businesses to interact with government-providing valuable conveniences like applying for unemployment insurance, submitting business filings, renewing licenses, accessing information and making secure payments without visiting a government office. In addition, NIC has extensive

expertise and scale in the government payments arena which will accelerate our strategic payments initiatives. Therefore, the goodwill of approximately \$1.4 billion arising from this acquisition is primarily attributed to our ability to generate increased revenues, earnings and cash flow by expanding our addressable market and client base.

On March 31, 2021, we acquired all the equity interest of Glass Arc, Inc. (dba ReadySub), a cloud-based platform that assists school districts with absence tracking, filling substitute teacher assignments, and automating essential payroll processes. The total cash price was approximately \$6.2 million, net of cash acquired.

On March 31, 2021, we acquired substantially all assets of DataSpec, Inc. (DataSpec), a provider of a SaaS solution that allows for secure electronic claims submission to the federal Department of Veterans Affairs and reporting capabilities, in addition to scheduling, calendaring, and payments. The total cash purchase price was approximately \$5.8 million.

The operating results of Arx, DataSpec, ReadySub, and VendEngine are included with the operating results of the Enterprise Software segment since their date of acquisition. The impact of the Arx, DataSpec, ReadySub, and VendEngine acquisitions, individually and in the aggregate, on our operating results, assets and liabilities is not material. The operating results of NIC are included in the Platform Technologies Segment. Revenues from NIC included in Tyler's results of operations totaled approximately \$368.9 million and net income was approximately \$37.2 million from the date of acquisition through December 31, 2021. In 2021, we incurred fees of approximately \$23.5 million for financial advisory, legal, accounting, due diligence, valuation and other various services necessary to complete these acquisitions. The Company also incurred \$1.6 million of expense related to a separation agreement with NIC's former Chief Executive Officer. These costs were expensed in 2021 and are included in general and administrative expense in the accompanying consolidated statements of income. As of December 31, 2022, the purchase price allocations for 2021 acquisitions are complete.

(3) PROPERTY AND EQUIPMENT, NET AND SOFTWARE DEVELOPMENT COSTS, NET

Property and equipment, net consists of the following at December 31:

	Useful Lives (years)	2022	2021
Land	—	\$ 22,908	\$ 22,523
Building and leasehold improvements	5-39	159,059	154,222
Computer equipment and purchased software	3-5	121,968	109,691
Furniture and fixtures	5	39,373	35,932
Transportation equipment	5	200	207
		343,508	322,575
Accumulated depreciation and amortization		(170,722)	(141,382)
Property and equipment, net		\$ 172,786	\$ 181,193

Depreciation expense was \$29.5 million in 2022, \$29.4 million in 2021, and \$25.5 million in 2020.

We paid \$4.5 million and \$12.8 million for real estate and the expansion of existing facilities in 2022 and 2021, respectively.

Software development costs, net consists of the following at December 31:

	Useful Lives (years)	2022	2021
Software development costs	3-5	\$ 59,904	\$ 32,274
Accumulated amortization		(11,715)	(3,785)
Software development costs, net		\$ 48,189	\$ 28,489

Amortization expense for software development costs is recorded to cost of revenues and general and administrative expense. Amortization expense for software development costs recorded to cost of revenues was \$6.5 million in 2022, \$2.3 million in 2021, and no expense in 2020. Amortization expense for software development costs recorded to general and administrative expense was \$1.4 million in 2022, no expense in 2021, and \$1.2 million in 2020.

Estimated annual amortization expense related to software development costs:

2023	\$	11,038
2024		12,440
2025		11,236
2026		8,247
2027		3,924
Thereafter		1,304
	<u>\$</u>	<u>48,189</u>

(4) GOODWILL AND OTHER INTANGIBLE ASSETS

The changes in the carrying amount of goodwill for the two years ended December 31, 2022 are as follows:

	Enterprise Software	Platform Technologies	Total
Balance as of 12/31/2020	\$ 762,127	\$ 76,301	\$ 838,428
Goodwill acquired related to the purchase of NIC	—	1,446,868	1,446,868
Goodwill acquired related to the purchase of VendEngine	54,456	—	54,456
Goodwill acquired related to the purchase of other acquisitions	19,922	—	19,922
Balance as of 12/31/2021	<u>836,505</u>	<u>1,523,169</u>	<u>2,359,674</u>
Goodwill acquired related to the purchase of US eDirect	—	91,441	91,441
Goodwill acquired related to the purchase of Rapid	—	40,005	40,005
Purchase price adjustments related to the purchase of VendEngine	(204)	—	(204)
Purchase price adjustments related to the purchase of other acquisitions	(1,608)	—	(1,608)
Balance as of 12/31/2022	<u>\$ 834,693</u>	<u>\$ 1,654,615</u>	<u>\$ 2,489,308</u>

Other intangible assets and related accumulated amortization consists of the following at December 31:

	2022	2021
Gross carrying amount of other intangibles:		
Customer related intangibles	\$ 990,545	\$ 949,844
Acquired software	456,137	433,800
Trade names	45,293	45,353
Leases acquired	5,037	5,037
	<u>1,497,012</u>	<u>1,434,034</u>
Accumulated amortization	(494,848)	(381,541)
Total other intangibles, net	<u>\$ 1,002,164</u>	<u>\$ 1,052,493</u>

Amortization expense for acquired software is recorded to cost of revenues. Amortization expense for customer related intangibles, trade names and leases acquired is recorded to amortization of other intangibles. Total amortization expense for other intangibles was \$113.9 million in 2022, \$90.8 million in 2021, and \$53.9 million in 2020.

The amortization periods of other intangible assets is summarized in the following table:

	December 31, 2022			December 31, 2021		
	Gross Carrying Amount	Weighted Average Amortization Period	Accumulated Amortization	Gross Carrying Amount	Weighted Average Amortization Period	Accumulated Amortization
Non-amortizable intangibles:						
Goodwill	\$ 2,489,308	—	\$ —	\$ 2,359,674	—	\$ —
Amortizable intangibles:						
Customer related intangibles	\$ 990,545	20 years	\$ 209,501	\$ 949,844	21 years	\$ 157,077
Acquired software	456,137	5 years	260,642	433,800	7 years	208,451
Trade names	45,293	5 years	21,059	45,353	10 years	13,064
Leases acquired	5,037	9 years	3,646	5,037	9 years	2,949

Estimated annual amortization expense related to other intangibles:

2023	\$ 105,284
2024	89,192
2025	88,423
2026	80,722
2027	78,626
Thereafter	559,917
	<u>\$ 1,002,164</u>

(5) ACCRUED LIABILITIES

Accrued liabilities consist of the following at December 31:

	2022	2021
Accrued wages, bonuses and commissions	\$ 73,745	\$ 88,696
Other accrued liabilities	58,196	69,728
	<u>\$ 131,941</u>	<u>\$ 158,424</u>

(6) DEBT

The following table summarizes our total outstanding borrowings related to the 2021 Credit Agreement and Convertible Senior Notes:

	Rate	Maturity Date	December 31, 2022	December 31, 2021
2021 Credit Agreement				
Revolving credit facility	L + 1.50%	April 2026	\$ —	\$ —
Term Loan A-1	L + 1.50%	April 2026	290,000	585,000
Term Loan A-2	L + 1.25%	April 2024	105,000	170,000
Convertible Senior Notes due 2026	0.25%	March 2026	600,000	600,000
Total borrowings			995,000	1,355,000
Less: unamortized debt discount and debt issuance costs			(7,611)	(13,724)
Total borrowings, net			987,389	1,341,276
Less: current portion of debt			(30,000)	(30,000)
Carrying value			<u>\$ 957,389</u>	<u>\$ 1,311,276</u>

2021 Credit Agreement

In connection with the completion of the acquisition of NIC on April 21, 2021, we, as borrower, entered into a new \$1.4 billion Credit Agreement (the “2021 Credit Agreement”) with the various lenders party thereto and Wells Fargo Bank, National Association, as Administrative Agent, Swingline Lender, and Issuing Lender. The 2021 Credit Agreement provides for (1) a senior unsecured revolving credit facility in an aggregate principal amount of up to \$500 million, including sub-facilities for standby letters of credit and swingline loans (the “Revolving Credit Facility”), (2) an amortizing five-year term loan in the aggregate amount of \$600 million (the “Term Loan A-1”), and (3) a non-amortizing three-year term loan in the aggregate amount of \$300 million (the “Term Loan A-2”) and, together (the “Term Loans”). The 2021 Credit Agreement matures on April 20, 2026, and the loans may be prepaid at any time, without premium or penalty, subject to certain minimum amounts and payment of any LIBOR breakage costs. In addition to the required amortization payments on the Term Loan A-1 of 5% annually, certain mandatory quarterly prepayments of the Term Loans and the Revolving Credit Facility will be required (i) upon the issuance or incurrence of additional debt not otherwise permitted under the 2021 Credit Agreement and (ii) upon the occurrence of certain asset sales and insurance and condemnation recoveries, subject to certain thresholds, baskets, and reinvestment provisions as provided in the 2021 Credit Agreement.

Borrowings under the Revolving Credit Facility and the Term Loan A-1 bear interest, at the Company’s option, at a per annum rate of either (1) the Administrative Agent’s prime commercial lending rate (subject to certain higher rate determinations) (the “Base Rate”) plus a margin of 0.125% to 0.75% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 1.125% to 1.75%. The Term Loan A-2 bears interest, at the Company’s option, at a per annum rate of either (1) the Base Rate plus a margin of 0% to 0.5% or (2) the one-, three-, six-, or, subject to approval by all lenders, twelve-month LIBOR rate plus a margin of 0.875% to 1.5%. The margin in each case is based upon the Company’s total net leverage ratio, as determined pursuant to the 2021 Credit Agreement. The 2021 Credit Agreement has customary benchmark replacement language with respect to the replacement of LIBOR once LIBOR becomes unavailable. In addition to paying interest on the outstanding principal of loans under the Revolving Credit Facility, the Company is required to pay a commitment fee on the average daily unused portion of the Revolving Credit Facility, currently 0.25% per annum, ranging from 0.15% to 0.3% based upon the Company’s total net leverage ratio.

LIBOR, the London Inter-Bank Offered Rate, is currently anticipated to be phased out in June 2023 and is expected to transition to a new standard rate, the Secured Overnight Financing Rate (“SOFR”), which will incorporate certain overnight repo market data collected from multiple data sets. In January 2023, we amended³ our 2021 Credit Agreement to replace the LIBOR reference rate with the SOFR reference rate. Assuming that SOFR replaces LIBOR and is appropriately adjusted to equate to one-month LIBOR, we expect that there should be minimal impact on our operations.

The net proceeds from the borrowings under the 2021 Credit Agreement were \$1.1 billion, net of debt discounts of \$7.2 million and debt issuance costs of \$4.9 million and \$6.4 million of commitment fees paid related to the terminated \$1.6 billion unsecured bridge loan facility. On the Closing Date, the Company paid approximately \$2.3 billion in cash for the purchase of NIC. The Term Loans of \$900 million and a portion of the proceeds of the Revolving Credit Facility, in the amount of \$250 million, together with cash available to the Company of \$609 million and the net proceeds of its Convertible Senior Notes of \$594 million, were used to complete the acquisition and pay fees and expenses in connection with the acquisition and the 2021 Credit Agreement. The remaining portion of the Revolving Credit Facility may be used for working capital requirements, acquisitions, and capital expenditures of the Company and its subsidiaries.

The 2021 Credit Agreement requires us to maintain certain financial ratios and other financial conditions and prohibits us from making certain investments, advances, cash dividends or loans, and limits incurrence of additional indebtedness and liens. As of December 31, 2022, we were in compliance with those covenants.

The carrying amount is the par value of the Revolving Credit Facility and Term Loans less the debt discount and debt issuance costs that are amortized to interest expense using the effective interest method over the terms of the Term Loans. Interest expense is included in the accompanying consolidated statements of income.

³ The foregoing is a summary of the amended terms and conditions of the 2021 Credit Agreement and not a complete description of the Third Amendment to Credit Agreement, dated January 27, 2023. Accordingly, the foregoing is qualified in its entirety by reference to the full text of the Third Amendment to Credit Agreement attached to this Current Report on Form 10-K as [Exhibit 4.2](#), which is incorporated by reference.

Convertible Senior Notes due 2026

On March 9, 2021, we issued 0.25% Convertible Senior Notes due 2026 in the aggregate principal amount of \$600.0 million (“the Convertible Senior Notes” or “the Notes”). The Convertible Senior Notes were issued pursuant to, and are governed by, an indenture (the “Indenture”), dated as of March 9, 2021, with U.S. Bank National Association, as trustee. The net proceeds from the issuance of the Convertible Senior Notes were \$591.4 million, net of initial purchasers’ discounts of \$6.0 million and debt issuance costs of \$2.6 million.

The Convertible Senior Notes are senior, unsecured obligations and are (i) equal in right of payment with our future senior, unsecured indebtedness; (ii) senior in right of payment to our future indebtedness that is expressly subordinated to the Notes; (iii) effectively subordinated to our future secured indebtedness, to the extent of the value of the collateral securing that indebtedness; and (iv) structurally subordinated to all future indebtedness and other liabilities, including trade payables, and (to the extent we are not a holder thereof) preferred equity, if any, of our subsidiaries.

The Convertible Senior Notes accrue interest at a rate of 0.25% per annum, payable semi-annually in arrears on March 15 and September 15 of each year, beginning on September 15, 2021. The Convertible Senior Notes mature on March 15, 2026, unless earlier repurchased, redeemed, or converted.

Before September 15, 2025, holders of the Convertible Senior Notes have the right to convert their Convertible Senior Notes only upon the occurrence of certain events. Under the terms of the Indenture, the Convertible Senior Notes are convertible into common stock of Tyler Technologies, Inc. (referred to as “our common stock” herein) at the following times or circumstances:

- during any calendar quarter commencing after the calendar quarter ended June 30, 2021, if the last reported sale price per share of our common stock exceeds 130% of the conversion price for each of at least 20 trading days (whether or not consecutive) during the 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter;
- during the five consecutive business days immediately after any five consecutive trading day period (such five consecutive trading day period, the “Measurement Period”) if the trading price per \$1,000 principal amount of Convertible Senior Notes, as determined following a request by their holder in accordance with the procedures in the Indenture, for each trading day of the Measurement Period was less than 98% of the product of the last reported sale price per share of our common stock on such trading day and the conversion rate on such trading day;
- upon the occurrence of certain corporate events or distributions on our common stock, including but not limited to a “Fundamental Change” (as defined in the Indenture);
- upon the occurrence of specified corporate events; or
- on or after September 15, 2025, until the close of business on the second scheduled trading day immediately preceding the maturity date, March 15, 2026.

With certain exceptions, upon a change of control or other fundamental change (both as defined in the Indenture governing the Convertible Senior Notes), the holders of the Convertible Senior Notes may require us to repurchase all or part of the principal amount of the Convertible Senior Notes at a repurchase price equal to 100% of the principal amount of the Convertible Senior Notes, plus any accrued and unpaid interest to, but excluding, the redemption date.

As of December 31, 2022, none of the conditions allowing holders of the Convertible Senior Notes to convert have been met.

From and including September 15, 2025, holders of the Convertible Senior Notes may convert their Convertible Senior Notes at any time at their election until the close of business on the second scheduled trading day immediately before the maturity date. We will settle any conversions of the Convertible Senior Notes either entirely in cash or in a combination of cash and shares of our common stock, at our election. However, upon conversion of any Convertible Senior Notes, the conversion value, which will be determined over an “Observation Period” (as defined in the Indenture) consisting of 30 trading days, will be paid in cash up to at least the principal amount of the Notes being converted.

The initial conversion rate is 2.0266 shares of common stock per \$1,000 principal amount of Convertible Senior Notes, which represents an initial conversion price of approximately \$493.44 per share of common stock. The conversion rate and conversion price will be subject to adjustment upon the occurrence of certain events. In addition, if certain corporate events that constitute a “Make-Whole Fundamental Change” (as defined in the Indenture) occur, then the conversion rate will, in certain circumstances, be increased for a specified period of time.

The Convertible Senior Notes are redeemable, in whole or in part, at our option at any time, and from time to time, on or after March 15, 2024 and on or before the 30th scheduled trading day immediately before the maturity date, at a cash redemption price

equal to the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, up to, but excluding, the redemption date, but only if the last reported sale price per share of our common stock exceeds 130% of the conversion price of the Notes on (i) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date we send the related redemption notice; and (ii) the trading day immediately before the date we send such notice. In addition, calling any Note for redemption constitutes a Make-Whole Fundamental Change with respect to that Note, in which case the conversion rate applicable to the conversion of that Note will be increased in certain circumstances if it is converted after it is called for redemption.

Effective Interest

The weighted average interest rates for the borrowings under the 2021 Credit Agreement and Convertible Senior Notes due 2026 were 5.82% and 0.25%, as of December 31, 2022, respectively. During the twelve months ended December 31, 2022, the effective interest rates for our borrowings were 3.79% and 0.54% for the 2021 Credit Agreement and the Convertible Senior Notes, respectively. The following sets forth the interest expense recognized related to the borrowings under the 2021 Credit Agreement and Convertible Senior Notes and is included in interest expense in the accompanying consolidated statements of income:

	Years Ended December 31,		
	2022	2021	2020
Contractual interest expense - Revolving Credit Facility	\$ (1,267)	\$ (1,244)	\$ —
Contractual interest expense - Term Loans	(18,583)	(9,341)	—
Contractual interest expense - Convertible Senior Notes	(1,500)	(1,213)	—
Amortization of debt discount and debt issuance costs	(7,029)	(3,297)	—
Interest expense and amortization of debt issuance costs - terminated 2019 Credit Agreement and Senior Unsecured Bridge loan facility	—	(8,203)	(1,013)
Total	\$ (28,379)	\$ (23,298)	\$ (1,013)

As of December 31, 2022, we had one outstanding standalone letter of credit totaling \$1.5 million. The letter of credit, which guarantees our performance under a client contract, renews automatically annually unless canceled in writing, and expires in the third quarter of 2026. For the twelve months ended December 31, 2022, we repaid \$360 million of the Term Loans under the 2021 Credit Agreement.

As of December 31, 2022, the required annual maturities related to the 2021 Credit Agreement and the Convertible Senior Notes due 2026 were as follows:

Year ending December 31,	Annual Maturities
2023	\$ 30,000
2024	135,000
2025	30,000
2026	800,000
2027	—
Total required maturities	\$ 995,000

(7) FINANCIAL INSTRUMENTS

The following table presents our financial instruments:

	December 31, 2022	December 31, 2021
Cash and cash equivalents	\$ 173,857	\$ 309,171
Held-to-maturity investments	—	98,653
Available-for-sale investments	55,538	—
Equity investments	10,000	10,000
Total	\$ 239,395	\$ 417,824

Cash and cash equivalents consist primarily of money market funds with original maturity dates of three months or less, for which we determine fair value through quoted market prices.

Our available-for-sale securities were historically classified as held-to-maturity. Management determined that our investment portfolio would be transferred from held-to-maturity to available-for-sale, in order to have the flexibility to buy and sell investments and maximize cash liquidity for potential acquisitions or for debt repayments. Accordingly, our investment portfolio is now classified as available-for-sale as of December 31, 2022. Our available-for-sale investments primarily consist of investment grade corporate bonds, municipal bonds, and asset-backed securities with maturity dates through 2027. These investments are presented at fair value and are included in short-term investments and non-current investments in the accompanying consolidated balance sheets. Unrealized gains or losses associated with the investments are included in accumulated other comprehensive loss, net of tax in the accompanying consolidated balance sheets and statements of comprehensive income. For our available-for-sale investments, we do not have the intent to sell, nor is it more likely than not that we would be required to sell before recovery of their cost basis.

As of December 31, 2022, we have an accrued interest receivable balance of approximately \$200,000 which is included in accounts receivable, net. We do not measure an allowance for credit losses for accrued interest receivables. We record any losses within the maturity period or at the time of sale of the investment and any write-offs to accrued interest receivables are recorded as a reduction to interest income in the period of the loss. During the twelve months ended December 31, 2022, we have recorded no credit losses for accrued interest receivables. Interest income and amortization of discounts and premiums are included in other income, net in the accompanying consolidated statements of income.

The following table presents the components of our available-for-sale investments:

	December 31, 2022	December 31, 2021
Amortized cost	\$ 56,670	\$ —
Unrealized gains	16	—
Unrealized losses	(1,148)	—
Estimated fair value	<u>\$ 55,538</u>	<u>\$ —</u>

As of December 31, 2022, we have \$37.0 million of available-for-sale debt securities with contractual maturities of one year or less and \$18.5 million with contractual maturities great than one year. As of December 31, 2022, 24 available-for-sale debt securities with a fair value of \$25.8 million have been in a loss position for one year or less and 28 securities with a fair value of \$23.1 million have been in a loss position for greater than one year.

The following table presents the activity on our available-for-sale or held-to-maturity investments:

	Years Ended December 31,		
	2022	2021	2020
Proceeds from sales and maturities	\$ 71,034	\$ 131,449	\$ 82,742
Realized losses on sales, net of tax	(79)	—	—

Our equity investments consist of an 18% interest in BFTR, LLC., a wholly owned subsidiary of Bison Capital Partners V L.P. BFTR, LLC, a privately held Australian company specializing in digitizing the spoken word in court and legal proceedings. The investment in common stock is accounted for under the equity method because we do not have the ability to exercise significant influence over the investee; and as the securities do not have readily determinable fair values, our investment is carried at cost less any impairment write-downs.

(8) OTHER COMPREHENSIVE LOSS

The following tables present the changes in the balances of accumulated other comprehensive loss, net of tax by component:

	Unrealized Loss On Available- for-Sales Securities	Other	Accumulated Other Comprehensive Loss
Balance as of December 31, 2020	\$ (46)	\$ —	\$ (46)
Other comprehensive income before reclassifications	—	—	—
Amounts reclassified to net income	—	—	—
Other comprehensive income (loss)	—	—	—
Balance as of December 31, 2021	\$ (46)	\$ —	\$ (46)
Other comprehensive loss before reclassifications	(850)	—	(850)
Reclassification adjustment of unrealized losses on securities transferred from held-to-maturity	(27)	—	(27)
Reclassification adjustment for net loss on sale of available for sale securities, included in net income	79	—	79
Other comprehensive loss	(798)	—	(798)
Balance as of December 31, 2022	\$ (844)	\$ —	\$ (844)

(9) FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date in the principal or most advantageous market for that asset or liability. Guidance on fair value measurements and disclosures establishes a valuation hierarchy for disclosure of inputs used in measuring fair value defined as follows:

- Level 1—Inputs are unadjusted quoted prices that are available in active markets for identical assets or liabilities.
- Level 2—Inputs include quoted prices for similar assets and liabilities in active markets and quoted prices in non-active markets, inputs other than quoted prices that are observable, and inputs that are not directly observable, but are corroborated by observable market data.
- Level 3—Inputs that are unobservable and are supported by little or no market activity and reflect the use of significant management judgment.

The classification of a financial asset or liability within the hierarchy is determined based on the least reliable level of input that is significant to the fair value measurement. In determining fair value, we utilize valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. We also consider the counterparty and our own non-performance risk in our assessment of fair value.

The following table presents fair values of our financial and debt instruments categorized by their fair value hierarchy as of December 31, 2022:

	Level 1	Level 2	Level 3	Total
Available-for-sale investments	\$ —	\$ 55,538	\$ —	\$ 55,538
Equity investments	—	—	10,000	10,000
2021 Credit Agreement				
Revolving Credit Facility	—	—	—	—
Term Loan A-1	—	288,302	—	288,302
Term Loan A-2	—	104,603	—	104,603
Convertible Senior Notes due 2026	—	560,910	—	560,910

Assets that are Measured at Fair Value on a Recurring Basis

Cash and cash equivalents, accounts receivables, accounts payables, short-term obligations and certain other assets at cost approximate fair value because of the short maturity of these instruments.

As of December 31, 2022, we have \$55.5 million in investment grade corporate bonds, municipal bonds, and asset-backed securities with maturity dates through 2027. The fair values of these securities are considered Level 2 as they are based on inputs from quoted prices in markets that are not active or other observable market data.

Assets that are Measured at Fair Value on a Nonrecurring Basis

As of December 31, 2022, we have an 18% interest in BFTR, LLC. The investment in common stock is accounted under the equity method because we do not have the ability to exercise significant influence over the investee and the securities do not have readily determinable fair values. Our investment is carried at cost less any impairment write-downs. Periodically, our equity method investments are assessed for impairment. We do not reassess the fair value of equity method investments if there are no identified events or changes in circumstances that may have a significant adverse effect on the fair value of the investments. No events or changes in circumstances have occurred during the period that require reassessment. There has been no impairment of our equity method investment for the periods presented. This investment is included in other non-current assets in the accompanying consolidated balance sheets.

We assess goodwill for impairment annually on October 1. In addition, we review goodwill, property and equipment, and other intangibles for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. During the fourth quarter of 2022, we completed our annual assessment of goodwill which did not result in an impairment charge. Further, we identified no indicators of impairment to long-lived and other assets and therefore, no impairment was recorded as of and for the period ended December 31, 2022.

Financial instruments measured at fair value only for disclosure purposes

The fair value of our borrowing under our 2021 Credit Agreement would approximate book value as of December 31, 2022, because our interest rates reset approximately every 30 days or less.

The carrying amount of the Revolving Credit Facility and Term Loans is the par value less the debt discount and debt issuance costs that are amortized to interest expense using the effective interest method over the terms of the Term Loans. Interest expense is included in the accompanying consolidated statements of income.

The fair value of our Convertible Senior Notes due 2026 is determined based on quoted market prices for a similar liability when traded as an asset in an active market, a Level 2 input. See Note 6, "Debt," for further discussion.

The carrying amount of the Convertible Senior Notes is the par value less the debt discount and debt issuance costs that are amortized to interest expense using the effective interest method over the term of the Convertible Senior Notes. Interest expense is included in the accompanying consolidated statements of income.

The following table presents the fair value and carrying value, net, of the 2021 Credit Agreement and our Convertible Notes due 2026):

	Fair Value at December 31,		Carrying Value at December 31,	
	2022	2021	2022	2021
2021 Credit Agreement				
Revolving Credit Facility	\$ —	\$ —	\$ —	\$ —
Term Loan A-1	288,302	580,515	288,302	580,515
Term Loan A-2	104,603	167,997	104,603	167,996
Convertible Notes due 2026	560,910	736,662	594,484	592,765
	<u>\$ 953,815</u>	<u>\$ 1,485,174</u>	<u>\$ 987,389</u>	<u>\$ 1,341,276</u>

(10) INCOME TAX

Income tax provision (benefit) on income from operations consists of the following:

	Years Ended December 31,		
	2022	2021	2020
Current:			
Federal	\$ 84,570	\$ 7,591	\$ (10,538)
State	25,975	3,203	(1,304)
	110,545	10,794	(11,842)
Deferred	(87,192)	(13,271)	(7,936)
	<u>\$ 23,353</u>	<u>\$ (2,477)</u>	<u>\$ (19,778)</u>

Reconciliation of the U.S. statutory income tax rate to our effective income tax expense rate for operations follows:

	Years Ended December 31,		
	2022	2021	2020
Federal income tax expense at statutory rate	\$ 39,395	\$ 33,386	\$ 36,759
State income tax, net of federal income tax benefit	9,197	5,594	6,677
Net operating loss carryback	(261)	3,391	(3,445)
Excess tax benefits of share-based compensation	(7,752)	(47,675)	(60,190)
Tax credits	(31,334)	(4,999)	(3,867)
Non-deductible business expenses	5,425	7,542	4,199
Uncertain tax positions	8,338	(425)	—
Other, net	345	709	89
	<u>\$ 23,353</u>	<u>\$ (2,477)</u>	<u>\$ (19,778)</u>

In 2022, we completed a multi-year research and development tax credit study, which resulted in a \$31.3 million research tax credit benefit.

The tax effects of the major items recorded as deferred tax assets and liabilities as of December 31 are:

	2022	2021
Deferred income tax assets:		
Capitalized research and experimental expenditures	\$ 76,731	\$ —
Operating expenses not currently deductible	17,263	16,639
Stock option and other employee benefit plans	21,373	19,596
Loss and credit carryforwards	8,589	18,604
Deferred revenue	4,405	4,717
Other	289	—
Total deferred income tax assets	128,650	59,556
Valuation allowance	—	—
Total deferred income tax assets, net of valuation allowance	<u>128,650</u>	<u>59,556</u>
Deferred income tax liabilities:		
Intangible assets	(256,818)	(266,827)
Property and equipment	(11,220)	(12,272)
Prepaid expenses	(9,503)	(8,542)
Total deferred income tax liabilities	<u>(277,541)</u>	<u>(287,641)</u>
Net deferred income tax liabilities	<u>\$ (148,891)</u>	<u>\$ (228,085)</u>

As of December 31, 2022, the capitalization and amortization requirements of research and experimental expenditures pursuant to the TCJA changes to Internal Revenue Code Section 174 resulted in a deferred tax asset of \$76.7 million.

As of December 31, 2022, we had federal net operating loss carryforwards of approximately \$22.9 million, after-tax state net operating loss carryforwards of approximately \$1.6 million, and tax credit carryforwards of approximately \$4.1 million. The federal net operating loss carryforward will begin to expire in 2037, if not utilized, and a portion of the state net operating loss and tax credit carryforwards begin expiring in 2033, if not utilized.

The acquired carryforwards are subject to an annual limitation but are expected to be realized. We believe it is more likely than not that all other deferred tax assets will be realized. However, the amount of the deferred tax asset considered realizable could be adjusted in the future if estimates of reversing taxable temporary differences are revised.

The following table provides a reconciliation of the gross unrecognized tax benefits from uncertain tax positions for the years ended December 31:

	2022		2021	
Balance at beginning of period	\$	4,635	\$	1,929
Additions for tax positions of prior period		5,522		4,508
Reductions for tax positions of prior period		(170)		(10)
Additions for tax positions of current period		5,804		212
Settlements		—		—
Expiration of statutes of limitations		(1,160)		(2,004)
Balance at end of period	\$	<u>14,631</u>	\$	<u>4,635</u>

As of December 31, 2022, \$1.9 million of the unrecognized tax benefits are reflected as a decrease in deferred income taxes and \$12.7 million are included in other long-term liabilities in our consolidated balance sheets. The total amount of unrecognized tax benefits, net of federal income tax benefit of state taxes, if recognized, that would affect the effective tax rate is \$13.9 million as of December 31, 2022, and \$4.3 million and \$1.9 million as of December 31, 2021, and 2020, respectively. It is reasonably possible that events will occur during the next 12 months that would cause the total amount of unrecognized tax benefits to increase or decrease. However, we do not expect such increases or decreases to be material to the financial condition or results of operations.

We are subject to U.S. federal income tax, as well as income tax of multiple state, local and foreign jurisdictions. We are routinely subject to income tax examinations by these taxing jurisdictions, but we do not have a history of, nor do we expect any material adjustments as a result of these examinations. With few exceptions, major U.S. federal, state, local and foreign jurisdictions are no longer subject to examination for years before 2018. As of February 22, 2023, no significant adjustments have been proposed by any taxing jurisdiction.

We recognize interest and penalties related to uncertain tax positions as a component of income tax expense in the consolidated statements of income. Accrued interest and penalty amounts were not significant at December 31, 2022.

(11) SHAREHOLDERS' EQUITY

The following table details activity in our common stock:

	Years Ended December 31,					
	2022		2021		2020	
	Shares	Amount	Shares	Amount	Shares	Amount
Purchases of treasury shares	—	\$ —	(33)	\$ (12,977)	(59)	\$ (15,484)
Stock option exercises	186	26,329	627	96,714	1,174	124,363
Employee stock plan purchases	49	16,651	35	13,158	40	10,912
Restricted stock units vested, net of withheld shares upon award settlement	176	(27,219)	147	(25,158)	76	(12,923)
Shares issued for acquisition	56	18,169	—	—	—	—

As of February 22, 2023, we had authorization from our board of directors to repurchase up to 2.3 million additional shares of our common stock.

(12) SHARE-BASED COMPENSATION

Share-Based Compensation Plan

In May 2018, stockholders approved the Tyler Technologies, Inc. 2018 Stock Incentive Plan (“the 2018 Plan”) which amended and restated the existing Tyler Technologies, Inc. 2010 Stock Option Plan (“the 2010 Plan”). Upon stockholder approval of the 2018 Plan, the remaining shares available for grant under the 2010 Plan were added to the shares authorized for grant under the 2018 Plan. Additionally, any awards previously granted under the 2010 Plan that expire unexercised or are forfeited are added to the shares authorized for grant under the 2018 Plan.

During fiscal year 2022, we granted stock awards under the 2018 Plan in the form of stock options, restricted stock units and performance share units. Stock options generally vest after three to six years of continuous service from the date of grant and have a contractual term of 10 years. Once options become exercisable, the employee can purchase shares of our common stock at the market price on the date we granted the option. Restricted stock unit grants generally vest ratably over three to five years of continuous service from the date of grant. Each performance share unit represents the right to receive one share of our common stock based on our achievement of certain financial performance targets during applicable performance periods. We account for share-based compensation utilizing the fair value recognition pursuant to ASC 718, *Stock Compensation*.

As of December 31, 2022, there were 1.3 million shares available for future grants under the 2018 Plan from the 22.9 million shares previously approved by the shareholders.

Determining Fair Value of Stock Compensation

Valuation and Amortization Method. We estimate the fair value of stock option awards granted using the Black-Scholes option valuation model. For restricted stock unit and performance stock unit awards, we estimate fair value as market value on the date of grant. We amortize the fair value of all awards on a straight-line basis over the requisite service periods, which are generally the vesting periods.

Expected Life. The expected life of awards granted represents the period of time that they are expected to be outstanding. The expected life represents the weighted-average period the stock options are expected to be outstanding based primarily on the options’ vesting terms, remaining contractual life and the employees’ expected exercise based on historical patterns.

Expected Volatility. Using the Black-Scholes option valuation model, we estimate the volatility of our common stock at the date of grant based on the historical volatility of our common stock.

Risk-Free Interest Rate. We base the risk-free interest rate used in the Black-Scholes option valuation model on the implied yield currently available on U.S. Treasury zero-coupon issues with an equivalent remaining term equal to the expected life of the award.

Expected Dividend Yield. We have not paid any cash dividends on our common stock in more than ten years and we do not anticipate paying any cash dividends in the foreseeable future. Consequently, we use an expected dividend yield of zero in the Black-Scholes option valuation model.

Expected Forfeitures. We use historical data to estimate pre-vesting option forfeitures. We record share-based compensation only for those awards that are expected to vest.

The following weighted average assumptions were used for options granted:

	Years Ended December 31,			
	2022	2021	2020	2019
Expected life (in years)	5.0	5.0	5.0	5.0
Expected volatility	28.3 %	26.1 %	27.0 %	27.0 %
Risk-free interest rate	3.3 %	1.0 %	0.4 %	0.4 %
Expected forfeiture rate	— %	— %	— %	— %

Share-Based Award Activity

The following table summarizes restricted stock unit and performance stock unit activity during the periods presented (shares in thousands):

	Number of Shares	Weighted Average Grant Date Fair Value per Share
Unvested at December 31, 2021	600	\$ 355.43
Granted	240	374.16
Conversion of Unvested Restricted Stock Awards	—	—
Vested	(246)	316.10
Forfeited	(26)	392.35
Unvested at December 31, 2022	568	\$ 376.07

Options granted, exercised, forfeited and expired are summarized as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
Outstanding at December 31, 2021	1,620	206.06		
Granted	90	349.05		
Exercised	(186)	141.54		
Forfeited	(13)	292.50		
Outstanding at December 31, 2022	1,511	\$ 221.38	5	\$ 175,246
Exercisable at December 31, 2022	1,249	\$ 195.54	5	\$ 167,620

We had unvested options to purchase approximately 267,000 shares with a weighted average grant date exercise price of \$346.14 as of December 31, 2022, and unvested options to purchase approximately 445,000 shares with a weighted average grant date exercise price of \$293.84 as of December 31, 2021.

Other information pertaining to option activity was as follows during the twelve months ended December 31:

	2022	2021	2020
Weighted average grant-date fair value of stock options granted	\$ 108.99	\$ 113.18	\$ 98.69
Total intrinsic value of stock options exercised	\$ 43,160	\$ 215,062	\$ 292,394

Share-Based Compensation Expense

The following table summarizes share-based compensation expense related to share-based awards which is recorded in the consolidated statements of income:

	Years Ended December 31,		
	2022	2021	2020
Subscriptions, maintenance and professional services	\$ 27,486	\$ 23,705	\$ 18,125
Sales and marketing expense	8,800	8,834	7,904
General and administrative expense	66,699	72,187	41,336
Total share-based compensation expense	102,985	104,726	67,365
Total tax benefit	(27,599)	(63,456)	(66,241)
Net decrease in net income	\$ 75,386	\$ 41,270	\$ 1,124

As of December 31, 2022, we had \$175.6 million of total unrecognized compensation cost related to unvested options and restricted stock units, net of expected forfeitures, which is expected to be amortized over a weighted average amortization period of 2.7 years.

Employee Stock Purchase Plan

Under our Employee Stock Purchase Plan (“ESPP”) participants may contribute up to 15% of their annual compensation to purchase common shares of Tyler. The purchase price of the shares is equal to 85% of the closing price of Tyler shares on the last day of each quarterly offering period. As of December 31, 2022, there were 576,000 shares available for future issuances under the ESPP from the 2.0 million shares previously approved by the stockholders.

(13) EARNINGS PER SHARE

The following table details the reconciliation of basic earnings per share to diluted earnings per share:

	Years Ended December 31,		
	2022	2021	2020
Numerator for basic and diluted earnings per share:			
Net income	\$ 164,240	\$ 161,458	\$ 194,820
Denominator:			
Weighted-average basic common shares outstanding	41,544	40,848	40,035
Assumed conversion of dilutive securities:			
Stock awards	855	1,382	1,491
Convertible Senior Notes	—	14	—
Denominator for diluted earnings per share - Adjusted weighted-average shares	42,399	42,244	41,526
Earnings per common share:			
Basic	\$ 3.95	\$ 3.95	\$ 4.87
Diluted	\$ 3.87	\$ 3.82	\$ 4.69

Share-based awards representing the right to purchase common stock of 372,000 shares in 2022, 117,000 shares in 2021, and 132,000 shares in 2020, were not included in the computation of diluted earnings per share because their inclusion would have had an antidilutive effect.

We have used the if-converted method for calculating any potential dilutive effect of the Convertible Senior Notes due 2026 on our diluted net income per share. Under the if-converted method, the Notes are assumed to be converted at the beginning of the period and the resulting common shares are included in the denominator of the diluted earnings per share calculation for the entire period being presented and interest expense, net of tax, recorded in connection with the Convertible Senior Notes is not added back to the numerator, only in the periods in which such effect is dilutive. The approximately 1.2 million remaining resulting common shares related to the Notes are not included in the dilutive weighted-average common shares outstanding calculation for the twelve months ended December 31, 2022, as their effect would be antidilutive given none of the conversion features have been triggered. See Note 6, “Debt,” for discussion on the conversion features related to the Convertible Senior Notes.

(14) LEASES

We lease office facilities for use in our operations, as well as transportation and other equipment. Most of our leases are non-cancelable operating lease agreements with original maturities between one to 12 years. Some of these leases include options to extend for up to six years. We have no finance leases and no related party lease agreements as of December 31, 2022. Right-of-use lease assets and lease liabilities for our operating leases are recorded in the consolidated balance sheets. During 2022, we incurred lease restructuring costs, resulting in an additional \$1.7 million of operating lease costs.

The components of operating lease expense were as follows:

Lease Costs	Years ended December 31,		
	2022	2021	2020
Operating lease cost	\$ 14,743	\$ 11,095	\$ 6,524
Short-term lease cost	2,166	2,308	1,940
Variable lease cost	1,047	1,659	1,760
Net lease cost	\$ 17,956	\$ 15,062	\$ 10,224

Supplemental information related to leases is as follows:

Other Information	Years ended December 31,	
	2022	2021
Cash flows:		
Cash paid amounts included in the measurement of lease liabilities:		
Operating cash outflows from operating leases	\$ 13,562	\$ 11,432
Right-of-use assets obtained in exchange for lease obligations (non-cash):		
Operating leases	\$ 25,171	\$ 20,140
Lease term and discount rate:		
Weighted average remaining lease term (years)	7	6
Weighted average discount rate	1.57 %	1.81 %

As of December 31, 2022, maturities of lease liabilities were as follows:

Year ending December 31,	Amount
2023	\$ 11,054
2024	10,878
2025	8,942
2026	7,022
2027	5,943
Thereafter	17,876
Total lease payments	61,715
Less: Interest	(2,930)
Present value of operating lease liabilities	\$ 58,785

Rental Income from third parties

We own office buildings in Bangor, Falmouth and Yarmouth, Maine; Lubbock and Plano, Texas; Troy, Michigan; Latham, New York; and Moraine, Ohio. We lease space in some of these buildings to third-party tenants. The property we lease to others under operating leases consists primarily of specific facilities where one tenant obtains substantially all of the economic benefit from the asset and has the right to direct the use of the asset. These non-cancelable leases expire between 2023 and 2027, and some have options to extend the lease for up to 10 years. We determine if an arrangement is a lease at inception. None of our leases allow the lessee to purchase the leased asset.

Rental income from third-party tenants was \$1.7 million in 2022, \$1.2 million in 2021, and \$1.1 million in 2020. Rental income is included in hardware and other revenue on the consolidated statements of income. Future minimum operating rental income based on contractual agreements is as follows:

Year ending December 31,	Amount
2023	\$ 1,881
2024	1,904
2025	1,363
2026	408
2027	131
Thereafter	—
Total	\$ 5,687

As of December 31, 2022, we had no additional significant operating or finance leases that had not yet commenced.

(15) EMPLOYEE BENEFIT PLANS

We provide a defined contribution plan for the majority of our employees meeting minimum service requirements. Eligible employees can contribute up to 30% of their current compensation to the plan subject to certain statutory limitations. We contribute up to a maximum of 3% of an employee's compensation to the plan. We made contributions to the plan and charged operating results \$17.5 million in 2022, \$15.6 million in 2021, and \$12.7 million in 2020.

(16) COMMITMENTS AND CONTINGENCIES

Litigation

During the first quarter 2022, the Company received a notice of termination for convenience for professional services under a contractual arrangement with a state client. Upon receipt of the termination notice, we ceased performing services under the contractual arrangement and sought payment of contractually owed fees of approximately \$15 million in connection with the termination for convenience. As of December 31, the total exposure in our financial statements included the remaining balance of net billed accounts receivable for licenses and services rendered under the contract of approximately \$12 million.

The client was unresponsive to company outreach for several months. On August 23, 2022, the Company filed a lawsuit to enforce our rights and remedies under the applicable contractual arrangement. The client has not filed responsive pleadings and no other significant activity has occurred in the lawsuit. Although we believe our products and services were delivered in accordance with the terms of our contract and that we are entitled to payment in connection with the termination for convenience, at this time the matter remains unresolved. We are unable to estimate the probability of a favorable or unfavorable outcome with respect to the dispute or estimate the amount of potential loss, if any, related to this matter. We can provide no assurances that we will not incur additional costs as we pursue our rights and remedies under the contract.

Purchase Commitments

We have contractual obligations for third-party technology used in our solutions and for other services we purchase as part of our normal operations. In certain cases, these arrangements require a minimum annual purchase commitment by us. As of December 31, 2022, the remaining aggregate minimum purchase commitment under these arrangements was approximately \$264 million through 2028. Future minimum payments related to purchase commitments based on contractual agreements is as follows:

Year ending December 31,	Amount	
2023	\$	41,210
2024		41,862
2025		39,730
2026		42,681
2027		42,734
Thereafter		56,245
Total	\$	<u>264,462</u>

(17) SEGMENT AND RELATED INFORMATION

We provide integrated information management solutions and services for the public sector.

We provide our software systems and related professional services and appraisal services through seven business units, which focus on the following products:

- financial management, education and planning, regulatory, and maintenance software solutions;
- financial management, municipal courts, planning, regulatory, and maintenance software solutions;
- courts and justice and public safety software solutions;
- data and insights solutions;
- appraisal and tax software solutions, land and vital records management software solutions, and property appraisal services;
- development platform solutions including case management and business process management; and
- digital government and payments solutions.

In accordance with ASC 280-10, *Segment Reporting*, we report our results in two reportable segments. The Enterprise Software ("ES") reportable segment provides public sector entities with software systems and services to meet their information technology and automation needs for mission-critical "back-office" functions such as: financial management and education; planning, regulatory and maintenance; courts and justice; public safety; data and insights; appraisal and tax software solutions; land and vital records management software solutions; and property appraisal services. The Platform Technologies ("PT") reportable segment provides public sector entities with software solutions to perform transaction processing, streamline data processing, and improve operations and workflows such as digital government and payments solutions and development platform solutions.

We evaluate performance based on several factors, of which the primary financial measure is business segment operating income. We define segment operating income for our business units as income before non-cash amortization of intangible assets associated with their acquisitions, interest expense, and income taxes. Segment operating income includes intercompany transactions. The majority of intercompany transactions relate to contracts involving more than one unit and are valued based on the contractual arrangement. Corporate segment operating loss primarily consists of compensation costs for the executive management team, certain shared services staff, and share-based compensation expense for the entire company. Corporate segment operating income also includes revenues and expenses related to a company-wide user conference. The accounting policies of the reportable segments are the same as those described in Note 1, "Summary of Significant Accounting Policies".

As of January 1, 2022, the appraisal and tax software solutions, land and vital records management software solutions, and property appraisal service business unit, which was previously reported in the Appraisal & Tax ("A&T") reportable segment, was moved to the ES reportable segment. The digital government and payments solutions, which was previously reported in the NIC reportable segment, and development platform solutions moved to the PT reportable segment to reflect changes in the way in which management makes operating decisions, allocates resources, and manages the growth and profitability of the Company. As a result of the changes in our reportable segments, the former A&T and NIC reportable segments are no longer considered separate segments. Prior periods amounts for the ES and PT reportable segments have been adjusted to reflect the segment change.

Segment assets primarily consist of net accounts receivable, prepaid expenses and other current assets and net property and equipment, and software development costs. Corporate assets primarily consist of cash and investments, prepaid insurance, intangibles associated with acquisitions, deferred income taxes and net property and equipment mainly related to unallocated information and technology assets.

The ES segment capital expenditures included \$3.6 million in 2022 and \$12.8 million in 2021 for the expansion of existing buildings and purchases of buildings. The PT segment had \$863,000 capital expenditures in 2022 and had no capital expenditures in 2021 for the expansion of existing buildings.

For the year ended December 31, 2022	Enterprise Software	Platform Technologies	Corporate	Totals
Revenues				
Subscriptions	\$ 526,323	\$ 485,981	\$ —	\$ 1,012,304
Maintenance	444,143	24,312	—	468,455
Professional services	170,462	72,655	—	243,117
Software licenses and royalties	55,158	4,248	—	59,406
Appraisal services	34,508	—	—	34,508
Hardware and other	26,592	—	5,822	32,414
Intercompany	21,636	—	(21,636)	—
Total revenues	\$ 1,278,822	\$ 587,196	\$ (15,814)	\$ 1,850,204
Depreciation and amortization expense	55,389	84,609	19,074	159,072
Segment operating income	418,776	123,291	(214,263)	327,804
Software development expenditures	3,790	14,581	9,251	27,622
Capital expenditures	8,972	6,845	6,712	22,529
Segment assets	\$ 636,377	\$ 362,610	\$ 3,688,430	\$ 4,687,417

For the year ended December 31, 2021	Enterprise Software	Platform Technologies	Corporate	Totals
Revenues				
Subscriptions	\$ 425,078	\$ 359,357	\$ —	\$ 784,435
Maintenance	439,589	34,698	—	474,287
Professional services	165,396	43,995	—	209,391
Software licenses and royalties	66,816	7,636	—	74,452
Appraisal services	27,788	—	—	27,788
Hardware and other	18,876	31	3,027	21,934
Intercompany	22,033	—	(22,033)	—
Total revenues	\$ 1,165,576	\$ 445,717	\$ (19,006)	\$ 1,592,287
Depreciation and amortization expense	54,011	55,539	26,074	135,624
Segment operating income	401,382	92,582	(222,779)	271,185
Software development expenditures	3,504	12,332	5,857	21,693
Capital expenditures	19,213	3,696	11,010	33,919
Segment assets	\$ 601,390	\$ 359,919	\$ 3,770,852	\$ 4,732,161

For the year ended December 31, 2020	Enterprise Software	Platform Technologies	Corporate	Totals
Revenues				
Subscriptions	\$ 339,842	\$ 10,806	\$ —	\$ 350,648
Maintenance	427,813	39,700	—	467,513
Professional services	165,022	21,387	—	186,409
Software licenses and royalties	67,979	5,185	—	73,164
Appraisal services	21,127	—	—	21,127
Hardware and other	17,755	36	11	17,802
Intercompany	19,131	—	(19,131)	—
Total revenues	\$ 1,058,669	\$ 77,114	\$ (19,120)	\$ 1,116,663
Depreciation and amortization expense	52,715	15,717	13,225	81,657
Segment operating income	355,679	15,569	(144,698)	226,550
Software development expenditures	—	5,776	—	5,776
Capital expenditures	14,246	652	7,792	22,690
Segment assets	\$ 561,324	\$ 57,420	\$ 1,988,530	\$ 2,607,274

Reconciliation of reportable segment operating income to the Company's consolidated totals:

	Years Ended December 31,		
	2022	2021	2020
Total segment operating income	\$ 327,804	\$ 271,185	\$ 226,550
Amortization of acquired software	(52,192)	(45,601)	(31,962)
Amortization of other intangibles	(61,363)	(44,849)	(21,662)
Interest expense	(28,379)	(23,298)	(1,013)
Other income, net	1,723	1,544	3,129
Income before income taxes	\$ 187,593	\$ 158,981	\$ 175,042

(18) DISAGGREGATION OF REVENUE

The tables below show disaggregation of revenue into categories that reflect how economic factors affect the nature, amount, timing, and uncertainty of revenues and cash flows.

Timing of Revenue Recognition

Timing of revenue recognition by revenue category during the period is as follows:

	Products and services transferred at a point in time	Products and services transferred over time	Total
For the year ended December 31, 2022			
Revenues:			
Subscriptions	\$ —	\$ 1,012,304	\$ 1,012,304
Maintenance	—	468,455	468,455
Professional services	—	243,117	243,117
Software licenses and royalties	50,302	9,104	59,406
Appraisal services	—	34,508	34,508
Hardware and other	32,414	—	32,414
Total	\$ 82,716	\$ 1,767,488	\$ 1,850,204
For the year ended December 31, 2021			
Revenues:			
Subscriptions	\$ —	\$ 784,435	\$ 784,435
Maintenance	—	474,287	474,287
Professional services	—	209,391	209,391
Software licenses and royalties	62,847	11,605	74,452
Appraisal services	—	27,788	27,788
Hardware and other	21,934	—	21,934
Total	\$ 84,781	\$ 1,507,506	\$ 1,592,287
For the year ended December 31, 2020			
Revenues:			
Subscriptions	\$ —	\$ 350,648	\$ 350,648
Maintenance	—	467,513	467,513
Professional services	—	186,409	186,409
Software licenses and royalties	62,029	11,135	73,164
Appraisal services	—	21,127	21,127
Hardware and other	17,802	—	17,802
Total	\$ 79,831	\$ 1,036,832	\$ 1,116,663

Recurring Revenues

The majority of our revenue is comprised of revenues from subscriptions and maintenance, which we consider to be recurring revenues. Subscriptions revenue primarily consists of revenues derived from our SaaS arrangements and transaction-based fees, which relate to digital government services, e-filing transactions, and payment processing. Total subscriptions revenue derived from transaction-based fees included in total recurring revenues was \$600.8 million, \$454.8 million, and \$91.0 million, respectively, for the twelve months ended December 31, 2022, 2021, and 2020, respectively. The contract terms for subscription arrangements range from one to 10 years but are typically contracted for initial periods of three to five years. Virtually all of our on-premises software clients contract with us for maintenance and support, which provides us with a significant source of recurring revenues. That maintenance and support is generally provided under annual, or in some cases, multi-year contracts. We consider all other revenue categories to be non-recurring revenues.

Recurring revenues and non-recurring revenues recognized during the period are as follows:

	Enterprise Software	Platform Technologies	Corporate	Totals
For the year ended December 31, 2022				
Recurring revenues	\$ 970,466	\$ 510,293	\$ —	\$ 1,480,759
Non-recurring revenues	286,720	76,903	5,822	369,445
Intercompany	21,636	—	(21,636)	—
Total revenues	\$ 1,278,822	\$ 587,196	\$ (15,814)	\$ 1,850,204
For the year ended December 31, 2021				
Recurring revenues	\$ 864,667	\$ 394,055	\$ —	\$ 1,258,722
Non-recurring revenues	278,876	51,662	3,027	333,565
Intercompany	22,033	—	(22,033)	—
Total revenues	\$ 1,165,576	\$ 445,717	\$ (19,006)	\$ 1,592,287
For the year ended December 31, 2020				
Recurring revenues	\$ 767,655	\$ 50,506	\$ —	\$ 818,161
Non-recurring revenues	271,883	26,608	11	298,502
Intercompany	19,131	—	(19,131)	—
Total revenues	\$ 1,058,669	\$ 77,114	\$ (19,120)	\$ 1,116,663

(19) DEFERRED REVENUE AND PERFORMANCE OBLIGATIONS

Total deferred revenue, including long-term, by segment is as follows:

	December 31, 2022	December 31, 2021
Enterprise Software	\$ 533,902	\$ 479,048
Platform Technologies	33,691	29,705
Corporate	2,982	1,814
Totals	\$ 570,575	\$ 510,567

Changes in total deferred revenue, including long-term, were as follows:

	2022
Balance at beginning of year	\$ 510,567
Deferral of revenue	1,267,937
Recognition of deferred revenue	(1,207,929)
Balance at end of year	\$ 570,575

Transaction Price Allocated to the Remaining Performance Obligations

The aggregate amount of transaction price allocated to the remaining performance obligations represents contracted revenue that has not yet been recognized (“backlog”), which includes deferred revenue and amounts that will be invoiced and recognized as revenue in future periods. Backlog as of December 31, 2022 was \$1.89 billion, of which we expect to recognize approximately 47% as revenue over the next 12 months and the remainder thereafter.

(20) DEFERRED COMMISSIONS

Sales commissions earned by our sales force are considered incremental and recoverable costs of obtaining a contract with a customer. Sales commissions for initial contracts are deferred and then amortized commensurate with the recognition of associated revenue over a period of benefit that we have determined to be generally three to seven years. Deferred commissions were \$43.8 million and \$38.1 million as of December 31, 2022 and 2021, respectively. Amortization expense was \$15.4 million, \$13.4 million, and \$11.9 million for the twelve months ended December 31, 2022, 2021, and 2020, respectively. There were no indicators of impairment in relation to the costs capitalized for the periods presented. Deferred commissions have been included with prepaid expenses for the current portion and non-current other assets for the long-term portion in the accompanying consolidated balance sheets. Amortization expense related to deferred commissions is included in sales and marketing expense in the accompanying consolidated statements of income.

(21) SUBSEQUENT EVENTS

There have been no material events or transactions that occurred subsequent to December 31, 2022.

THIRD AMENDMENT TO CREDIT AGREEMENT

THIS THIRD AMENDMENT TO CREDIT AGREEMENT (this "Amendment"), is dated as of January 27, 2023, by and among **TYLER TECHNOLOGIES, INC.**, a Delaware corporation (the "Borrower"), the other Credit Parties (as defined in the Credit Agreement referred to below) party hereto, the Lenders (as hereinafter defined) party hereto, and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as administrative agent for the Lenders (in such capacity, the "Administrative Agent").

WITNESSETH:

WHEREAS, the Borrower, the Administrative Agent and the lenders party thereto (the "Lenders" and each a "Lender") entered into that certain Credit Agreement dated as of April 21, 2021 (as amended by that certain Second Amendment to Credit Agreement dated as of August 16, 2021, as amended by that certain First Amendment to Credit Agreement dated as of April 15, 2022 and as may be further amended, restated, extended, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement"), under which the Lenders agreed to make extensions of credit from time to time to, or for the account of, Borrower;

WHEREAS, the Borrower has requested that the Administrative Agent and the Lenders make certain amendments to the Credit Agreement, subject to the terms hereof, as set forth herein; and

WHEREAS, the Administrative Agent, on behalf of the Lenders, has agreed to make such amendments as set forth herein, subject to the terms hereof.

NOW THEREFORE, in consideration of the premises and of the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Defined Terms. Unless otherwise defined herein, all capitalized terms used herein have the meanings assigned to such terms in the Credit Agreement, as amended hereby.

SECTION 2. Amendments. Effective as of the Amendment Effective Date (as hereinafter defined) and subject to the terms and conditions set forth herein and in reliance upon the representations and warranties set forth herein, the Existing Credit Agreement is hereby amended as follows:

(a) the body of the Existing Credit Agreement is hereby amended (i) to delete red or green stricken text (indicated textually in the same manner as the following examples: ~~stricken text~~ and ~~stricken text~~) and (ii) to add the blue or green double-underlined text (indicated textually in the same manner as the following examples: double-underlined text and double-underlined text), in each case, as set forth in the conformed copy of the Credit Agreement attached hereto as Annex A hereto (as so amended, the "Credit Agreement"); and

(b) Exhibit B (Form of Notice of Borrowing), Exhibit D (Form of Notice of Prepayment), Exhibit E (Form of Notice of Conversion/Continuation) and Exhibit F (Form of Officer's Compliance Certificate) to the Existing Credit Agreement are hereby amended and restated in the forms attached hereto as Annex B.

SECTION 3. Representations, Warranties and Covenants. To induce the Administrative Agent and the Lenders party hereto to enter into this Amendment, each Credit Party represents and warrants to the Administrative Agent and the Lenders on and as of the Amendment Effective Date that, in each case:

(a) each of the representations and warranties contained in Article VII of the Credit Agreement are true and correct in all material respects, except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty is true, correct and complete in all respects, with the same effect as if made on and as of such date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty remains true and correct as of such earlier date);

(b) no Event of Default has occurred and is continuing immediately prior to or after giving effect to this Amendment;

(c) it has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Amendment in accordance with their respective terms; and

(d) this Amendment has been duly executed and delivered by the duly authorized officers, managers, managing members or other authorized person of the Borrower and each other Credit Party, and the Amendment constitutes the legal, valid and binding obligation of the Borrower and each other Credit Party, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal Debtor Relief Laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

SECTION 4. Conditions Precedent to Effectiveness of Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied or waived (such date, the "Amendment Effective Date"):

(a) the Administrative Agent's receipt of this Amendment, duly executed by each Credit Party, the Administrative Agent and each of the Lenders;

(b) the representations and warranties set forth in Section 3 shall be true and correct; and

(c) the Borrower shall have paid all fees and expenses required to be paid on the Amendment Effective Date.

For purposes of determining compliance with the conditions specified in this Section 4, the Administrative Agent and each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Amendment Effective Date specifying its objection thereto.

SECTION 5. Credit Party Acknowledgements, Agreements and Confirmations. By its execution of this Amendment, each Credit Party hereby (a) consents to this Agreement and agrees that the transactions contemplated by this Agreement shall not limit or diminish the obligations of such Credit Party, or release such Credit Party from any obligations, under any of the Loan Documents to which it is a party, (b) confirms and reaffirms its obligations under each of the Loan Documents to which it is a party and (c) agrees that each of the Loan Documents to which it is a party remain in full force and effect and are hereby ratified and confirmed.

SECTION 6. Execution in Counterparts; Electronic Signatures. This Amendment may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original



and all of which taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of this Amendment by telefacsimile, “.pdf file” or other electronic method of transmission shall be equally as effective as delivery of an originally executed counterpart of this Amendment. Any party delivering an executed counterpart of this Amendment by telefacsimile, “.pdf file” or other electronic method of transmission also shall deliver an originally executed counterpart of this Amendment but the failure to deliver an originally executed counterpart shall not affect the validity, enforceability, and binding effect of this Amendment. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to this Amendment or any document to be signed in connection with this Amendment 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 state laws based on the Uniform Electronic Transactions Act, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

SECTION 7. Costs and Expenses. The Borrower hereby affirms its obligation under the Credit Agreement to reimburse the Administrative Agent for all costs and expenses as provided under Section 12.3(a) of the Credit Agreement, including costs and expenses paid or incurred by the Administrative Agent in connection with the preparation, negotiation, execution and delivery of this Amendment.

SECTION 8. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK)).

SECTION 9. Successors and Assigns. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10 Effect of Amendment. The parties hereto agree and acknowledge that (a) nothing contained in this Amendment in any manner or respect amends, modifies, limits, terminates or waives any of the provisions of the Credit Agreement or the other outstanding Loan Documents other than as expressly set forth herein and (b) the Credit Agreement (as amended hereby) and each of the other outstanding Loan Documents remain and continue in full force and effect and are hereby ratified and reaffirmed in all respects. Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein” or words of similar import shall mean and be a reference to the Credit Agreement, as amended hereby.

SECTION 11. Entire Agreement. This Amendment is the entire agreement, and supersedes any prior agreements and contemporaneous oral agreements, of the parties concerning its subject matter. This Amendment is a Loan Document and is subject to the terms and conditions of the Credit Agreement.

SECTION 12. Headings. Section headings in this Amendment are included herein for convenience of any reference only and shall not constitute a part of this Amendment for any other purposes.

SECTION 13. Outstanding Loans. All LIBOR Rate Loans (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement on the date hereof (the “Existing LIBOR Rate Loans”) shall continue as LIBOR Rate Loans bearing interest at the rate applicable to each such LIBOR Rate Loan for the Interest Period applicable thereto under the Credit Agreement (and,



notwithstanding anything in this Agreement including Annex A hereto to the contrary, subject to the terms and conditions and applicable interest rate terms (including breakage) with respect to LIBOR Rate Loans under the Existing Credit Agreement) solely for the remainder of the Interest Periods applicable thereto immediately prior to the effectiveness of this Agreement; it being understood that such Existing LIBOR Rate Loans and Interest Periods are not being renewed or extended as a result of this Agreement and, upon the expiration or earlier termination of such Interest Periods, such Existing LIBOR Rate Loans shall be (i) repaid or (ii) converted to Base Rate Loans or SOFR Loans (in each case, as defined in the Credit Agreement) as the Borrower may elect (which election in the case of clause (ii) shall be made in accordance with the notice requirements set forth in Section 2.3(a) or Section 5.2 of the Credit Agreement as though the Borrower was requesting a borrowing, or the conversion of the applicable Existing LIBOR Rate Loan, to be made on the effective date thereof). For the avoidance of doubt, notwithstanding anything to the contrary set forth in this Agreement or Annex A hereto, any LIBOR Related Definition (as defined below) that has been deleted pursuant to the terms of this Agreement or the attached Annex A and that refers or is applicable to an Existing LIBOR Rate Loan immediately prior to the Amendment Effective Date shall be deemed to be in full force and effect and to refer to and be applicable to all Existing LIBOR Rate Loans until the expiration or earlier termination of all Interest Periods applicable to such Existing LIBOR Rate Loans. For purposes of this Section 13, "LIBOR Related Definition" means any term defined in the Existing Credit Agreement (or any partial definition thereof) as in effect immediately prior to the Amendment Effective Date, however phrased, primarily relating to the determination, administration or calculation of the LIBOR Rate.


[Signature page follows]



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


BORROWER:

TYLER TECHNOLOGIES, INC.

By: 
Brian Miller (Jan 27, 2023 17:07 CST)
Name: Brian Miller
Title: Chief Financial Officer

GUARANTORS:

NIC INC.
COLORADO INTERACTIVE, LLC
NATIONAL ONLINE REGISTRIES, LLC
NIC LICENSING SOLUTIONS, LLC
NICUSA, INC.
NIC FEDERAL, LLC
KANSAS INFORMATION CONSORTIUM, LLC
SOUTH CAROLINA INTERACTIVE, LLC
TEXAS NICUSA, LLC
TYLER FEDERAL, LLC
VIRGINIA INTERACTIVE, LLC

By: 
Brian Miller (Jan 27, 2023 17:07 CST)
Name: Brian Miller
Title: Chief Financial Officer



ADMINISTRATIVE AGENT AND LENDERS:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent and Lender

By:  _____

Name: *Jack Stutesman*

Title: *Vice President*



PNC BANK, NATIONAL ASSOCIATION, as Lender

By:  _____

Name: Janine Z. Tweed

Title: Vice President

TRUIST BANK, as Lender

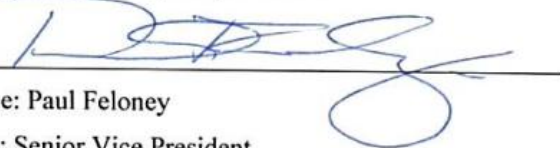
By: *Cynthia W. Burton*

Name: Cynthia Whaley Burton

Title: Director



CITIZENS BANK, N.A., as Lender

By: 
Name: Paul Feloney
Title: Senior Vice President



REGIONS BANK, as Lender

By: _____

Name:

Mike Roane

Title:

Director



BOKF, NA DBA BANK OF TEXAS, as Lender

By: Hayley Krahl
Name: Hayley Krahl
Title: Vice President



BANK OF THE WEST, as Lender

By: R. Blake Beavers

Name: R. Blake Beavers

Title: Director



COMERICA BANK, as Lender

By:  _____

Name: John Smithson

Title: Vice President



ANNEX A

AMENDED CREDIT AGREEMENT



CONFORMED CREDIT AGREEMENT

Incorporates the following: First

ANNEX A TO THIRD AMENDMENT dated as of August 16, 2021 and

Second Amendment dated as of April 15, 2022

Published CUSIP Number: 90224VAG7

Revolving Credit CUSIP Number: 90224VAH5

Term A-1 Loan CUSIP Number: 90224VAJ1

Term A-2 Loan CUSIP Number: 90224VAK8

\$1,400,000,000

CREDIT AGREEMENT

dated as of April 21, 2021,

(as amended by the First Amendment to Credit Agreement dated as of August 16, 2021,
the Second Amendment to Credit Agreement dated as of April 15, 2022 and
the Third Amendment to Credit Agreement dated as of January 27, 2023)

by and among

TYLER TECHNOLOGIES, INC.,
as Borrower,

the Lenders referred to herein,
as Lenders,

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent,
Swingline Lender and Issuing Lender

PNC BANK, NATIONAL ASSOCIATION and TRUIST BANK,
as Co-Syndication Agents

and

CITIZENS BANK, N.A., and REGIONS BANK,
as Co-Documentation Agents

**WELLS FARGO SECURITIES, LLC,
PNC CAPITAL MARKETS LLC,
and
TRUIST SECURITIES, INC.,**
as Joint Lead Arrangers and Joint Bookrunners



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- Exhibit A-5 - Form of Incremental Term Loan Note
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CREDIT AGREEMENT, dated as of April 21, 2021, by and among TYLER TECHNOLOGIES, INC., a Delaware corporation, as Borrower, the lenders who are party to this Agreement and the lenders who may become a party to this Agreement pursuant to the terms hereof, as Lenders, and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Administrative Agent for the Lenders.

STATEMENT OF PURPOSE

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

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

ARTICLE I

DEFINITIONS

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

“Acquisition” means any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which any Credit Party or any of its Subsidiaries (a) acquires any going business or all or substantially all of the assets of any Person, or division thereof, whether through purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company.

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

“Administrative Agent” means Wells Fargo, in its capacity as Administrative Agent hereunder, and any successor thereto appointed pursuant to Section 11.6.

“Administrative Agent’s Office” means the office of the Administrative Agent specified in or determined in accordance with the provisions of Section 12.1(c).

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

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

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” means this Credit Agreement.



~~“Announcements” has the meaning assigned thereto in Section 1.12.~~

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

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

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

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

Pricing Level	Consolidated Total Net Leverage Ratio	Commitment Fee	Revolving Credit Loans and Term A-1 Loans		Term A-2 Loans	
			LIBOR + Adjusted Term SOFR +	Base Rate +	LIBOR + Adjusted Term SOFR +	Base Rate +
I	Less than to 1.00 to 1.00	0.15%	1.125%	0.125%	0.875%	0.00%
II	Greater than or equal to 1.00 to 1.00, but less than 1.50 to 1.00	0.20%	1.25%	0.25%	1.00%	0.00%
III	Greater than or equal to 1.50 to 1.00, but less than 3.25 to 1.00	0.25%	1.50%	0.50%	1.25%	0.25%
IV	Greater than or equal to 3.25 to 1.00	0.30%	1.75%	0.75%	1.50%	0.50%

The Applicable Margin shall be determined and adjusted quarterly on the date five (5) Business Days after the day on which the Borrower provides an Officer’s Compliance Certificate pursuant to Section 8.2(a) for the most recently ended fiscal quarter of the Borrower (each such date, a “Calculation Date”); provided that (a) the Applicable Margin shall be based on Pricing Level III until the first Calculation Date occurring after the Closing Date and, thereafter the Pricing Level shall be determined by reference to the Consolidated Total Net Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, and (b) if the Borrower fails to provide an Officer’s Compliance Certificate when due as required by Section 8.2(a) for the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, the Applicable Margin from the



date on which such Officer's Compliance Certificate was required to have been delivered shall be based on Pricing Level IV until such time as such Officer's Compliance Certificate is delivered, at which time the Pricing Level shall be determined by reference to the Consolidated Total Net Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding such Calculation Date. The applicable Pricing Level shall be effective from one Calculation Date until the next Calculation Date. Any adjustment in the Pricing Level shall be applicable to all Extensions of Credit then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Officer's Compliance Certificate delivered pursuant to Section 8.1 or 8.2(a) is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) any Commitments are in effect, or (iii) any Extension of Credit is outstanding when such inaccuracy is discovered or such financial statement or Officer's Compliance Certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an "Applicable Period") than the Applicable Margin applied for such Applicable Period, then (A) the Borrower shall immediately deliver to the Administrative Agent a corrected Officer's Compliance Certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Consolidated Total Net Leverage Ratio in the corrected Officer's Compliance Certificate were applicable for such Applicable Period, and (C) the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with Section 5.4. Nothing in this paragraph shall limit the rights of the Administrative Agent and Lenders with respect to Sections 5.1(b) and 10.2 nor any of their other rights under this Agreement or any other Loan Document. The Borrower's obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

The Applicable Margin shall (a) with respect to any Revolving Extensions of Credit, any Term A-1 Loan and any Term A-2 Loans, be increased as, and to the extent, required by Section 5.15 and (b) with respect to any Incremental Term Loans, be determined pursuant to, and in accordance with, Section 5.15.

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

"Arrangers" means, collectively, Wells Fargo Securities, LLC, PNC Capital Markets LLC, and Truist Securities, Inc., each in its capacity as a joint lead arranger and joint bookrunner.

"Asset Disposition" means the sale, transfer, license, lease or other disposition of any Property (including any sale and leaseback transaction, division, merger or disposition of Equity Interests) by any Credit Party or any Subsidiary thereof (or the granting of any option or other right to do any of the foregoing). The term "Asset Disposition" shall not include (a) the sale of inventory in the ordinary course of business, (b) the transfer of assets, including by merger or disposition of Equity Interests, to the Borrower or any Subsidiary Guarantor pursuant to any other transaction permitted pursuant to Section 9.4, (c) the write-off, discount, sale or other disposition of defaulted or past-due receivables and similar obligations in the ordinary course of business and not undertaken as part of an accounts receivable financing transaction, (d) the disposition of any Hedge Agreement, (e) dispositions of Investments in cash and Cash Equivalents, (f) the transfer by any Credit Party of its assets to any other Credit Party, (g) the transfer by any Non-Guarantor Subsidiary of its assets to any Credit Party (provided that in connection with any new transfer, such Credit Party shall not pay more than an amount equal to the fair market value of such assets as determined in good faith at the time of such transfer) and (h) the transfer by any Non-Guarantor Subsidiary of its assets to any other Non-Guarantor Subsidiary.



“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 12.9), and accepted by the Administrative Agent, in substantially the form attached as **Exhibit G** or any other form approved by the Administrative Agent.

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

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if ~~the then-current~~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, ~~as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case,~~ as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 5.8(c)(iv).

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

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

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

“Base Rate” means, at any time, the highest of (a) the Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) LIBOR Adjusted Term SOFR for an Interest Period of a one-month tenor in effect on such day plus 1%; each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or LIBOR Adjusted Term SOFR, as applicable (provided that clause (c) shall not be applicable during any period in which LIBOR Adjusted Term SOFR is unavailable or unascertainable).

“Base Rate Loan” means any Loan bearing interest at a rate based upon the Base Rate as provided in Section 5.1(a).

“Benchmark” means, initially, USD LIBOR the Term SOFR Reference Rate; provided that if a Benchmark Transition Event, ~~a Term SOFR Transition Event, or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have~~ has occurred with respect to USD LIBOR 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 5.8(c)(i).

“Benchmark Replacement” means, ~~for any Available Tenor,(a)~~ with respect to any Benchmark Transition Event ~~or Early Opt-in Election, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:~~

~~(1) — the sum of: (A) Term SOFR and (B) the related Benchmark Replacement Adjustment; provided, that, if the Borrower has provided a notification to the Administrative Agent in writing on or prior to such Benchmark Replacement Date that the Borrower has a Hedge Agreement in place with respect to any of the Loans as of the date of such notice (which such notification the Administrative Agent shall be entitled to rely upon and shall have no duty or obligation to ascertain the correctness or completeness of), then the Administrative Agent, in its sole discretion, may decide not to determine the Benchmark Replacement pursuant to this clause (a)(1) for such Benchmark Transition Event or Early Opt-in Election, as applicable;~~

~~(2) — the sum of: (A) Daily Simple SOFR and (B) the related Benchmark Replacement Adjustment;~~

~~(3) — the sum of: (A, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (B) the related Benchmark Replacement Adjustment; or~~

~~(b) — with respect to any Term SOFR Transition Event, the sum of (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment; provided that, (i) in the case of clause (a)(1), if the Administrative Agent decides that Term SOFR is not administratively feasible for the Administrative Agent, then Term SOFR will be deemed unable to be determined for purposes of this definition and (ii) in the case of clause (a)(1) or clause (b) of this definition, the applicable Unadjusted Benchmark Replacement is 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. If the if such Benchmark Replacement as so determined pursuant to clause (a)(1), (a)(2) or (a)(3) or clause (b) of this definition would be less than the Floor, thesuch Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.~~

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable ~~Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:~~

~~(1) — for purposes of clauses (a)(1) and (a)(2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:(a), the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Available Tenor of such Benchmark with the applicable Unadjusted Benchmark Replacement;~~



~~(b) — the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Available Tenor of such Benchmark;~~

~~(2) — for purposes of clause (a)(3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (i**a**) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Available Tenor of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii**b**) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Available Tenor of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities; and~~

~~(3) — for purposes of clause (b) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Available Tenor of USD LIBOR with a SOFR-based rate;~~

~~provided that, (x) in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion and (y) if the then-current Benchmark is a term rate, more than one tenor of such Benchmark is available as of the applicable Benchmark Replacement Date and the applicable Unadjusted Benchmark Replacement that will replace such Benchmark in accordance with Section 5.8(c)(i) will not be a term rate, the Available Tenor of such Benchmark for purposes of this definition of “Benchmark Replacement Adjustment” shall be deemed to be, with respect to each Unadjusted Benchmark Replacement having a payment period for interest calculated with reference thereto, the Available Tenor that has approximately the same length (disregarding business day adjustments) as such payment period.~~

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

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



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

~~(c)~~ ~~in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the Administrative Agent has provided the Term SOFR Notice to the Lenders and the Borrower pursuant to Section 5.8(c)(i)(B); or~~

~~(d)~~ ~~in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.~~

For the avoidance of doubt, ~~(i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1a) or (2b) 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)~~ 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)~~ ~~(b)~~ a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the Federal Reserve Bank of New York, 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) ~~(e)~~ 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~~not, or as of a specified future date will not be, representative.

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

“Benchmark Transition Start Date” means, 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) (x) 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 Loan Document in accordance with Section 5.8(c)(i) and (y) 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 5.8(c)(i).

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

“Beneficial Ownership Regulation” means 31 CFR § 1010.230.

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

“Borrower” means Tyler Technologies, Inc., a Delaware corporation.

“Borrower Materials” has the meaning assigned thereto in Section 8.2.

“Business Day” means ~~(a) for all purposes other than as set forth in clause (b) below, any day other than that (a) is not a Saturday, Sunday or legal holiday other day on which the Federal Reserve Bank of New York is closed and (b) is not a day on which commercial banks in Charlotte, North Carolina and New York, New York, are open for the conduct of their commercial banking business and (b) with respect to all notices and determinations in connection with, and payments of principal and interest on, any LIBOR Rate Loan, or any Base Rate Loan as to which the interest rate is determined by reference to LIBOR, any day that is a Business Day described in clause (a) and that is also a London Banking Day closed.~~

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

“Capital Lease Obligations” of any Person means, subject to Section 1.3(b), the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to



use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as finance leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

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

“Cash Equivalents” means, collectively, (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency thereof to the extent such obligations are backed by the full faith and credit of the United States, in each case maturing within one (1) year from the date of acquisition thereof, (b) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having the highest rating obtainable from either S&P or Moody’s (or, if at any time either S&P or Moody’s are not rating such fund, an equivalent rating from another nationally recognized statistical rating agency), (c) municipal securities maturing within one (1) year from the date of acquisition thereof and currently having a rating of “A1” or better by S&P or “P1” or better by Moody’s (or, if at any time either S&P or Moody’s are not rating such fund, an equivalent rating from another nationally recognized statistical rating agency), (d) investments in certificates of deposit, banker’s acceptances, money market deposits and time deposits maturing within one hundred eighty (180) days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any Statestate thereof that has a combined capital and surplus and undivided profits of not less than \$500,000,000 and having a long-term debt rating of “A” or better by S&P or “A2” or better from Moody’s (or, if at any time either S&P or Moody’s are not rating the debt of such fundbank, an equivalent rating from another nationally recognized statistical rating agency), (e) investments in any money market fund or money market mutual fund that has (i) substantially all of its assets invested in the types of investments referred to in clauses (a) through (d) above, (ii) net assets of not less than \$250,000,000 and (iii) a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time either S&P or Moody’s are not rating such fund, an equivalent rating from another nationally recognized statistical rating agency) and (f) solely with respect to any Subsidiary domiciled outside the United States, substantially equivalent investments to those outlined in clauses (a) through (d) above which are reasonably comparable in tenor and credit quality (taking into account the jurisdiction where such Subsidiary conducts business) and customarily used in the ordinary course of business by similar companies for cash management purposes in any jurisdiction in which such Person conducts business (it being understood that such investments may be denominated in the currency of any jurisdiction in which such Person conducts business).

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

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

“CFC” means a Foreign Subsidiary that is a “controlled foreign corporation” under Section 957 of the Code and any Subsidiary owned directly or indirectly by such Foreign Subsidiary.

“CFC Holdco” means a Subsidiary substantially all the assets of which consist of Equity Interests in Foreign Subsidiaries that each constitute a CFC and/or Indebtedness or accounts receivable owed by Foreign Subsidiaries that each constitute a CFC or are treated as owed by any such Foreign Subsidiaries for U.S. federal income tax purposes.

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

(a) (i) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person or its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a “person” or “group” shall be deemed to have “beneficial ownership” of all Equity Interests that such “person” or “group” has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of more than twenty-five percent (25%) of the Equity Interests of the Borrower entitled to vote in the election of members of the board of directors (or equivalent governing body) of the Borrower or (ii) a majority of the members of the board of directors (or other equivalent governing body) of the Borrower shall not constitute Continuing Directors; or

(b) there shall have occurred under any indenture or other instrument evidencing any Indebtedness or Equity Interests in excess of the Threshold Amount any “change in control” or similar provision (as set forth in the indenture, agreement or other evidence of such Indebtedness) obligating the Borrower or any of its Subsidiaries to repurchase, redeem or repay all or any part of the Indebtedness or Equity Interests provided for therein.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline, requirement 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, requirements or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented or issued.

“Class” means, when used in reference to any Loan, whether such Loan is a Revolving Credit Loan, Swingline Loan, Term A-1 Loan, Term A-2 Loan or an Incremental Term Loan and, when used in reference to any Commitment, whether such Commitment is a Revolving Credit Commitment, a Term A-1 Loan Commitment, a Term A-2 Loan Commitment or an Incremental Term Loan Commitment.

“Closing Date” means the date of this Agreement.

“Closing Date Revolving Credit Loans” means the Revolving Credit Loans made on the Closing Date to fund (a) a portion of the purchase price of the NIC Acquisition and (b) any fees, commissions and expenses incurred in connection with the Transactions; provided, that the aggregate amount of all



Revolving Credit Loans made on the Closing Date for the purposes set forth in the foregoing clauses (a) and (b) shall not exceed \$250,000,000.

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

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

“Commitment Percentage” means, as to any Lender, such Lender’s Revolving Credit Commitment Percentage, Term A-1 Loan Percentage, Term A-2 Loan Percentage or Incremental Term Loan Percentage, as applicable.

“Commitments” means, collectively, as to all Lenders, the Revolving Credit Commitments, the Term A-1 Loan Commitments, the Term A-2 Loan Commitments and, if applicable, the Incremental Term Loan Commitments of such Lenders.

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

“Conforming Changes” means, with respect to 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 “Base 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 5.9 and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

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

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

(a) Consolidated Net Income for such period (excluding the effects of adjustments pursuant to GAAP resulting from the application of purchase accounting in relation to any Permitted Acquisition, net of taxes); plus

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

(i) income and franchise taxes;

- (ii) Consolidated Interest Expense;
- (iii) amortization, depreciation and other non-cash charges (except to the extent that such non-cash charges are reserved for cash charges to be taken in the future);
- (iv) extraordinary losses (excluding extraordinary losses from discontinued operations);
- (v) non-cash stock compensation expense;
- (vi) Transaction Costs in an aggregate amount not to exceed twenty percent (20%) of Consolidated EBITDA during any period of determination (determined without giving effect to this clause (b)(vi) and clause (b)(vii) below);

(vii) (A) unusual and non-recurring cash expenses and charges, (B) one-time non-recurring severance charges incurred within 12 months of any Permitted Acquisition, any Specified Disposition and/or any other restructuring or other similar initiative taken after the Closing Date that have been consummated during the applicable period, (C) lease termination payments made within 12 months of any Permitted Acquisition, any Specified Disposition and/or any other restructuring or other similar initiative taken after the Closing Date that have been consummated during the applicable period and (D) the “run rate” amount of any synergies, operating expense reductions and other cost savings and integration costs, in each case projected by the Borrower in connection with any Permitted Acquisition, any Specified Disposition any/or any other restructuring or other similar action taken after the Closing Date that have been consummated during the applicable period (calculated on a pro forma basis as though such synergies, operating expense reductions and other cost savings and integration costs had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions (provided that, with respect to this clause (D), (1) such synergies, operating expense reductions and cost savings and integration costs are reasonably identifiable, factually supportable, expected to have a continuing impact on the operations of the Borrower and its Subsidiaries and have been determined by the Borrower in good faith to be reasonably anticipated to be realizable within 12 months following any such action as set forth in reasonable detail in a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent and (2) no such amounts shall be added pursuant to this clause to the extent duplicative of any expenses or charges otherwise added to Consolidated EBITDA, whether through a pro forma adjustment or otherwise); provided that the aggregate amount added to Consolidated EBITDA pursuant to this clause (b)(vii) during any period of determination shall not exceed twenty percent (20%) of Consolidated EBITDA for such period (determined without giving effect to clause (b)(vi) above and this clause (b)(vii)); less

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

- (i) interest income;
- (ii) any extraordinary gains; and
- (iii) non-cash gains or non-cash items increasing Consolidated Net Income.

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



“Consolidated Funded Indebtedness” means, as of any date of determination with respect to Borrower and its Subsidiaries on a Consolidated basis without duplication, the sum of:

(a) all Indebtedness of the Borrower and its Subsidiaries of the types referred to in clauses (a), (b), (c), (d), (f) and (g) of the definition of Indebtedness; and

(b) all Guarantees of any such Person with respect to any of the Indebtedness of the types referred to in clause (a) of this definition.

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

“Consolidated Interest Expense” means, for any period, the sum of the following determined on a Consolidated basis, without duplication, for the Borrower and its Subsidiaries in accordance with GAAP, interest expense (including, without limitation, interest expense attributable to Capital Lease Obligations and all net payment obligations pursuant to Hedge Agreements) for such period but excluding, notwithstanding Section 1.3, the non-cash portion of interest expense resulting from the application of FASB ASC 470-20 attributable to ~~the~~any Permitted Convertible Indebtedness that may be wholly or partially settled in cash.

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

“Consolidated Total Net Indebtedness” means, as of any date of determination with respect to the Borrower and its Subsidiaries on a Consolidated basis without duplication, the sum of (a) all Consolidated Funded Indebtedness of the Borrower and its Subsidiaries minus (b) Qualified Cash and Cash Equivalents of the Borrower and its Subsidiaries then on hand.

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

“Continuing Directors” means the directors (or equivalent governing body) of the Borrower on the Closing Date and each other director (or equivalent) of the Borrower, if, in each case, such other



Person's nomination for election to the board of directors (or equivalent governing body) of the Borrower is approved by at least 51% of the then Continuing Directors.

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

~~"Corresponding Tenor" with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.~~

"Credit Facility" means, collectively, the Revolving Credit Facility, the Swingline Facility, the L/C Facility, the Term A-1 Loan Facility, the Term A-2 Loan Facility and, if applicable, any Incremental Term Loan Facility.

"Credit Parties" means, collectively, the Borrower and the Subsidiary Guarantors.

~~"Daily Simple SOFR" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative 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 the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.~~

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

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

"Default" means any of the events specified in Section 10.1 which with the passage of time, the giving of notice or any other condition, would constitute an Event of Default.

"Defaulting Lender" means, subject to Section 5.14(b), any Lender that (a) has failed to (i) fund all or any portion of the Revolving Credit Loans, participations in L/C Obligations, participations in Swingline Loans or any Term Loans required to be funded by it hereunder within two Business Days of the date such Loans or participations were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, the Issuing Lender or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within



three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the FDIC or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 5.14(b)) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swingline Lender and each Lender.

“Disqualified Equity Interests” means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Latest Maturity Date; provided that if such Equity Interests is issued pursuant to a plan for the benefit of the Borrower or its Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

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

“Domestic Subsidiary” means any Subsidiary organized under the laws of any political subdivision of the United States.

~~“Early Opt in Election” means, if the then current Benchmark is USD LIBOR, the occurrence of:~~

~~(a) — a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding Dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any~~

~~other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and~~

~~(b) — the joint election by the Administrative Agent and the Borrower to trigger a fallback from USD LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

“Earn-outs” means unsecured liabilities of a Credit Party arising under an agreement to make any deferred payment as a part of the purchase price for a Permitted Acquisition, including performance bonuses or consulting payments in any related services, employment or similar agreement, in an amount that is subject to or contingent upon the revenues, income, cash flow or profits (or the like) of the underlying target, in each case, to the extent that such deferred payment would be included as part of such purchase price.

“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 credit institution or investment firm established in any EEA Member Country.

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 12.9(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 12.9(b)(iii)).

“Employee Benefit Plan” means (a) any employee benefit plan within the meaning of Section 3(3) of ERISA that is maintained for employees of any Credit Party or any ERISA Affiliate or (b) any Pension Plan or Multiemployer Plan that has at any time within the preceding seven (7) years been maintained, funded or administered for the employees of any Credit Party or any current or former ERISA Affiliate.

“Engagement Letter” means the engagement letter dated as of March 26, 2021, by and among the Borrower, Wells Fargo and Wells Fargo Securities, LLC.

“Environmental Claims” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, accusations, allegations, notices of noncompliance or violation, investigations (other than internal reports prepared by any Person in the ordinary course of business and

not in response to any third party action or request of any kind) or proceedings relating in any way to any actual or alleged violation of or liability under any Environmental Law or relating to any permit issued, or any approval given, under any such Environmental Law, including, without limitation, any and all claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to public health or the environment.

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

“Equity Interests” means (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person and (f) any and all warrants, rights or options to purchase any of the foregoing; provided that no Permitted Convertible Indebtedness shall constitute Equity Interests of the Borrower or any of its Subsidiaries prior to settlement, conversion, exchange or exercise thereof into or for securities that would otherwise constitute Equity Interests under this definition. For the avoidance of doubt, the Borrower’s settling the conversion of Permitted Convertible Indebtedness in cash or a combination of cash and shares of common stock shall not in and of itself (i) result in Permitted Convertible Indebtedness being treated as an Equity Interest or (ii) be deemed a payment in respect of an Equity Interest for any purpose hereunder (including Section 9.6 hereof).

“Equity Issuance” means (a) any issuance by the Borrower of shares of its Equity Interests to any Person that is not a Credit Party (including, without limitation, in connection with the exercise of options or warrants or the conversion of any debt securities to equity) and (b) any capital contribution from any Person that is not a Credit Party into any Credit Party or any Subsidiary thereof. The term “Equity Issuance” shall not include (A) any Asset Disposition or (B) any Debt Issuance.

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

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

“Erroneous Payment” has the meaning assigned thereto in Section 11.11(a).

“Erroneous Payment Deficiency Assignment” has the meaning assigned thereto in Section 11.11(d).

“Erroneous Payment Impacted Class” has the meaning assigned thereto in Section 11.11(d).

“Erroneous Payment Return Deficiency” has the meaning assigned thereto in Section 11.11(d).

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

~~“Eurodollar Reserve Percentage” means, for any day, the percentage which is in effect for such day as prescribed by the FRB for determining the maximum reserve requirement (including, without limitation, any basic, supplemental or emergency reserves) in respect of eurocurrency liabilities or any similar category of liabilities for a member bank of the Federal Reserve System in New York City.~~

“Event of Default” means any of the events specified in Section 10.1; provided that any requirement for passage of time, giving of notice, or any other condition, has been satisfied.

“Exchange Act” means the Securities Exchange Act of 1934 (15 U.S.C. § 77 *et seq.*).

“Excluded Subsidiary” means (a) each CFC, (b) each Subsidiary that is a direct or indirect Subsidiary of a CFC, (c) each CFC Holdco, (d) each Immaterial Subsidiary and (e) any other Subsidiary with respect to which the Administrative Agent and the Borrower mutually agree that the cost of providing a Guarantee would be excessive in relation to the benefit to be afforded thereby.

“Excluded Swap Obligation” means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the liability of such Credit Party for or the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any liability or guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Credit Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the liability for or the guarantee of such Credit Party or the grant of such security interest becomes effective with respect to such Swap Obligation (such determination being made after giving effect to any applicable keepwell, support or other agreement for the benefit of the applicable Credit Party, including under Section 2.12 of the Guaranty Agreement). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal for the reasons identified in the immediately preceding sentence of this definition.

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

“Existing Credit Agreement” means that certain Credit Agreement dated as of September 30, 2019 by and among the Borrower, as borrower, the lenders party thereto, as lenders, and Wells Fargo



Bank, National Association, as administrative agent, as amended, restated, supplemented or otherwise modified as of the date hereof.

“Extensions of Credit” means, as to any Lender at any time, (a) an amount equal to the sum of (i) the aggregate principal amount of all Revolving Credit Loans made by such Lender then outstanding, (ii) such Lender’s Revolving Credit Commitment Percentage of the L/C Obligations then outstanding, (iii) such Lender’s Revolving Credit Commitment Percentage of the Swingline Loans then outstanding, (iv) the aggregate principal amount of the Term A-1 Loans made by such Lender then outstanding, (v) the aggregate principal amount of the Term A-2 Loans made by such Lender then outstanding and (vi) the aggregate principal amount of Incremental Term Loans, if any, made by such Lender then outstanding, or (b) the making of any Loan or participation in any Letter of Credit by such Lender, as the context requires.

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board, as amended from time to time subject to adjustments as provided in Section 1.3(b).

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

~~“FCA” has the meaning assigned thereto in Section 1.12.~~

“FDIC” means the Federal Deposit Insurance Corporation.

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

“Fee Letters” means (a) the Engagement Letter and (b) the separate letter agreements between (i) the Borrower and (ii) each Arranger (other than Wells Fargo Securities, LLC), documentation agent or syndication agent party thereto.

“Fiscal Year” means the fiscal year of the Borrower and its Subsidiaries ending on December 31.

~~“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to USD LIBOR, a rate of interest equal to 0.0%.~~

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

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

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



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

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

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

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

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

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation or (e) for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (whether in whole or in part); provided that the term “Guarantee” shall not include endorsements for collection or deposit, in each case, in the ordinary course of business, or customary and reasonable indemnity obligations in connection with any disposition of assets permitted under this Agreement (other than any such obligations with respect to Indebtedness).

“Guaranteed Cash Management Agreement” means any Cash Management Agreement between or among any Credit Party and any Cash Management Bank.

“Guaranteed Hedge Agreement” means any Hedge Agreement between or among any Credit Party and any Hedge Bank.



“Guaranteed Obligations” means, collectively, (a) the Obligations and (b) all existing or future payment and other obligations owing by any Credit Party under (i) any Guaranteed Hedge Agreement (other than an Excluded Swap Obligation) and (ii) any Guaranteed Cash Management Agreement.

“Guaranteed Parties” means, collectively, the Administrative Agent, the Lenders, the Issuing Lender, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 11.5, any other holder from time to time of any of any Guaranteed Obligations and, in each case, their respective successors and permitted assigns.

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

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

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

“Hedge Agreement” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement.

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

“Hedge Termination Value” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for



such Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include a Lender or any Affiliate of a Lender).

“Holdback” means a portion of the purchase price for a Permitted Acquisition not paid at the closing therefor but held by a Credit Party for satisfaction of indemnification obligations and purchase price adjustments.

~~“IBA” has the meaning assigned thereto in Section 1.12.~~

“Immaterial Subsidiary” means any Subsidiary of the Borrower that (a) together with its Subsidiaries, (i) contributed less than seven and one-half percent (7.5%) of the Consolidated revenue of the Borrower and its Subsidiaries, taken as a whole, during the most recently-ended four fiscal quarter period (taken as a single period) and (ii) as of any applicable date of determination has assets that constitute less than seven and one-half percent (7.5%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries, taken as a whole (each of which calculations, for any Immaterial Subsidiary organized or acquired since the end of such period or such date, as the case may be, shall be determined on a pro forma basis as if such Subsidiary were in existence or acquired on such date), (b) does not Guarantee or provide a Lien on its assets other than Permitted Liens that are not incurred in connection with borrowed money or otherwise provide credit support with respect to any Indebtedness of the Borrower or any of its Subsidiaries, (c) does not own any other domestic Subsidiaries (other than Immaterial Subsidiaries) and (d) has been designated as such by the Borrower in a written notice delivered to the Administrative Agent (other than any such Subsidiary as to which the Borrower has revoked such designation by written notice to the Administrative Agent).

“Increase Effective Date” has the meaning assigned thereto in Section 5.15(c).

“Incremental Amendment” has the meaning assigned thereto in Section 5.15(g).

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

(a) the amount equal to the sum of (i) the greater of (A) \$435,000,000 and (B) 100% of Consolidated EBITDA for the four (4) consecutive fiscal quarter period most recently ended prior to the incurrence of such Incremental Increase for which financial statements have been delivered to the Administrative Agent hereunder less (ii) the total aggregate initial principal amount (as of the date of incurrence thereof) of all Incremental Increases incurred under this clause (a) after the Closing Date and prior to the incurrence of such Incremental Increase; plus

(b) the amount of additional Indebtedness that would cause the Consolidated Total Net Leverage Ratio as of the four (4) consecutive fiscal quarter period most recently ended prior to the incurrence of such additional Indebtedness (or in the case of any additional Indebtedness, the proceeds of which will finance a Limited Condition Acquisition, the LCA Test Date), calculated on a Pro Forma Basis after giving effect to the incurrence of such additional Indebtedness and any Permitted Acquisition to be consummated using the proceeds of such additional Indebtedness and assuming that the Revolving Credit Facility (including any proposed Incremental Revolving Credit Increase) is fully drawn at such time, not to exceed 3.25 to 1.00.

Unless the Borrower otherwise notifies the Administrative Agent, if all or any portion of any Incremental Increase would be permitted under clause (b) above on the applicable date of incurrence, such Incremental Increase (or the relevant portion thereof) shall be deemed to have been incurred in reliance

on clause (b) above prior to the utilization of any amount available under clause (a) above. Furthermore, notwithstanding anything to the contrary contained herein, for purposes of calculating the Consolidated Total Net Leverage Ratio, the proceeds from any additional Indebtedness incurred pursuant to any Incremental Increase shall not be netted from Consolidated Total Net Indebtedness.

“Incremental Increase” has the meaning assigned thereto in Section 5.15(a)(ii).

“Incremental Lender” has the meaning assigned thereto in Section 5.15(a).

“Incremental Loan Commitment” has the meaning assigned thereto in Section 5.15(a)(ii).

“Incremental Revolving Credit Commitment(s)” has the meaning assigned thereto in Section 5.15(a)(ii).

“Incremental Revolving Credit Increase(s)” has the meaning assigned thereto in Section 5.15(a)(ii).

“Incremental Term Loan(s)” has the meaning assigned thereto in Section 5.15(a)(i).

“Incremental Term Loan Commitment(s)” has the meaning assigned thereto in Section 5.15(a)(i).

“Incremental Term Loan Facility” means any new term loan facility established pursuant to Section 5.15 and all such term loan facilities collectively as the context requires.

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

“Incremental Term Loan Note” means a promissory note made by the Borrower in favor of an Incremental Term Loan Lender evidencing the Incremental Term Loans made by such Incremental Term Loan Lender, substantially in the form attached as *Exhibit A-5*, and any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Incremental Term Loan Percentage” means, with respect to any Incremental Term Loan Lender at any time, the percentage of the total outstanding principal balance of the Incremental Term Loans represented by the outstanding principal balance of such Incremental Term Loan Lender’s Incremental Term Loans.

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

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

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

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



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

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

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

(g) all obligations of any such Person in respect of Disqualified Equity Interests;

(h) all net obligations of such Person under any Hedge Agreements; and

(i) all Guarantees of any such Person with respect to any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Hedge Termination Value thereof as of such date.

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

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

“Interest Period” means, as to ~~each LIBOR Rate~~any SOFR Loan, the period commencing on the date such ~~LIBOR Rate~~SOFR Loan is disbursed or converted to or continued as a ~~LIBOR Rate~~SOFR Loan and ending on the date one (1), three (3); or six (6) ~~months (in each case, if available to the applicable Lenders), or if agreed by all of the relevant Lenders, twelve (12)~~ months thereafter, in each case as selected by the Borrower in its Notice of Borrowing or Notice of Conversion/Continuation and subject to availability; provided that:

(a) the Interest Period shall commence on the date of advance of or conversion to any ~~LIBOR Rate~~SOFR Loan and, in the case of immediately successive Interest Periods, each successive Interest Period shall commence on the date on which the immediately preceding Interest Period expires;

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



(c) any Interest Period ~~with respect to a LIBOR Rate Loan~~ that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month at the end of such Interest Period;

(d) no Interest Period shall extend beyond the Revolving Credit Maturity Date, the Term A-1 Loan Maturity Date, the Term A-2 Loan Maturity Date or the maturity date with respect to any Incremental Term Loan, as applicable; ~~and~~

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

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

“Interstate Commerce Act” means the body of law commonly known as the Interstate Commerce Act (49 U.S.C. App. § 1 *et seq.*).

“Investment” has the meaning assigned thereto in Section 9.3.

“IRS” means the United States Internal Revenue Service.

~~“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.~~

“Issuing Lender” means Wells Fargo, together with any successor.

“L/C Commitment” means, as to the Issuing Lender, the obligation to issue Letters of Credit for the account of the Borrower or one or more of its Subsidiaries from time to time in an aggregate amount equal to the L/C Sublimit.

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

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

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

“L/C Sublimit” means the lesser of (a) Twenty-Five Million Dollars (\$25,000,000) and (b) the Revolving Credit Commitment.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan, Revolving Credit Commitment, Term Loan Commitment or Incremental Loan Commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan.

“LCA Test Date” has the meaning assigned thereto in Section 1.11(a).



“Lender” means the Persons listed on Schedule 1.1 and any other Person that shall have become a party to this Agreement as a Lender pursuant to an Assignment and Assumption or pursuant to Section 5.15, other than any Person that ceases to be a party hereto as a Lender pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

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

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

“Letters of Credit” means the collective reference to letters of credit issued pursuant to Section 3.1.

~~“LIBOR” means, subject to the implementation of a Benchmark Replacement in accordance with Section 5.8(e):~~

~~(a) — for any interest rate calculation with respect to a LIBOR Rate Loan, the rate of interest per annum determined on the basis of the rate for deposits in Dollars for a period equal to the applicable Interest Period as published by the ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by the Administrative Agent, at approximately 11:00 a.m. (London time) two (2) London Banking Days prior to the first day of the applicable Interest Period. If, for any reason, such rate is not so published then “LIBOR” shall be determined by the Administrative Agent to be the arithmetic average of the rate per annum at which deposits in Dollars would be offered by first class banks in the London interbank market to the Administrative Agent at approximately 11:00 a.m. (London time) two (2) London Banking Days prior to the first day of the applicable Interest Period for a period equal to such Interest Period; and~~

~~(b) for any interest rate calculation with respect to a Base Rate Loan, the rate of interest per annum determined on the basis of the rate for deposits in Dollars for an Interest Period equal to one month (commencing on the date of determination of such interest rate) as published by ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by the Administrative Agent, at approximately 11:00 a.m. (London time) on such date of determination, or, if such date is not a Business Day, then the immediately preceding Business Day. If, for any reason, such rate is not so published then “LIBOR” for such Base Rate Loan shall be determined by the Administrative Agent to be the arithmetic average of the rate per annum at which deposits in Dollars would be offered by first class banks in the London interbank market to the Administrative Agent at approximately 11:00 a.m. (London time) on such date of determination for a period equal to one month commencing on such date of determination.~~

~~Each calculation by the Administrative Agent of LIBOR shall be conclusive and binding for all purposes, absent manifest error.~~

~~Notwithstanding the foregoing, (A) in no event shall LIBOR (including any Benchmark Replacement with respect thereto) be less than 0% and (B) unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 5.8(e), in the event that a Benchmark Replacement with respect to LIBOR is implemented, then all references herein to LIBOR shall be deemed references to such Benchmark Replacement.~~



~~“LIBOR Rate” means a rate per annum determined by the Administrative Agent pursuant to the following formula:~~

$$\text{LIBOR Rate} = \frac{\text{LIBOR}}{1.00 \text{ Eurodollar Reserve Percentage}}$$

~~Notwithstanding the foregoing, if the LIBOR Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.~~

~~“LIBOR Rate Loan” means any Loan bearing interest at a rate based upon the LIBOR Rate as provided in Section 5.1(a).~~

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

“Limited Condition Acquisition” means any Acquisition that (a) is not prohibited hereunder, (b) is financed in whole or in part with a substantially concurrent incurrence of an Incremental Term Loan, (c) is not conditioned on the availability of, or on obtaining, third-party financing and (d) is completed within six (6) months of the LCA Test Date (or such longer period as may be agreed to by the Administrative Agent and the lenders providing such Incremental Term Loan in connection therewith).

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

“Loans” means the collective reference to the Revolving Credit Loans, the Swingline Loans, the Term A-1 Loans, the Term A-2 Loans and, if applicable, any Incremental Term Loans, and “Loan” means any of such Loans.

~~“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank Eurodollar market.~~

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

“Material Permitted Acquisition” means a Permitted Acquisition (or series of related Acquisitions) having Permitted Acquisition Consideration in excess of \$250,000,000.



“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 105% of the sum of (i) the Fronting Exposure of the Issuing Lender with respect to Letters of Credit issued and outstanding at such time and (ii) the Fronting Exposure of the Swingline Lender with respect to all Swingline Loans outstanding at such time and (b) otherwise, an amount determined by the Administrative Agent and the Issuing Lender in their sole discretion.

“Moody’s” means Moody’s Investors Service, Inc.

“Multiemployer Plan” means a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA to which any Credit Party or any ERISA Affiliate is making, or is accruing an obligation to make, or has accrued an obligation to make contributions within the preceding seven (7) years.

“Necessary Closing Funds” means the proceeds of (a) the Term A-1 Loan, (b) the Term A-2 Loan and (c) the Closing Date Revolving Credit Loans.

“Net Cash Proceeds” means, as applicable, (a) with respect to any Asset Disposition or Insurance and Condemnation Event, all cash and Cash Equivalents received by any Credit Party or any of its Subsidiaries therefrom (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, as and when received) less the sum of (i) all income taxes and other taxes assessed by, or reasonably estimated to be payable to, a Governmental Authority as a result of such transaction (provided that if such estimated taxes exceed the amount of actual taxes required to be paid in cash in respect of such Asset Disposition, the amount of such excess shall constitute Net Cash Proceeds), (ii) all reasonable and customary out-of-pocket fees and expenses incurred in connection with such transaction or event, (iii) the principal amount of, premium, if any, and interest on any Indebtedness (other than Indebtedness under the Loan Documents) secured by a Lien on the asset (or a portion thereof) disposed of, which Indebtedness is required to be repaid in connection with such transaction or event and (iv) all amounts that are set aside as a reserve (A) for adjustments in respect of the purchase price of such assets, (B) for any liabilities associated with such sale or casualty, to the extent such reserve is required by GAAP or as otherwise required pursuant to the documentation with respect to such Asset Disposition or Insurance and Condemnation Event, (C) for the payment of unassumed liabilities relating to the assets sold or otherwise disposed of at the time of, or within 30 days after, the date of such sale or other disposition and (D) for the payment of indemnification obligations; provided that, to the extent and at the time any such amounts are released from such reserve and received by such Credit Party or any of its Subsidiaries, such amounts shall constitute Net Cash Proceeds, and (b) with respect to any Equity Issuance or Debt Issuance, the gross cash proceeds received by any Credit Party or any of its Subsidiaries therefrom less all reasonable and customary out-of-pocket legal, underwriting and other fees and expenses incurred in connection therewith.

“NIC” means NIC Inc.

“NIC Acquisition” means the Acquisition by the Borrower of all of the Equity Interests of NIC pursuant to NIC Merger Agreement.

“NIC Merger Agreement” means that certain Agreement and Plan of Merger dated as of February 9, 2021, among the Borrower, as buyer, Topos Acquisition, Inc., and NIC.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver, amendment, modification or termination that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 12.2 and (b) has been approved by the Required Lenders or the Required Facility Lenders, as applicable.



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

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

“Notes” means the collective reference to the Revolving Credit Notes, the Swingline Note, the Term A-1 Loan Notes, the Term A-2 Loan Notes and, if applicable, any Incremental Term Loan Note.

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

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

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

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

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

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

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

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

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

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

“Overnight Rate” means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.



“Participant” has the meaning assigned thereto in Section 12.9(d).

“Participant Register” has the meaning assigned thereto in Section 12.9(d).

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

“Payment Recipient” has the meaning assigned thereto in Section 11.11(a).

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

“Pension Plan” means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV of ERISA or Section 412 of the Code and which (a) is maintained, funded or administered for the employees of any Credit Party or any ERISA Affiliate or (b) has at any time within the preceding seven (7) years been maintained, funded or administered for the employees of any Credit Party or any current or former ERISA Affiliates.

“Permitted Acquisition” means any Acquisition that meets all of the following requirements (which, in the case of a Limited Condition Acquisition, shall be subject to Section 1.11):

(a) no less than five (5) Business Days prior to the proposed closing date of such Acquisition, the Borrower shall have delivered written notice of such Acquisition to the Administrative Agent and the Lenders, which notice shall include the proposed closing date of such Acquisition; provided that if the Permitted Acquisition Consideration with respect to such Acquisition is less than \$50,000,000, such written notice may be delivered within 30 days following the closing date of such Acquisition;

(b) such Acquisition shall be consensual and, if applicable, shall have been approved by the board of directors and/or the shareholders of the Person whose Equity Interests or assets are proposed to be acquired;

(c) the Person or business to be acquired shall be in a line of business permitted pursuant to Section 9.11;

(d) the Borrower shall have delivered to the Administrative Agent all documents required to be delivered pursuant to, and in accordance with, Section 8.13;

(e) with respect to any Acquisition with respect to which the Permitted Acquisition Consideration is equal to or greater than \$75,000,000, no later than five (5) Business Days prior to the proposed closing date of such Acquisition, the Borrower shall have delivered to the Administrative Agent an Officer’s Compliance Certificate for the most recent fiscal quarter end preceding such Acquisition for which financial statements are available demonstrating, in form and substance reasonably satisfactory to the Administrative Agent, that the Borrower is in compliance on a Pro Forma Basis (as of the date of the Acquisition and after giving effect thereto and any Indebtedness incurred in connection therewith) with each covenant contained in Section 9.13;

(f) with respect to any Material Permitted Acquisition, no later than five (5) Business Days prior to the proposed closing date of such Acquisition the Borrower, to the extent requested by the Administrative Agent, shall have delivered to the Administrative Agent promptly upon the finalization thereof copies of substantially final Permitted Acquisition Documents, which shall be in form and substance reasonably satisfactory to the Administrative Agent; and



(g) no Default or Event of Default shall have occurred and be continuing both before and after giving effect to such Acquisition and any Indebtedness incurred in connection therewith.

“Permitted Acquisition Consideration” means the aggregate amount of the purchase price, including, but not limited to, any assumed debt, Earn-Outs (valued at the maximum amount payable thereunder), Holdbacks, other deferred payments, or Equity Interests of the Borrower, to be paid on a singular basis in connection with any applicable Permitted Acquisition as set forth in the applicable Permitted Acquisition Documents executed by the Borrower or any of its Subsidiaries in order to consummate the applicable Permitted Acquisition.

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

“Permitted Convertible Indebtedness” means that certain unsecured Indebtedness of the Borrower in an aggregate principal amount of \$600,000,000, incurred by the Borrower on or about March 9, 2021, as permitted pursuant to Section 9.1(l), that is either (a) convertible into common stock of the Borrower (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock) or (b) sold as units with customary call options, warrants or rights to purchase (or substantially equivalent derivative transactions) for transactions of such type (as determined by the Borrower in good faith) that are exercisable for common stock of the Borrower and/or cash (in an amount determined by reference to the price of such common stock).

“Permitted Liens” means the Liens permitted pursuant to Section 9.2.

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

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

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

“Pro Forma Basis” means, for purposes of calculating Consolidated EBITDA for any period during which one or more Specified Transactions occurs, that such Specified Transaction (and all other Specified Transactions that have been consummated during the applicable period) shall be deemed to have occurred as of the first day of the applicable period of measurement and all income statement items (whether positive or negative) attributable to the Property or Person disposed of in a Specified Disposition shall be excluded and all income statement items (whether positive or negative) attributable to the Property or Person acquired in a Permitted Acquisition shall be included (provided that such income statement items to be included are reflected in financial statements or other financial data reasonably acceptable to the Administrative Agent and based upon reasonable assumptions and calculations which are expected to have a continuous impact).



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

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

“Public Lenders” has the meaning assigned thereto in Section 8.2.

“Qualified Cash and Cash Equivalents” means, as to any Person, as of any date of determination, the aggregate amount of Unrestricted cash and Cash Equivalents held by such Person and its Subsidiaries in domestic deposit accounts or securities accounts. For purposes hereof, “Unrestricted” means, when referring to cash and Cash Equivalents of any Person, that such cash and Cash Equivalents (a) do not appear, or would not be required to appear, as “restricted” on the financial statements of such Person and its Subsidiaries (unless related to the Loan Documents or the Liens created thereunder), (b) are not subject to a Lien in favor of any Person other than (i) Liens in favor of the Administrative Agent under the Loan Documents (if any) or (ii) Liens of the type referred to in Section 9.2(k), or (c) are not otherwise unavailable to such Person or its Subsidiaries.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Equity Interests.

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

~~“Reference Time” with respect to any setting of the then current Benchmark means (1) if such Benchmark is USD LIBOR, 11:00 a.m. (London time) on the day that is two (2) London Banking Days preceding the date of such setting, and (2) if such Benchmark is not USD LIBOR, the time determined by the Administrative Agent in its reasonable discretion.~~

“Register” has the meaning assigned thereto in Section 12.9(c).

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

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

“Relevant Governmental Body” means the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto.

“Required Facility Lenders” means (a) for the Revolving Credit Facility, the Required Revolving Credit Lenders, (b) for the Term A-1 Loan Facility, the Required Term A-1 Loan Lenders or (c) for the Term A-2 Loan Facility, the Required Term A-2 Loan Lenders, as applicable.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than fifty percent (50%) of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Required Revolving Credit Lenders” means, at any time, Revolving Credit Lenders having unused Revolving Credit Commitments and Revolving Credit Exposure representing more than fifty percent (50%) of the aggregate unused Revolving Credit Commitments and Revolving Credit Exposure



of all Revolving Credit Lenders. The unused Revolving Credit Commitment of, and Revolving Credit Exposure held or deemed held by, any Defaulting Lender shall be disregarded in determining Required Revolving Credit Lenders at any time.

“Required Term A-1 Loan Lenders” means, at any time, Lenders having outstanding Term A-1 Loans, representing more than fifty percent (50%) of the sum of the aggregate outstanding Term A-1 Loans at such time. The outstanding Term A-1 Loans of any Defaulting Lender shall be disregarded in determining Required Term A-1 Loan Lenders at any time.

“Required Term A-2 Loan Lenders” means, at any time, Lenders having outstanding Term A-2 Loans, representing more than fifty percent (50%) of the sum of the aggregate outstanding Term A-2 Loans at such time. The outstanding Term A-2 Loans of any Defaulting Lender shall be disregarded in determining Required Term A-2 Loan Lenders at any time.

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

“Responsible Officer” means, as to any Person, the chief executive officer, president, chief financial officer, controller, treasurer or assistant treasurer of such Person or any other officer of such Person designated in writing by the Borrower and reasonably acceptable to the Administrative Agent; provided that, to the extent requested thereby, the Administrative Agent shall have received a certificate of such Person certifying as to the incumbency and genuineness of the signature of each such officer. Any document delivered hereunder or under any other Loan Document that is signed by a Responsible Officer of a Person shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Person and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Person.

“Restricted Payment” has the meaning assigned thereto in Section 9.6.

“Revolving Credit Commitment” means (a) as to any Revolving Credit Lender, the obligation of such Revolving Credit Lender to make Revolving Credit Loans to, and to purchase participations in L/C Obligations and Swingline Loans for the account of, the Borrower hereunder in an aggregate principal amount at any time outstanding not to exceed the amount set forth opposite such Revolving Credit Lender’s name on the Register, as such amount may be modified at any time or from time to time pursuant to the terms hereof (including, without limitation, Section 5.15) and (b) as to all Revolving Credit Lenders, the aggregate commitment of all Revolving Credit Lenders to make Revolving Credit Loans, as such amount may be modified at any time or from time to time pursuant to the terms hereof (including, without limitation, Section 5.15). The aggregate Revolving Credit Commitment of all the Revolving Credit Lenders on the Closing Date shall be \$500,000,000. The Revolving Credit Commitment of each Revolving Credit Lender on the Closing Date is set forth opposite the name of such Lender on Schedule 1.1.

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



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

“Revolving Credit Facility” means the revolving credit facility established pursuant to Article II (including any increase in such revolving credit facility established pursuant to Section 5.15).

“Revolving Credit Lenders” means, collectively, all of the Lenders with a Revolving Credit Commitment or if the Revolving Credit Commitment has been terminated, all Lenders having Revolving Credit Exposure.

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

“Revolving Credit Maturity Date” means the earliest to occur of (a) April 21, 2026, (b) the date of termination of the entire Revolving Credit Commitment by the Borrower pursuant to Section 2.5, and (c) the date of termination of the Revolving Credit Commitment pursuant to Section 10.2(a); provided that, if any of the Permitted Convertible Indebtedness remains outstanding on the Springing Maturity Date, then the Revolving Credit Maturity Date shall occur on the Springing Maturity Date.

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

“Revolving Credit Outstandings” means the sum of (a) with respect to Revolving Credit Loans and Swingline Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Credit Loans and Swingline Loans, as the case may be, occurring on such date; plus (b) with respect to any L/C Obligations on any date, the aggregate outstanding amount thereof on such date after giving effect to any Extensions of Credit occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

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

“S&P” means Standard & Poor’s Rating Service, a division of S&P Global Inc. and any successor thereto.

“Sanctioned Country” means at any time, a country, region or territory which is itself the subject or target of any Sanctions (which, as of the Closing Date, includes Cuba, Iran, North Korea, Syria, [Venezuela](#) and Crimea).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in clauses (a) and (b).



“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC), the European Union, Her Majesty’s Treasury, or other relevant sanctions authority.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“SOFR” means, ~~with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published~~ as administered by the SOFR Administrator ~~on the SOFR Administrator’s Website on the immediately succeeding Business Day.~~

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

“SOFR Administrator’s Website” ~~means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time~~ Loan” means any Loan bearing interest at a rate based on Adjusted Term SOFR as provided in Section 5.1(a).

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

“Specified Disposition” means any Asset Disposition having gross sales proceeds in excess of the Threshold Amount.

“Specified Transactions” means (a) any Specified Disposition, (b) any Permitted Acquisition and (c) the Transactions.

“Springing Maturity Date” means the date that is six (6) months prior to the maturity date of the Permitted Convertible Indebtedness; provided that no Springing Maturity Date shall be deemed to have occurred if, on the Springing Maturity Date and at all times following the Springing Maturity Date until the Permitted Convertible Indebtedness is repaid, redeemed or repurchased in full or the maturity date of the Permitted Convertible Indebtedness is extended to a date that is at least six (6) months after the fifth (5th) anniversary of the Closing Date, the Borrower maintains Liquidity of not less than an amount equal to 105% of the amount required to settle all of the outstanding Permitted Convertible Indebtedness in cash (including all accrued and unpaid interest, premiums and make-whole amounts). For purposes of this definition, “Liquidity” means, at any time, an amount equal to the sum of (a) the amount by which the Revolving Credit Commitments exceed the Revolving Credit Outstandings (solely to the extent that, as of the date of determination, the Borrower would be in compliance on a Pro Forma Basis (after giving

effect to the drawing of Extensions of Credit and the use of proceeds thereof) with the financial covenants set forth in Section 9.13 based on the financial statements most recently delivered pursuant to Section 8.1(a) or 8.1(b), as applicable) plus (b) the Dollar amount of all Qualified Cash and Cash Equivalents maintained by the Borrower and its Subsidiaries in the United States at such time.

“Subordinated Indebtedness” means the collective reference to any Indebtedness incurred by the Borrower or any of its Subsidiaries that is subordinated in right and time of payment to the Obligations on terms and conditions satisfactory to the Administrative Agent.

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

“Subsidiary Guarantors” means, collectively, (a) the Subsidiaries of the Borrower listed on Schedule 7.1 that are identified as a “Guarantor” and (b) each other Subsidiary of the Borrower that shall be required to execute and deliver a guaranty or guaranty supplement pursuant to Section 8.13.

“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.

“Swingline Commitment” means the lesser of (a) Fifty Million Dollars (\$50,000,000) and (b) the Revolving Credit Commitment.

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

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

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

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

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

“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, fines, additions to tax or penalties applicable thereto.



“Term A-1 Loan Commitment” means (a) as to any Term A-1 Loan Lender, the obligation of such Term A-1 Loan Lender to make a portion of the Term A-1 Loan, to the account of the Borrower hereunder on the Closing Date in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 1.1, as such amount may be increased, reduced or otherwise modified at any time or from time to time pursuant to the terms hereof and (b) as to all Term A-1 Loan Lenders, the aggregate commitment of all Term A-1 Loan Lenders to make such Term A-1 Loans. The aggregate Term A-1 Loan Commitment with respect to the Term A-1 Loans of all Term A-1 Loan Lenders on the Closing Date shall be \$600,000,000. The Term A-1 Loan Commitment of each Term A-1 Loan Lender as of the Closing Date is set forth opposite the name of such Term A-1 Loan Lender on Schedule 1.1.

“Term A-1 Loan Facility” means the term loan facility established with respect to the Term A-1 Loans pursuant to Article IV.

“Term A-1 Loan Lender” means any Lender with a Term A-1 Loan Commitment and/or outstanding Term A-1 Loans.

“Term A-1 Loan Maturity Date” means the first to occur of (a) April 21, 2026, and (b) the date of acceleration of the Term A-1 Loans pursuant to Section 10.2(a); provided that, if any of the Permitted Convertible Indebtedness remains outstanding on the Springing Maturity Date, then the Term A-1 Loan Maturity Date shall occur on the Springing Maturity Date.

“Term A-1 Loan Note” means a promissory note made by the Borrower in favor of a Term A-1 Loan Lender evidencing the portion of the Term A-1 Loans made by such Term A-1 Loan Lender, substantially in the form attached as *Exhibit A-3*, and any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Term A-1 Loan Percentage” means, with respect to any Term A-1 Loan Lender at any time, the percentage of the total outstanding principal balance of the Term A-1 Loans represented by the outstanding principal balance of such Term A-1 Loan Lender’s Term A-1 Loans. The Term A-1 Loan Percentage of each Term A-1 Loan Lender as of the Closing Date is set forth opposite the name of such Lender on Schedule 1.1.

“Term A-1 Loans” means the term loan made, or to be made, to the Borrower by the Term A-1 Loan Lenders pursuant to Section 4.1(a).

“Term A-2 Loan Commitment” means (a) as to any Term A-2 Loan Lender, the obligation of such Term A-2 Loan Lender to make a portion of the Term A-2 Loan, to the account of the Borrower hereunder on the Closing Date in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 1.1, as such amount may be increased, reduced or otherwise modified at any time or from time to time pursuant to the terms hereof and (b) as to all Term A-2 Loan Lenders, the aggregate commitment of all Term A-2 Loan Lenders to make such Term A-2 Loans. The aggregate Term A-2 Loan Commitment with respect to the Term A-2 Loans of all Term A-2 Loan Lenders on the Closing Date shall be \$300,000,000. The Term A-2 Loan Commitment of each Term A-2 Loan Lender as of the Closing Date is set forth opposite the name of such Term A-2 Loan Lender on Schedule 1.1.

“Term A-2 Loan Facility” means the term loan facility established with respect to the Term A-2 Loans pursuant to Article IV.

“Term A-2 Loan Lender” means any Lender with a Term A-2 Loan Commitment and/or outstanding Term A-2 Loans.

“Term A-2 Loan Maturity Date” means the first to occur of (a) April 21, 2024, and (b) the date of acceleration of the Term A-2 Loans pursuant to Section 10.2(a); provided that, if any of the Permitted Convertible Indebtedness remains outstanding on the Springing Maturity Date, then the Term A-2 Loan Maturity Date shall occur on the Springing Maturity Date.

“Term A-2 Loan Note” means a promissory note made by the Borrower in favor of a Term A-2 Loan Lender evidencing the portion of the Term A-2 Loans made by such Term A-2 Loan Lender, substantially in the form attached as *Exhibit A-4*, and any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Term A-2 Loan Percentage” means, with respect to any Term A-2 Loan Lender at any time, the percentage of the total outstanding principal balance of the Term A-2 Loans represented by the outstanding principal balance of such Term A-2 Loan Lender’s Term A-2 Loans. The Term A-2 Loan Percentage of each Term A-2 Loan Lender as of the Closing Date is set forth opposite the name of such Lender on Schedule 1.1.

“Term A-2 Loans” means the term loan made, or to be made, to the Borrower by the Term A-2 Loan Lenders pursuant to Section 4.1(b).

“Term Loan Commitment” means a Term A-1 Loan Commitment, a Term A-2 Loan Commitment or an Incremental Term Loan Commitment, as applicable, and all such Term Loan Commitments collectively as the context requires.

“Term Loan Facility” means the Term A-1 Loan Facility, the Term A-2 Loan Facility and, if applicable, any Incremental Term Loan Facility, and all such Term Loan Facilities collectively as the context requires.

“Term Loan Lender” means any Term A-1 Loan Lender, any Term A-2 Loan Lender and any Incremental Term Loan Lender, and all such Term Loan Lenders collectively as the context requires.

“Term Loan Note” means any Term A-1 Loan Note, any Term A-2 Loan Note and any Incremental Term Loan Note, and all such Term Loan Notes collectively as the context requires.

“Term Loans” means the Term A-1 Loans, the Term A-2 Loans and, if applicable, any Incremental Term Loans and “Term Loan” means any of such Term Loans.

~~“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.~~

~~“Term SOFR Notice” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.~~

~~“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt in Election, as applicable, has previously occurred resulting in the replacement of the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 5.8(e) with a Benchmark Replacement the Unadjusted Benchmark Replacement component of which is not Term SOFR.~~

(a) for any calculation with respect to a SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the “Periodic Term SOFR Determination Day”) that is two (2) 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 5:00 p.m. (Eastern 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 Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the “Base Rate Term SOFR Determination Day”) that is two (2) 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 5:00 p.m. (Eastern time) on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding 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 Base Rate SOFR Determination Day;

provided, further, that if Term SOFR determined as provided above (including pursuant to the proviso under clause (a) or clause (b) above) shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

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

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

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

“Termination Event” means the occurrence of any of the following which, individually or in the aggregate, has resulted or could reasonably be expected to result in liability of the Borrower in an aggregate amount in excess of the Threshold Amount: (a) a “Reportable Event” described in Section 4043 of ERISA for which the thirty (30) day notice requirement has not been waived by the PBGC, or (b) the withdrawal of any Credit Party or any ERISA Affiliate from a Pension Plan during a plan year in which it was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA, or (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, or (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC, or (e) any other event or condition which would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee



to administer, any Pension Plan, or (f) the imposition of a Lien pursuant to Section 430(k) of the Code or Section 303 of ERISA, or (g) the determination that any Pension Plan or Multiemployer Plan is considered an at-risk plan or plan in endangered or critical status within the meaning of Sections 430, 431 or 432 of the Code or Sections 303, 304 or 305 of ERISA or (h) the partial or complete withdrawal of any Credit Party or any ERISA Affiliate from a Multiemployer Plan if withdrawal liability is asserted by such plan, or (i) any event or condition which results in the reorganization or insolvency of a Multiemployer Plan under Sections 4241 or 4245 of ERISA, or (j) any event or condition which results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by PBGC of proceedings to terminate a Multiemployer Plan under Section 4042 of ERISA, or (k) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Credit Party or any ERISA Affiliate.

“Threshold Amount” means \$75,000,000.

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

“Trade Date” has the meaning assigned thereto in Section 12.9(h)(i).

“Transaction Costs” means all non-recurring transaction fees, charges and other amounts related to (i) the Transactions, (ii) any Permitted Acquisitions and (iii) any offerings of Equity Interests, Investments, Asset Dispositions, Restricted Payments, recapitalizations or incurrence of Indebtedness, in each case permitted hereunder (including, without limitation, any financing fees, merger and acquisition fees, legal fees and expenses, due diligence fees or any other fees and expenses in connection therewith), in each case to the extent paid within twelve (12) months of the closing of the Credit Facility or such other transaction, as applicable, and approved by the Administrative Agent in its reasonable discretion. The term “Transaction Costs” shall also include transactions of the type described in clauses (ii) and (iii) above that are not consummated.

“Transactions” means, collectively, (a) the consummation of the NIC Acquisition, (b) the repayment in full of all Indebtedness outstanding under the Existing Credit Agreement, (c) the entering into of this Agreement and the other Loan Documents and the incurrence on the Closing Date of the Necessary Closing Funds, (d) the entering into of the Permitted Convertible Indebtedness and the incurrence on or prior to the Closing Date of Indebtedness thereunder, and (e) the payment of the Transaction Costs incurred in connection with the foregoing and the other transactions contemplated thereby.

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

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

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

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

“United States” means the United States of America.

~~“USD LIBOR” means the London interbank offered rate for Dollars.~~ “U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday or (c) 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; provided, that for purposes of notice requirements in Sections 2.3(a), 2.4(c), 4.2(a), 4.4(a) and 5.2, in each case, such day is also a Business Day.

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

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

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

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

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

“Withholding Agent” means any Credit Party and the Administrative Agent.

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

SECTION 1.2 Other Definitions and Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document: (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) the words “include”, “includes” and “including” shall be deemed to be followed by the

phrase “without limitation”, (d) the word “will” shall be construed to have the same meaning and effect as the word “shall”, (e) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (f) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (h) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form and (j) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including”.

SECTION 1.3 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP, applied on a consistent basis, as in effect from time to time and in a manner consistent with that used in preparing the audited financial statements required by Section 8.1(a), except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

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

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



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

SECTION 1.6 References to Agreement and Laws. Unless otherwise expressly provided herein, (a) any definition or reference to formation documents, governing documents, agreements (including the Loan Documents) and other contractual documents or instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) any definition or reference to any Applicable Law, including, without limitation, Anti-Corruption Laws, Anti-Money Laundering Laws, the Bankruptcy Code, the Code, the Commodity Exchange Act, ERISA, the Exchange Act, the PATRIOT Act, the Securities Act of 1933, the UCC, the Investment Company Act of 1940, the Interstate Commerce Act, the Trading with the Enemy Act of the United States or any of the foreign assets control regulations of the United States Treasury Department, shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Applicable Law.

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

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

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

SECTION 1.10 Covenant Compliance Generally. For purposes of determining compliance under Sections 9.1, 9.2, 9.3, 9.5 and 9.6, any amount in a currency other than Dollars will be converted to Dollars in a manner consistent with that used in calculating Consolidated Net Income in the most recent annual financial statements of the Borrower and its Subsidiaries delivered pursuant to Section 8.1(a). Notwithstanding the foregoing, for purposes of determining compliance with Sections 9.1, 9.2 and 9.3, with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no breach of any basket contained in such sections shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred; provided that for the avoidance of doubt, the foregoing provisions of this Section 1.10 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

SECTION 1.11 Limited Condition Acquisitions. In the event that the Borrower notifies the Administrative Agent in writing that any proposed Acquisition is a Limited Condition Acquisition and that the Borrower wishes to test the conditions to such Acquisition and the Indebtedness that is to be used

to finance such Acquisition in accordance with this Section 1.11, then, so long as agreed to by the Administrative Agent and the lenders providing such Indebtedness, the following provisions shall apply:

(a) any condition to such Limited Condition Acquisition or such Indebtedness that requires that no Default or Event of Default shall have occurred and be continuing at the time of such Limited Condition Acquisition or the incurrence of such Indebtedness, shall be satisfied if (i) no Default or Event of Default shall have occurred and be continuing at the time of the execution of the definitive purchase agreement, merger agreement or other acquisition agreement governing such Limited Condition Acquisition (the “LCA Test Date”) and (ii) no Event of Default under any of Sections 10.1(a), 10.1(b), 10.1(h) or 10.1(i) shall have occurred and be continuing both before and after giving effect to such Limited Condition Acquisition and any Indebtedness incurred in connection therewith (including such additional Indebtedness);

(b) any condition to such Limited Condition Acquisition or such Indebtedness that the representations and warranties in this Agreement and the other Loan Documents shall be true and correct at the time of consummation of such Limited Condition Acquisition or the incurrence of such Indebtedness shall be deemed satisfied if (i) all representations and warranties in this Agreement and the other Loan Documents are true and correct in all material respects (except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects) as of the LCA Test Date, or if such representation speaks as of an earlier date, as of such earlier date and (ii) as of the date of consummation of such Limited Condition Acquisition, (A) the representations and warranties under the relevant definitive agreement governing such Limited Condition Acquisition as are material to the lenders providing such Indebtedness shall be true and correct, but only to the extent that the Borrower or its applicable Subsidiary has the right to terminate its obligations under such agreement or otherwise decline to close such Limited Condition Acquisition as a result of a breach of such representations and warranties or the failure of those representations and warranties to be true and correct and (B) certain of the representations and warranties in this Agreement and the other Loan Documents which are customary for similar “funds certain” financings and required by the lenders providing such Indebtedness shall be true and correct in all material respects (except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects);

(c) any financial ratio test or condition to be tested in connection with such Limited Condition Acquisition and the availability of such Indebtedness will be tested as of the LCA Test Date, in each case, after giving effect to the relevant Limited Condition Acquisition and related incurrence of Indebtedness, on a Pro Forma Basis where applicable, and, for the avoidance of doubt, (i) such ratios and baskets shall not be tested at the time of consummation of such Limited Condition Acquisition and (ii) if any of such ratios are exceeded or conditions are not met following the LCA Test Date, but prior to the closing of such Limited Condition Acquisition, as a result of fluctuations in such ratio or amount (including due to fluctuations in Consolidated EBITDA of the Borrower or the Person subject to such Limited Condition Acquisition), at or prior to the consummation of the relevant transaction or action, such ratios will not be deemed to have been exceeded and such conditions will not be deemed unmet as a result of such fluctuations solely for purposes of determining whether the relevant transaction or action is permitted to be consummated or taken; and

(d) except as provided in the next sentence, in connection with any subsequent calculation of any ratio or basket on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated and the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated (i) on a Pro Forma Basis assuming



such Limited Condition Acquisition and other transactions in connection therewith (including the incurrence or assumption of Indebtedness) have been consummated and (ii) assuming such Limited Condition Acquisition and other transactions in connection therewith (including the incurrence or assumption of Indebtedness) have not been consummated; provided that, notwithstanding the foregoing, any calculation of a ratio in connection with determining the Applicable Margin and determining whether or not the Borrower is in compliance with the financial covenants set forth in Section 9.13 shall, in each case be calculated assuming such Limited Condition Acquisition and other transactions in connection therewith (including the incurrence or assumption of Indebtedness) have not been consummated.

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

SECTION 1.12 ~~Rates; LIBOR Notification.~~ The ~~interest rate on LIBOR Rate Loans and Base Rate Loans (when determined by reference to clause (c) of the definition of Base Rate) may be determined by reference to LIBOR, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. On March 5, 2021, ICE Benchmark Administration (“IBA”), the administrator of the London interbank offered rate, and the Financial Conduct Authority (the “FCA”), the regulatory supervisor of IBA, announced in public statements (the “Announcements”) that the final publication or representativeness date for the London interbank offered rate for Dollars for: (a) 1-week and 2-month tenor settings will be December 31, 2021 and (b) overnight, 1-month, 3-month, 6-month and 12-month tenor settings will be June 30, 2023. No successor administrator for IBA was identified in such Announcements. As a result, it is possible that commencing immediately after such dates, the London interbank offered rate for such tenors may no longer be available or may no longer be deemed a representative reference rate upon which to determine the interest rate on LIBOR Rate Loans or Base Rate Loans (when determined by reference to clause (c) of the definition of Base Rate). There is no assurance that the dates set forth in the Announcements will not change or that IBA or the FCA will not take further action that could impact the availability, composition or characteristics of any London interbank offered rate. Public and private sector industry initiatives have been and continue, as of the date hereof, to be underway to implement new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate or any other then-current Benchmark is no longer available or in certain other circumstances set forth in Section 5.8(c), such Section 5.8(c) provides a mechanism for determining an alternative rate of interest. The Administrative Agent will notify the Borrower, pursuant to Section 5.8(c), of any change to the reference rate upon which the interest rate on LIBOR Rate Loans and Base Rate Loans (when determined by reference to clause (c) of the definition of Base Rate) is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (i) the continuation of, administration of, submission of, calculation of or any other matter related to the London interbank offered rate or other Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any component definition thereof or rates referred to in the definition of “LIBOR” thereof, or with respect to any alternative, ~~comparable or successor rate thereto~~, or replacement rate ~~thereof/thereto~~ (including ~~any then-current Benchmark or any Benchmark Replacement~~), including whether the composition or characteristics of any such alternative, successor or replacement ~~reference~~ rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 5.8(c), will be similar to, or produce the same value or economic equivalence of, ~~LIBOR or any other Benchmark~~, or have the same volume or liquidity as ~~did~~, the London interbank offered rate Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (ii) the effect, implementation or composition of any Benchmark Replacement Confirming Changes Confirming Changes. The~~

Administrative Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any other Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

SECTION 1.13 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II

REVOLVING CREDIT FACILITY

SECTION 2.1 Revolving Credit Loans. Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth in this Agreement and the other Loan Documents, each Revolving Credit Lender severally agrees to make Revolving Credit Loans to the Borrower from time to time from the Closing Date to, but not including, the Revolving Credit Maturity Date as requested by the Borrower in accordance with the terms of Section 2.3; provided, that (a) the only Revolving Credit Loans made on the Closing Date shall be the Closing Date Revolving Credit Loans, (b) after the Closing Date, the Revolving Credit Outstandings shall not exceed the Revolving Credit Commitment and (c) the Revolving Credit Exposure of any Revolving Credit Lender shall not at any time exceed such Revolving Credit Lender's Revolving Credit Commitment. Each Revolving Credit Loan by a Revolving Credit Lender shall be in a principal amount equal to such Revolving Credit Lender's Revolving Credit Commitment Percentage of the aggregate principal amount of Revolving Credit Loans requested on such occasion. Subject to the terms and conditions hereof, the Borrower may borrow, repay and reborrow Revolving Credit Loans hereunder until the Revolving Credit Maturity Date.

SECTION 2.2 Swingline Loans.

(a) Availability. Subject to the terms and conditions of this Agreement and the other Loan Documents, including, without limitation, Section 6.2(d) of this Agreement, and in reliance upon the representations and warranties set forth in this Agreement and the other Loan Documents, the Swingline Lender may, in its sole discretion, make Swingline Loans to the Borrower from time to time from the Closing Date to, but not including, the Revolving Credit Maturity Date; provided, that (i) after giving effect to any amount requested, the Revolving Credit Outstandings shall not exceed the Revolving Credit Commitment and (ii) the aggregate principal amount of all outstanding Swingline Loans (after giving effect to any amount requested) shall not exceed the Swingline Commitment.



(b) Refunding.

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

(ii) The Borrower shall pay to the Swingline Lender on demand in immediately available funds the amount of such Swingline Loans to the extent amounts received from the Revolving Credit Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. In addition, the Borrower irrevocably authorizes the Administrative Agent to charge any account maintained by the Borrower with the Swingline Lender (up to the amount available therein) in order to immediately pay the Swingline Lender the amount of such Swingline Loans to the extent amounts received from the Revolving Credit Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. If any portion of any such amount paid to the Swingline Lender shall be recovered by or on behalf of the Borrower from the Swingline Lender in bankruptcy or otherwise, the loss of the amount so recovered shall be ratably shared among all the Revolving Credit Lenders in accordance with their respective Revolving Credit Commitment Percentages.

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

Swingline Lender is required to be returned, such Revolving Credit Lender will return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

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

(v) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swingline Lender any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this Section 2.2(b) by the time specified in Section 2.2(b)(i) or 2.2(b)(iii), as applicable, the Swingline Lender shall be entitled to recover from such Revolving Credit Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swingline Lender at a rate per annum equal to the ~~applicable Federal Funds~~ Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Swingline Lender in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Credit Lender's Revolving Credit Loan or Swingline Participation Amount, as the case may be. A certificate of the Swingline Lender submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this clause (v) shall be conclusive absent manifest error.

(c) Defaulting Lenders. Notwithstanding anything to the contrary contained in this Agreement, this Section 2.2 shall be subject to the terms and conditions of Section 5.13 and Section 5.14.

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

(a) Requests for Borrowing. The Borrower shall give the Administrative Agent irrevocable prior written notice substantially in the form of Exhibit B (a "Notice of Borrowing") (which may be delivered through the Administrative Agent's electronic platform or portal) not later than 11:00 a.m. (i) on the same Business Day as each Swingline Loan, (ii) at least one (1) Business Day before each Base Rate Loan and (iii) at least three (3) U.S. Government Securities Business Days before each ~~LIBOR Rate~~ SOFR Loan, of its intention to borrow, specifying (A) the date of such borrowing, which shall be a Business Day, (B) the amount of such borrowing, which shall be, (x) with respect to Base Rate Loans (other than Swingline Loans) in an aggregate principal amount of \$3,000,000 or a whole multiple of \$1,000,000 in excess thereof, (y) with respect to ~~LIBOR Rate~~ SOFR Loans in an aggregate principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof and (z) with respect to Swingline Loans in an aggregate principal amount of \$500,000 or a whole multiple of \$100,000 (or, in each case, the remaining amount of the Revolving Credit Commitment or the Swingline Commitment, as applicable) in excess thereof, (C) whether such Loan is to be a Revolving Credit Loan or Swingline Loan, (D) in the case of a Revolving Credit Loan whether the Loans are to be ~~LIBOR Rate~~ SOFR Loans or Base Rate Loans, and (E) in the case of a ~~LIBOR Rate~~ SOFR Loan, the duration of the Interest Period applicable thereto; ~~provided that if the Borrower wishes to request LIBOR Rate Loans having an Interest~~

~~Period of twelve months in duration, such notice must be received by the Administrative Agent not later than 11:00 a.m. four (4) Business Days prior to the requested date of such borrowing, whereupon the Administrative Agent shall give prompt notice to the Revolving Credit Lenders of such request and determine whether the requested Interest Period is acceptable to all of them.~~ If the Borrower fails to specify a type of Loan in a Notice of Borrowing, then the applicable Loans shall be made as Base Rate Loans. If the Borrower requests a borrowing of ~~LIBOR Rate Loans~~ a SOFR Loan in any such Notice of Borrowing, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. A Notice of Borrowing received after 11:00 a.m. shall be deemed received on the next Business Day or U.S. Government Securities Business Day, as applicable. The Administrative Agent shall promptly notify the Revolving Credit Lenders of each Notice of Borrowing. All borrowing requests that are not made on-line via the Administrative Agent's electronic platform or portal shall be subject to (and unless the Administrative Agent elects otherwise, in its sole discretion, such borrowings shall not be made until the completion of) the Administrative Agent's authentication process (with results satisfactory to the Administrative Agent) prior to the funding of any such requested Revolving Credit Loan or Swingline Loan, as applicable.

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

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

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

(b) Mandatory Prepayments. If at any time the Revolving Credit Outstandings exceed the Revolving Credit Commitment, the Borrower agrees to repay immediately upon notice from the Administrative Agent, by payment to the Administrative Agent for the account of the Revolving Credit Lenders, Extensions of Credit in an amount equal to such excess with each such repayment applied first, to the principal amount of outstanding Swingline Loans, second to the principal amount of outstanding Revolving Credit Loans and third, with respect to any Letters of Credit then outstanding, a payment of Cash Collateral into a Cash Collateral account opened by the Administrative Agent, for the benefit of the Revolving Credit Lenders, ~~in an amount equal to such excess~~ (such Cash Collateral to be applied in accordance with Section 10.2(b)).



(c) Optional Prepayments. The Borrower may at any time and from time to time prepay Revolving Credit Loans and Swingline Loans, in whole or in part, with irrevocable prior written notice to the Administrative Agent substantially in the form attached as *Exhibit D* (a “Notice of Prepayment”) given not later than 11:00 a.m. (i) on the same Business Day as the prepayment of each Base Rate Loan and each Swingline Loan and (ii) at least three (3) U.S. Government Securities Business Days before the prepayment of each ~~LIBOR-Rate~~SOFR Loan, specifying the date and amount of prepayment and whether the prepayment is of ~~LIBOR-Rate~~SOFR Loans, Base Rate Loans, Swingline Loans or a combination thereof, and, if of a combination thereof, the amount allocable to each. Upon receipt of such notice, the Administrative Agent shall promptly notify each Revolving Credit Lender. If any such notice is given, the amount specified in such notice shall be due and payable on the date set forth in such notice. Partial prepayments shall be in an aggregate amount of \$3,000,000 or a whole multiple of \$1,000,000 in excess thereof with respect to Base Rate Loans (other than Swingline Loans), \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof with respect to ~~LIBOR-Rate~~SOFR Loans and \$500,000 or a whole multiple of \$100,000 in excess thereof with respect to Swingline Loans. A Notice of Prepayment received after 11:00 a.m. shall be deemed received on the next Business Day or U.S. Government Securities Business Day, as applicable. Each such repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof. Notwithstanding the foregoing, any Notice of Prepayment delivered in connection with any refinancing of all of the Credit Facility with the proceeds of such refinancing or of any incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such other identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met (provided that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9).

(d) Limitation on Prepayment of ~~LIBOR-Rate~~SOFR Loans. The Borrower may not prepay any ~~LIBOR-Rate~~SOFR Loan on any day other than on the last day of the Interest Period applicable thereto unless such prepayment is accompanied by any amount required to be paid pursuant to Section 5.9 hereof.

(e) Hedge Agreements. No repayment or prepayment of the Loans pursuant to this Section shall affect any of the Borrower’s obligations under any Hedge Agreement entered into with respect to the Loans.

(f) Prepayment of Excess Proceeds. In the event proceeds remain after any mandatory prepayments of the Term Loan Facility pursuant to Section 4.4(b), the amount of such excess proceeds shall be used on the date of the required prepayment under Section 4.4(b) to prepay the outstanding principal amount of the Revolving Credit Loans, without a corresponding reduction of the Revolving Credit Commitment, with remaining proceeds, if any, refunded to the Borrower.

SECTION 2.5 Permanent Reduction of the Revolving Credit Commitment.

(a) Voluntary Reduction. The Borrower shall have the right at any time and from time to time, upon at least five (5) Business Days prior irrevocable written notice to the Administrative Agent, to permanently reduce, without premium or penalty, (i) the entire Revolving Credit Commitment at any time or (ii) portions of the Revolving Credit Commitment, from time to time, in an aggregate principal amount not less than \$3,000,000 or any whole multiple of \$1,000,000 in excess thereof. Any reduction of the Revolving Credit Commitment shall be applied to the Revolving Credit Commitment of each Revolving Credit Lender according to its Revolving Credit Commitment Percentage. All Commitment Fees accrued until the effective date of any termination of the Revolving Credit Commitment shall be paid on the effective date of such termination. Notwithstanding the foregoing, any notice to reduce the Revolving Credit Commitment delivered in connection with any refinancing of all of the Credit Facility



with the proceeds of such refinancing or of any incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence such identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met (provided that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9).

(b) Corresponding Payment. Each permanent reduction permitted pursuant to this Section shall be accompanied by a payment of principal sufficient to reduce the aggregate outstanding Revolving Credit Loans, Swingline Loans and L/C Obligations, as applicable, after such reduction to the Revolving Credit Commitment as so reduced, and if the aggregate amount of all outstanding Letters of Credit exceeds the Revolving Credit Commitment as so reduced, the Borrower shall be required to deposit Cash Collateral in a Cash Collateral account opened by the Administrative Agent in an amount equal to such excess. Such Cash Collateral shall be applied in accordance with Section 10.2(b). Any reduction of the Revolving Credit Commitment to zero shall be accompanied by payment of all outstanding Revolving Credit Loans and Swingline Loans (and furnishing of Cash Collateral satisfactory to the Administrative Agent for all L/C Obligations or other arrangements satisfactory to the Issuing Lender) and shall result in the termination of the Revolving Credit Commitment and the Swingline Commitment and the Revolving Credit Facility. If the reduction of the Revolving Credit Commitment requires the repayment of any ~~LIBOR Rate~~SOFR Loan, such repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof.

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

ARTICLE III

LETTER OF CREDIT FACILITY

SECTION 3.1 L/C Facility.

(a) Availability. Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the Revolving Credit Lenders set forth in Section 3.4(a), agrees to issue standby Letters of Credit in an aggregate amount not to exceed its L/C Commitment for the account of the Borrower or, subject to Section 3.8, any Subsidiary thereof, Letters of Credit may be issued on any Business Day from the Closing Date to, but not including the thirtieth (30th) Business Day prior to the Revolving Credit Maturity Date in such form as may be approved from time to time by the Issuing Lender; provided, that no Issuing Lender shall issue any Letter of Credit if, after giving effect to such issuance, (a) the L/C Obligations would exceed the L/C Sublimit or (b) the Revolving Credit Outstandings would exceed the Revolving Credit Commitment. Each Letter of Credit shall (i) be denominated in Dollars in a minimum amount of \$100,000 (or such lesser amount as agreed to by the Issuing Lender and the Administrative Agent), (ii) expire on a date no more than twelve (12) months after the date of issuance or last renewal of such Letter of Credit (subject to automatic renewal for additional one (1) year periods pursuant to the terms of the Letter of Credit Application or other documentation acceptable to the Issuing Lender), which date shall be no later than the fifth (5th) Business Day prior to the Revolving Credit Maturity Date and (iii) be subject to the ISP98 as set forth in the Letter of Credit Application or as determined by the Issuing Lender and, to the extent not inconsistent therewith, the laws of the State of New York. The Issuing Lender shall not at any time be obligated to issue any Letter of Credit hereunder if (A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Lender from issuing such Letter of Credit, or request that such Issuing Lender refrain from, or any Applicable Law applicable to such

Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Lender shall prohibit, ~~or request that such Issuing Lender refrain from,~~ the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Lender with respect to letters of credit generally or such Letter of Credit in particular any restriction or reserve or capital requirement (for which such Issuing Lender is not otherwise compensated) not in effect on the Closing Date, or any unreimbursed loss, cost or expense that was not applicable, in effect as of the Closing Date and that such Issuing Lender in good faith deems material to it, or (B) the conditions set forth in Section 6.2 are not satisfied. References herein to “issue” and derivations thereof with respect to Letters of Credit shall also include extensions or modifications of any outstanding Letters of Credit, unless the context otherwise requires.

(b) Defaulting Lenders. Notwithstanding anything to the contrary contained in this Agreement, Article III shall be subject to the terms and conditions of Section 5.13 and Section 5.14.

SECTION 3.2 Procedure for Issuance of Letters of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to such Issuing Lender at its applicable office (with a copy to the Administrative Agent at the Administrative Agent’s Office) a Letter of Credit Application therefor, which shall be delivered via facsimile other electronic method of transmission reasonably acceptable to the Administrative Agent and the Issuing Lender, completed to the satisfaction of the Administrative Agent and the Issuing Lender, and such other certificates, documents and other papers and information as the Administrative Agent or the Issuing Lender may request. Upon receipt of any Letter of Credit Application, the Issuing Lender shall process such Letter of Credit Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures (including, without limitation, its authentication process) and shall, subject to Section 3.1, Article VI and the satisfactory results of the authentication process of the Issuing Lender, promptly issue the Letter of Credit requested thereby (but in no event shall such Issuing Lender be required to issue any Letter of Credit earlier than three (3) Business Days after its receipt of the Letter of Credit Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed by such Issuing Lender and the Borrower. The Issuing Lender shall promptly furnish to the Borrower and the Administrative Agent a copy of such Letter of Credit and the Administrative Agent shall promptly notify each Revolving Credit Lender of the issuance and upon request by any Lender, furnish to such Revolving Credit Lender a copy of such Letter of Credit and the amount of such Revolving Credit Lender’s participation therein.

SECTION 3.3 Commissions and Other Charges.

(a) Letter of Credit Commissions. Subject to Section 5.14(a)(iii)(B), the Borrower shall pay to the Administrative Agent, for the account of the Issuing Lender and the L/C Participants, a letter of credit commission with respect to each Letter of Credit in the amount equal to the daily amount available to be drawn under such standby Letters of Credit times the Applicable Margin with respect to Revolving Credit Loans that are ~~LIBOR Rate~~SOFR Loans (determined, in each case, on a per annum basis). Such commission shall be payable quarterly in arrears on the last Business Day of each calendar quarter, on the Revolving Credit Maturity Date and thereafter on demand of the Administrative Agent. The Administrative Agent shall, promptly following its receipt thereof, distribute to the Issuing Lender and the L/C Participants all commissions received pursuant to this Section 3.3 in accordance with their respective Revolving Credit Commitment Percentages.

(b) Issuance Fee. In addition to the foregoing commission, the Borrower shall pay directly to the Issuing Lender, for its own account, an issuance fee with respect to each Letter of Credit issued by such Issuing Lender as set forth in the Engagement Letter or as otherwise agreed upon between the



Issuing Lender and the Borrower. Such issuance fee shall be payable quarterly in arrears on the last Business Day of each calendar quarter commencing with the first such date to occur after the issuance of such Letter of Credit, on the Revolving Credit Maturity Date and thereafter on demand of the Issuing Lender.

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

SECTION 3.4 L/C Participations.

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

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

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

required to be returned by such Issuing Lender, such L/C Participant shall return to such Issuing Lender the portion thereof previously distributed by such Issuing Lender to it.

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

SECTION 3.5 Reimbursement Obligation of the Borrower. In the event of any drawing under any Letter of Credit, the Borrower agrees to reimburse (either with the proceeds of a Revolving Credit Loan as provided for in this Section or with funds from other sources), in same day funds, the Issuing Lender on each date on which such Issuing Lender notifies the Borrower of the date and amount of a draft paid by it under any Letter of Credit for the amount of (a) such draft so paid and (b) any amounts referred to in Section 3.3(c) incurred by such Issuing Lender in connection with such payment. Unless the Borrower shall immediately notify such Issuing Lender that the Borrower intends to reimburse such Issuing Lender for such drawing from other sources or funds, the Borrower shall be deemed to have timely given a Notice of Borrowing to the Administrative Agent requesting that the Revolving Credit Lenders make a Revolving Credit Loan as a Base Rate Loan on the applicable repayment date in the amount of (i) such draft so paid and (ii) any amounts referred to in Section 3.3(c) incurred by such Issuing Lender in connection with such payment, and the Revolving Credit Lenders shall make a Revolving Credit Loan as a Base Rate Loan in such amount, the proceeds of which shall be applied to reimburse such Issuing Lender for the amount of the related drawing and such fees and expenses. Each Revolving Credit Lender acknowledges and agrees that its obligation to fund a Revolving Credit Loan in accordance with this Section to reimburse such Issuing Lender for any draft paid under a Letter of Credit issued by it is absolute and unconditional and shall not be affected by any circumstance whatsoever, including, without limitation, non-satisfaction of the conditions set forth in Section 2.3(a) or Article VI. If the Borrower has elected to pay the amount of such drawing with funds from other sources and shall fail to reimburse such Issuing Lender as provided above, or if the amount of such drawing is not fully refunded through a Base Rate Loan as provided above, the unreimbursed amount of such drawing shall bear interest at the rate which would be payable on any outstanding Base Rate Loans which were then overdue from the date such amounts become payable (whether at stated maturity, by acceleration or otherwise) until payment in full.

SECTION 3.6 Obligations Absolute. The Borrower's obligations under this Article III (including, without limitation, the Reimbursement Obligation) shall be absolute and unconditional under any and all circumstances and irrespective of any set off, counterclaim or defense to payment which the Borrower may have or have had against the Issuing Lender or any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees that the Issuing Lender and the L/C Participants shall not be responsible for, and the Borrower's Reimbursement Obligation under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. No Issuing Lender shall be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted,



in connection with any Letter of Credit issued by it, except for errors or omissions caused by such Issuing Lender's gross negligence or willful misconduct, as determined by a court of competent jurisdiction by final nonappealable judgment. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit issued by it or the related drafts or documents, if done in the absence of gross negligence or willful misconduct shall be binding on the Borrower and shall not result in any liability of such Issuing Lender or any L/C Participant to the Borrower. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit issued to it shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment substantially conforms to the requirements under such Letter of Credit.

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

SECTION 3.8 Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse, or to cause the applicable Subsidiary to reimburse, the Issuing Lender hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of any of its Subsidiaries inures to the benefit of the Borrower and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

ARTICLE IV

TERM LOAN FACILITY

SECTION 4.1 Term Loans. Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth in this Agreement and the other Loan Documents:

(a) each Term A-1 Loan Lender severally agrees to make a Term A-1 Loan to the Borrower on the Closing Date in a principal amount equal to such Term A-1 Loan Lender's Term A-1 Loan Commitment as of the Closing Date; and

(b) each Term A-2 Loan Lender severally agrees to make a Term A-2 Loan to the Borrower on the Closing Date in a principal amount equal to such Term A-2 Loan Lender's Term A-2 Loan Commitment as of the Closing Date.

SECTION 4.2 Procedure for Advance of Term Loans.

(a) Term A-1 Loan and Term A-2 Loan. The Borrower shall give the Administrative Agent an irrevocable Notice of Borrowing prior to 11:00 a.m. on the Closing Date requesting that (i) the Term A-1 Loan Lenders make the Term A-1 Loan as a Base Rate Loan on such date and (ii) the Term A-2 Loan Lenders make the Term A-2 Loan as a Base Rate Loan on such date (provided that the Borrower may request, no later than three (3) U.S. Government Securities Business Days prior to the Closing Date, that the Lenders make the each of the Term A-1 Loan and the Term A-2 Loan as a ~~LIBOR~~ RateSOFR Loan if the Borrower has delivered to the Administrative Agent a letter in form and substance reasonably satisfactory to the Administrative Agent indemnifying the Lenders in the manner set forth in Section 5.9 of this Agreement). Upon receipt of such Notice of Borrowing from the Borrower, the



Administrative Agent shall promptly notify each Term A-1 Loan Lender and each Term A-2 Loan Lender thereof. Not later than 1:00 p.m. on the Closing Date, each Term A-1 Loan Lender and each Term A-2 Loan Lender, as applicable, will make available to the Administrative Agent for the account of the Borrower, at the Administrative Agent's Office in immediately available funds, the amount of such Term A-1 Loan and such Term A-2 Loan, as applicable, to be made by such Term A-1 Loan Lender and such Term A-2 Loan Lender, as applicable, on the Closing Date. The Borrower hereby irrevocably authorizes the Administrative Agent to disburse the proceeds of the Term A-1 Loan and the Term A-2 Loan in immediately available funds by wire transfer to such Person or Persons as may be designated by the Borrower in writing.

(b) Incremental Term Loans. Any Incremental Term Loans shall be borrowed pursuant to, and in accordance with Section 5.15.

SECTION 4.3 Repayment of Term Loans.

(a) Term A-1 Loan. The Borrower shall repay the aggregate outstanding principal amount of the Term A-1 Loan in consecutive quarterly installments on the last Business Day of each of March, June, September and December commencing September 30, 2021 in a quarterly installment amount equal to 1.25% of the aggregate principal amount of the Term A-1 Loan as of the Closing Date, except as the amounts of individual installments may be adjusted pursuant to Section 4.4 hereof. If not sooner paid, the Term A-1 Loan shall be paid in full, together with accrued interest thereon, on the Term A-1 Loan Maturity Date.

(b) Term A-2 Loan. The Borrower shall repay the aggregate outstanding principal amount of the Term A-2 Loan on the Term A-2 Loan Maturity Date.

(c) Incremental Term Loans. The Borrower shall repay the aggregate outstanding principal amount of each Incremental Term Loan (if any) as determined pursuant to, and in accordance with, Section 5.15.

SECTION 4.4 Prepayments of Term Loans.

(a) Optional Prepayments. The Borrower shall have the right at any time and from time to time, without premium or penalty, except as set forth in Section 5.9, to prepay the Term Loans, in whole or in part, upon delivery to the Administrative Agent of a Notice of Prepayment not later than 11:00 a.m. (i) on the same Business Day as the prepayment of each Base Rate Loan and (ii) at least three (3) U.S. Government Securities Business Days before the prepayment of each LIBOR RateSOFR Loan, specifying the date and amount of repaymentprepayment, whether the repaymentprepayment is of LIBOR RateSOFR Loans or Base Rate Loans or a combination thereof, and if of a combination thereof, the amount allocable to each and whether the repaymentprepayment is of the Term A-1 Loan, the Term A-2 Loan, an Incremental Term Loan or a combination thereof, and if of a combination thereof, the amount allocable to each. Each optional prepayment of the Term Loans hereunder shall be in an aggregate principal amount of at least \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof (or, if less, the remaining outstanding principal amount thereof) and shall be applied to prepay the Term A-1 Loan, the Term A-2 Loan and/or, if applicable, any Incremental Term Loans (each such prepayment to be applied to reduce any scheduled principal amortizations payments under Section 4.3 as directed by the Borrower). Each repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof. A Notice of Prepayment received after 11:00 a.m. shall be deemed received on the next Business Day or U.S. Government Securities Business Day, as applicable. The Administrative Agent shall promptly notify the applicable Term Loan Lenders of each Notice of Prepayment. Notwithstanding the foregoing, any Notice of Prepayment delivered in



connection with any refinancing of all of the Credit Facility with the proceeds of such refinancing or of any other incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such other identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met; provided that the delay or failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9.

(b) Mandatory Prepayments.

(i) Debt Issuances. The Borrower shall make mandatory principal prepayments of the Loans and/or Cash Collateralize the L/C Obligations in the manner set forth in clause (iv) below in an amount equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from any Debt Issuance not otherwise permitted pursuant to Section 9.1. Such prepayment shall be made within three (3) Business Days after the date of receipt of the Net Cash Proceeds of any such Debt Issuance.

(ii) Asset Dispositions and Insurance and Condemnation Events. The Borrower shall make mandatory principal prepayments of the Loans in the manner set forth in clause (iv) below in amounts equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from (A) any Asset Disposition (other than any Asset Disposition permitted pursuant to, and in accordance with, clauses (a) through (f) of Section 9.5) or (B) any Insurance and Condemnation Event, to the extent that the aggregate amount of such Net Cash Proceeds, in the case of each of clauses (A) and (B), respectively, exceed \$15,000,000 during any Fiscal Year. Such prepayments shall be made within three (3) Business Days after the date of receipt of the Net Cash Proceeds; provided that, so long as no Default or Event of Default has occurred and is continuing, no prepayment shall be required under this Section 4.4(b)(ii) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 4.4(b)(iii).

(iii) Reinvestment Option. With respect to any Net Cash Proceeds realized or received with respect to any Asset Disposition or any Insurance and Condemnation Event by any Credit Party of any Subsidiary thereof (in each case, to the extent not excluded pursuant to Section 4.4(b)(ii)), at the option of the Borrower, the Credit Parties may reinvest all or any portion of such Net Cash Proceeds in assets used or useful for the business of the Credit Parties and their Subsidiaries within (x) twelve (12) months following receipt of such Net Cash Proceeds or (y) if such Credit Party enters into a bona fide commitment to reinvest such Net Cash Proceeds within twelve (12) months following receipt thereof, within the later of (A) twelve (12) months following receipt thereof and (B) six (6) months of the date of such commitment; provided that if any Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, an amount equal to any such Net Cash Proceeds shall be applied within three (3) Business Days after the applicable Credit Party reasonably determines that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Loans as set forth in this Section 4.4(b). Pending the final application of any such Net Cash Proceeds, the applicable Credit Party may invest an amount equal to such Net Cash Proceeds in any manner that is not prohibited by this Agreement.

(iv) Notice; Manner of Payment. Upon the occurrence of any event triggering the prepayment requirement under clauses (i) through and including (ii) above, the Borrower shall promptly deliver notice thereof to the Administrative Agent and upon receipt of such notice, the Administrative Agent shall promptly so notify the Lenders. Each prepayment of the Loans under

this Section shall be applied as follows: first, ratably between the Term A-1 Loans, the Term A-2 Loans and (unless otherwise agreed by the applicable Incremental Lenders) any Incremental Term Loans, in each case to reduce on a pro rata basis the remaining scheduled principal installments, if any, of the Term A-1 Loans and the Term A-2 Loans and, as determined by the Borrower and the applicable Incremental Lenders, any Incremental Term Loans, in each case pursuant to Section 4.3 and (ii) second, to the extent of any excess, to repay the Revolving Credit Loans pursuant to Section 2.4(d), without a corresponding reduction in the Revolving Credit Commitment.

(v) Prepayment of ~~LIBOR-Rate~~SOFR Loans. Each prepayment of SOFR Loans shall be accompanied by any amount required to be paid pursuant to Section 5.9; provided that, so long as no Default or Event of Default shall have occurred and be continuing, if any prepayment of LIBOR-RateSOFR Loans is required to be made under this Section 4.4(b) prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 4.4(b) in respect of any such LIBOR-RateSOFR Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into an account held at, and subject to the sole control of, the Administrative Agent until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Credit Party) to apply such amount to the prepayment of such Term Loans in accordance with this Section 4.4(b). Upon the occurrence and during the continuance of any Default or Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Credit Party) to apply such amount to the prepayment of the outstanding Term Loans in accordance with the relevant provisions of this Section 4.4(b).

(vi) No Reborrowings. Amounts prepaid under any Term Loan pursuant to this Section may not be reborrowed.

ARTICLE V

GENERAL LOAN PROVISIONS

SECTION 5.1 Interest.

(a) Interest Rate Options. Subject to the provisions of this Section, at the election of the Borrower, (i) Revolving Credit Loans and Term Loans shall bear interest at (A) the Base Rate plus the Applicable Margin or (B) the LIBOR-RateAdjusted Term SOFR plus the Applicable Margin (provided that the LIBOR-RateAdjusted Term SOFR shall not be available until three (3) Business Days (or four (4) U.S. Government Securities Business Days with respect to a LIBOR-Rate based on a twelve-month Interest Period) after the Closing Date unless the Borrower has delivered to the Administrative Agent a letter in form and substance reasonably satisfactory to the Administrative Agent indemnifying the Lenders in the manner set forth in Section 5.9 of this Agreement) and (ii) any Swingline Loan shall bear interest at the Base Rate plus the Applicable Margin. The Borrower shall select the rate of interest and Interest Period, if any, applicable to any Loan at the time a Notice of Borrowing is given or at the time a Notice of Conversion/Continuation is given pursuant to Section 5.2.

(b) Default Rate. Subject to Section 10.3, (i) immediately upon the occurrence and during the continuance of an Event of Default under Section 10.1(a), (b), (h) or (i), or (ii) at the election of

the Required Lenders, upon the occurrence and during the continuance of any other Event of Default, (A) the Borrower shall no longer have the option to request ~~LIBOR-Rate~~SOFR Loans, Swingline Loans or Letters of Credit, (B) all outstanding ~~LIBOR-Rate~~SOFR Loans shall bear interest at a rate per annum of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to ~~LIBOR-Rate~~SOFR Loans until the end of the applicable Interest Period and thereafter at a rate ~~equal to~~per annum of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Base Rate Loans, (C) all outstanding Base Rate Loans and other Obligations arising hereunder or under any other Loan Document shall bear interest at a rate per annum ~~equal to~~of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Base Rate Loans or such other Obligations arising hereunder or under any other Loan Document and (D) all accrued and unpaid interest shall be due and payable on demand of the Administrative Agent. Interest shall continue to accrue on the Obligations after the filing by or against the Borrower of any petition seeking any relief in bankruptcy or under any Debtor Relief Law.

(c) Interest Payment and Computation. Interest on each Base Rate Loan shall be due and payable in arrears on the first Business Day immediately following the end of each calendar quarter commencing June 30, 2021; and interest on each ~~LIBOR-Rate~~SOFR Loan shall be due and payable in arrears on the last day of each Interest Period applicable thereto, and if such Interest Period extends over three (3) months, at the end of each three (3) month interval during such Interest Period; provided that (i) in the event of any repayment or prepayment of any SOFR Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (ii) in the event of any conversion of any SOFR Loan prior to the end of the Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion. All computations of interest for Base Rate Loans ~~when the Base Rate is determined by 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 elapsed. All other computations of fees and interest provided hereunder shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365/366-day year).

(d) Maximum Rate. In no contingency or event whatsoever shall the aggregate of all amounts deemed interest under this Agreement charged or collected pursuant to the terms of this Agreement exceed the highest rate permissible under any Applicable Law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. In the event that such a court determines that the Lenders have charged or received interest hereunder in excess of the highest applicable rate, the rate in effect hereunder shall automatically be reduced to the maximum rate permitted by Applicable Law and the Lenders shall at the Administrative Agent's option (i) promptly refund to the Borrower any interest received by the Lenders in excess of the maximum lawful rate or (ii) apply such excess to the principal balance of the Obligations. It is the intent hereof that the Borrower not pay or contract to pay, and that neither the Administrative Agent nor any Lender receive or contract to receive, directly or indirectly in any manner whatsoever, interest in excess of that which may be paid by the Borrower under Applicable Law.

(e) Term SOFR 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 Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

SECTION 5.2 Notice and Manner of Conversion or Continuation of Loans. Provided that no Default or Event of Default has occurred and is then continuing, the Borrower shall have the option to (a) convert at any time, subject to the notice requirements herein, all or any portion of any outstanding Base Rate Loans (other than Swingline Loans) in a principal amount equal to \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof into one or more ~~LIBOR Rate~~SOFR Loans and (b) upon the expiration of any Interest Period therefor, (i) convert all or any part of ~~its~~any outstanding ~~LIBOR Rate~~SOFR Loans in a principal amount equal to \$3,000,000 or a whole multiple of \$1,000,000 in excess thereof into Base Rate Loans (other than Swingline Loans) or (ii) continue any such ~~LIBOR Rate~~SOFR Loans as ~~LIBOR Rate~~SOFR Loans. Whenever the Borrower desires to convert or continue Loans as provided above, the Borrower shall give the Administrative Agent irrevocable prior written notice in the form attached as *Exhibit E* (a “Notice of Conversion/Continuation”) not later than 11:00 a.m. three (3) U.S. Government Securities Business Days before the day on which a proposed conversion or continuation of such Loan is to be effective specifying (A) the Loans to be converted or continued, and, in the case of any ~~LIBOR Rate~~SOFR Loan to be converted or continued, the last day of the Interest Period therefor, (B) the effective date of such conversion or continuation (which shall be a Business Day), (C) the principal amount of such Loans to be converted or continued, and (D) the Interest Period to be applicable to such converted or continued ~~LIBOR Rate~~SOFR Loan. If the Borrower fails to give/deliver a timely Notice of Conversion/Continuation prior to the end of the Interest Period for any ~~LIBOR Rate~~SOFR Loan, then the applicable ~~LIBOR Rate~~SOFR Loan shall be automatically converted to a Base Rate Loan. Any such automatic conversion to a Base Rate Loan shall be effective as of the last day of the Interest Period then in effect with respect to the applicable ~~LIBOR Rate~~SOFR Loan. If the Borrower requests a conversion to, or continuation of, ~~LIBOR Rate Loans~~a SOFR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a ~~LIBOR Rate~~SOFR Loan. The Administrative Agent shall promptly notify the affected Lenders of such Notice of Conversion/Continuation.

SECTION 5.3 Fees.

(a) Commitment Fee. Commencing on the Closing Date, subject to Section 5.14(a)(iii)(A), the Borrower shall pay to the Administrative Agent, for the account of the Revolving Credit Lenders, a non-refundable commitment fee (the “Commitment Fee”) at a rate per annum equal to the Applicable Margin on the average daily unused portion of the Revolving Credit Commitment of the Revolving Credit Lenders (other than the Defaulting Lenders, if any); provided, that the amount of outstanding Swingline Loans shall not be considered usage of the Revolving Credit Commitment for the purpose of calculating the Commitment Fee. The Commitment Fee shall be payable in arrears on the first Business Day immediately following the end of each calendar quarter during the term of this Agreement commencing June 30, 2021 and ending on the date upon which all Obligations (other than contingent indemnification obligations not then due) arising under the Revolving Credit Facility shall have been indefeasibly and irrevocably paid and satisfied in full, all Letters of Credit have been terminated or expired and the Revolving Credit Commitment has been terminated. The Commitment Fee shall be distributed by the Administrative Agent to the Revolving Credit Lenders (other than any Defaulting Lender) pro rata in accordance with such Revolving Credit Lenders’ respective Revolving Credit Commitment Percentages.

(b) Other Fees. The Borrower shall pay to (i) Wells Fargo Securities, LLC and the Administrative Agent, for their own respective accounts, fees in the amounts and at the times specified in the Engagement Letter and (ii) each Arranger (other than Wells Fargo Securities, LLC), documentation agent or syndication agent, for their own respective accounts, fees in the amounts and at the times specified in the Fee Letter to which such Arranger (other than Wells Fargo Securities, LLC), documentation agent or syndication agent is a party thereto.

SECTION 5.4 Manner of Payment. Each payment by the Borrower on account of the principal of or interest on the Loans or of any fee, commission or other amounts (including the Reimbursement Obligation) payable to the Lenders under this Agreement shall be made not later than 1:00 p.m. on the date specified for payment under this Agreement to the Administrative Agent at the Administrative Agent's Office for the account of the Lenders entitled to such payment in Dollars, in immediately available funds and shall be made without any set off, counterclaim or deduction whatsoever. Any payment received after such time but before 2:00 p.m. on such day shall be deemed a payment on such date for the purposes of Section 10.1, but for all other purposes shall be deemed to have been made on the next succeeding Business Day. Any payment received after 2:00 p.m. shall be deemed to have been made on the next succeeding Business Day for all purposes. Upon receipt by the Administrative Agent of each such payment, the Administrative Agent shall distribute to each such Lender at its address for notices set forth herein its Commitment Percentage in respect of the relevant Credit Facility (or other applicable share as provided herein) of such payment and shall wire advice of the amount of such credit to each Lender. Each payment to the Administrative Agent on account of the principal of or interest on the Swingline Loans or of any fee, commission or other amounts payable to the Swingline Lender shall be made in like manner, but for the account of the Swingline Lender. Each payment to the Administrative Agent of the Issuing Lender's fees or L/C Participants' commissions shall be made in like manner, but for the account of such Issuing Lender or the L/C Participants, as the case may be. Each payment to the Administrative Agent of Administrative Agent's fees or expenses shall be made for the account of the Administrative Agent and any amount payable to any Lender under Sections 5.9, 5.10, 5.11 or 12.3 shall be paid to the Administrative Agent for the account of the applicable Lender. Subject to the definition of Interest Period, if any payment under this Agreement shall be specified to be made upon a day which is not a Business Day, it shall be made on the next succeeding day which is a Business Day and such extension of time shall in such case be included in computing any interest if payable along with such payment. Notwithstanding the foregoing, if there exists a Defaulting Lender each payment by the Borrower to such Defaulting Lender hereunder shall be applied in accordance with Section 5.14(a)(ii).

SECTION 5.5 Evidence of Indebtedness.

(a) Extensions of Credit. The Extensions of Credit made by each Lender and the Issuing Lender shall be evidenced by one or more accounts or records maintained by such Lender or such Issuing Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender or the Issuing Lender shall be conclusive absent manifest error of the amount of the Extensions of Credit made by the Lenders or such Issuing Lender to the Borrower and its Subsidiaries and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender or the Issuing Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Credit Note and/or Swingline Note and/or Term A-1 Loan Note and/or Term A-2 Loan Note and/or Incremental Term Loan Note, as applicable, which shall evidence such Lender's Revolving Credit Loans and/or Swingline Loans and/or Term A-1 Loans and/or Term A-2 Loans and/or Incremental Term Loans, as applicable, in addition to such accounts or records. Each Lender may attach schedules to its Notes and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

(b) Participations. In addition to the accounts and records referred to in subsection (a), each Revolving Credit Lender and the Administrative Agent shall maintain in accordance with its usual

practice accounts or records evidencing the purchases and sales by such Revolving Credit Lender of participations in Letters of Credit and Swingline Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Revolving Credit Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

SECTION 5.6 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations (other than pursuant to Sections 5.9, 5.10, 5.11 or 12.3) greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and

(ii) the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 5.13 or (C) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Swingline Loans and Letters of Credit to any assignee or participant, other than to the Borrower or any of its Subsidiaries or Affiliates (as to which the provisions of this paragraph shall apply).

Each Credit Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Credit Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Credit Party in the amount of such participation.

SECTION 5.7 Administrative Agent's Clawback.

(a) Funding by Lenders; Presumption by Administrative Agent. ~~Unless the Administrative Agent shall have received notice from a Lender (i) in the case of Base Rate Loans, not later than 12:00 noon on the date of~~In connection with any ~~proposed~~ borrowing and (ii) otherwise, prior to the proposed date of any borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such borrowing hereunder, the Administrative Agent may assume that ~~such~~each Lender has made its respective share of such ~~share~~borrowing available on such date in accordance with Sections 2.3(b) and 4.2 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the ~~greater of the daily average Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank~~

~~compensation~~**Overnight Rate** and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(b) Payments by the Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders, the Issuing Lender or the Swingline Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders, the Issuing Lender or the Swingline Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders, the Issuing Lender or the Swingline Lender, as the case maybe, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, Issuing Lender or the Swingline Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the ~~greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation~~**Overnight Rate**.

(c) Nature of Obligations of Lenders Regarding Extensions of Credit. The obligations of the Lenders under this Agreement to make the Loans, to issue or participate in Letters of Credit and to make payments under this Section, Section 5.11(e), Section 11.11, Section 12.3(c) or Section 12.7, as applicable, are several and are not joint or joint and several. The failure of any Lender to make available its Commitment Percentage of any Loan requested by the Borrower shall not relieve it or any other Lender of its obligation, if any, hereunder to make its Commitment Percentage of such Loan available on the borrowing date, but no Lender shall be responsible for the failure of any other Lender to make its Commitment Percentage of such Loan available on the borrowing date.

SECTION 5.8 Changed Circumstances.

(a) Circumstances Affecting ~~LIBOR Rate~~**Benchmark** Availability. Subject to clause (c) below, in connection with any request for a ~~LIBOR Rate~~**SOFR** Loan or a conversion to or continuation thereof or otherwise, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that ~~Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable amount and Interest Period of such Loan, (ii) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that~~ reasonable and adequate means do not exist for ~~the~~ ascertaining the ~~LIBOR Rate~~**Adjusted Term SOFR** for ~~such~~the applicable Interest Period with respect to a proposed ~~LIBOR Rate~~**SOFR** Loan on or prior to the first day of such Interest Period or ~~(iii)~~ (ii) the Required Lenders shall determine (which determination shall be conclusive and binding absent manifest error) that ~~the LIBOR Rate~~**Adjusted Term SOFR** does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during such Interest Period and, in the case of clause (ii), the Required Lenders have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Borrower. ~~Thereafter, until~~Upon notice thereof by the Administrative Agent ~~notifies~~the Borrower ~~that such circumstances no longer exist, the~~any obligation of the Lenders to make



~~LIBOR Rate~~SOFR Loans, and ~~the~~any right of the Borrower to convert any Loan to or continue any Loan as a ~~LIBOR Rate~~SOFR Loan, shall be suspended, ~~and (to the Borrower shall either (A) repay in full (or cause to be repaid in full) the then outstanding principal amount of each such LIBOR Rate Loan together with accrued interest thereon (subject to Section 5.1(d)), on the last day of the then current Interest Period applicable to such LIBOR Rate Loan; or (B) convert the then outstanding principal amount of each such LIBOR Rate Loan to a extent of the affected SOFR Loans or the affected Interest Periods) until the Administrative Agent (with respect to clause (ii), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans or the affected Interest Periods) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (B) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loan as Loans at the end of the last day of such applicable Interest Period. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.9.~~

(b) ~~Laws Affecting LIBOR Rate~~SOFR Availability. If, after the date hereof, the introduction of, or any change in, any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Lenders (or any of their respective Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Lenders (or any of their respective Lending Offices) to honor its obligations hereunder to make or maintain any ~~LIBOR Rate~~SOFR Loan, or to determine or charge interest based upon SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, such Lender shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to the Borrower and the other Lenders (an "Illegality Notice"). Thereafter, until each affected Lender notifies the Administrative Agent and the Administrative Agent notifies the Borrower that ~~such~~the circumstances giving rise to such determination no longer exist, (i) ~~the obligations~~any obligation of the Lenders to make ~~LIBOR Rate~~SOFR Loans, and ~~the~~any right of the Borrower to convert any Loan to a ~~LIBOR Rate~~SOFR Loan or continue any Loan as a ~~LIBOR Rate~~SOFR Loan, shall be suspended and ~~thereafter the Borrower may select only~~(ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate". Upon receipt of an Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all SOFR Loans to Base Rate Loans—and (ii) in each case, if any of the Lenders necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate"), on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such SOFR Loans to such day, or immediately, if any Lender may not lawfully continue to maintain a LIBOR Rate Loan to the end of the then current Interest Period applicable thereto such SOFR Loans to such day. Upon any such prepayment or conversion, the applicable Loan Borrower shall immediately be converted to a Base Rate Loan for the remainder of such Interest Period also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.9.

(c) Benchmark Replacement Setting.

~~(i) — (A) —~~

(i) Benchmark Replacement. ~~Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or Early Opt-In Election. Notwithstanding anything to the contrary herein or in any other Loan Document (and any Hedge Agreement shall be deemed not to be a "Loan Document" for purposes of this Section 5.8(c)) if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of, the Administrative Agent and the Borrower may amend this Agreement to replace~~ the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (a)(1) or (a)(2) of the definition of "a Benchmark Replacement" for, Any such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (a)(3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark settingamendment with respect to a Benchmark Transition Event will become effective at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the ~~date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document~~Administrative Agent has posted such proposed amendment to all Lenders and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such ~~Benchmark Replacement~~amendment from Lenders comprising the Required Lenders.

(B) — Term SOFR Transition Event. ~~Notwithstanding anything to the contrary herein or in any other Loan Document, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 5.8(c)(i)(A) will occur prior to~~ the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; ~~provided that this clause (B) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may elect or not elect to do so in its sole discretion~~Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make ~~Benchmark Replacement~~ Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such ~~Benchmark Replacement~~ Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(iii) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date; and (B) the effectiveness of any

Conforming Changes in connection with the use, administration, adoption or implementation of ~~any~~ Benchmark Replacement, ~~(C) the effectiveness of any Benchmark Replacement Conforming Changes, (D).~~ **The Administrative Agent will promptly notify the Borrower and the Lenders of** the removal or reinstatement of any tenor of a Benchmark pursuant to Section 5.8(c)(iv) ~~below and (E) the commencement or conclusion of any Benchmark Unavailability Period.~~ Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 5.8(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 5.8(c).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including the Term SOFR ~~or USD LIBOR~~ **Reference Rate**) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be ~~no longer~~ representative, then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is not or will ~~no longer~~ not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) Benchmark Unavailability Period. Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of ~~LIBOR Rate~~ SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (B) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans at the end of the applicable Interest Period. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate.

~~(vi) — London Interbank Offered Rate Benchmark Transition Event. On March 5, 2021, the IBA, the administrator of the London interbank offered rate, and the FCA, the regulatory supervisor of the IBA, made the Announcements that the final publication or representativeness date for (I) 1-week and 2-month London interbank offered rate tenor settings will be December 31, 2021 and (II) overnight, 1-month, 3-month, 6-month and 12-month London interbank offered rate tenor settings will be June 30, 2023. No successor administrator for the IBA was identified in such Announcements. The parties hereto agree and acknowledge that the~~



~~Announcements resulted in the occurrence of a Benchmark Transition Event with respect to the London interbank offered rate pursuant to the terms of this Agreement and that any obligation of the Administrative Agent to notify any parties of such Benchmark Transition Event pursuant to clause (iii) of this Section 5.8(e) shall be deemed satisfied.~~

SECTION 5.9 Indemnity. The Borrower hereby indemnifies each of the Lenders against any loss, cost or expense (including any loss, cost or expense arising from the liquidation or reemployment of funds ~~obtained by it to maintain a LIBOR Rate Loan~~ or from any fees payable ~~to terminate the deposits from which such funds were obtained~~) which may arise ~~or~~, be attributable to each Lender's obtaining, liquidating or employing deposits or other funds acquired or result due to effect, fund or maintain any Loan (a) or as a consequence of (a) any failure by the Borrower to make any payment when due of any amount due hereunder in connection with a LIBOR Rate SOFR Loan, (b) due to any failure of the Borrower to borrow, or continue a SOFR Loan or convert to a SOFR Loan on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation, (c) any failure of the Borrower to prepay any SOFR Loan on a date specified therefor in any Notice of Prepayment (regardless of whether any such Notice of Prepayment may be revoked under Section 2.4(c) or (e) due to Section 4.4(a) and is revoked in accordance therewith), (d) any payment, prepayment or conversion of any LIBOR Rate SOFR Loan on a date other than the last day of the Interest Period therefor. The amount of such loss or expense shall be determined, in the applicable Lender's sole discretion, based upon the assumption that such Lender funded its Commitment Percentage of the LIBOR Rate Loans in the London interbank market and using any reasonable attribution or averaging methods which such Lender deems appropriate and practical (including as a result of an Event of Default) or (e) the assignment of any SOFR Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 5.12(b). A certificate of such Lender setting forth the basis for determining such amount or amounts necessary to compensate such Lender shall be forwarded to the Borrower through the Administrative Agent and shall be conclusively presumed to be correct save for manifest error. All of the obligations of the Credit Parties under this Section 5.9 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

SECTION 5.10 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D of the FRB, as amended and in effect from time to time)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, any Lender ~~(exceptor any reserve requirement reflected in the LIBOR Rate) or the Issuing Lender;~~

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or



(iii) impose on any Lender or the Issuing Lender ~~or the London interbank market~~ any other condition, cost or expense (other than Taxes) affecting this Agreement or ~~LIBOR Rate~~ Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender, the Issuing Lender or such other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, such Issuing Lender or such other Recipient hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, such Issuing Lender or other Recipient, the Borrower shall promptly pay to any such Lender, such Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Lending Office of such Lender or such Lender's or such Issuing Lender's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or such Issuing Lender's capital or on the capital of such Lender's or such Issuing Lender's holding company, if any, as a consequence of this Agreement, the Revolving Credit Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Lender's policies and the policies of such Lender's or such Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Issuing Lender the Borrower shall promptly pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender, or an Issuing Lender or such other Recipient setting forth the amount or amounts necessary to compensate such Lender or such Issuing Lender, such other Recipient or any of their respective holding companies, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower, shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Lender or such other Recipient, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the Issuing Lender or such other Recipient to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Lender's or such other Recipient's right to demand such compensation; provided that the Borrower shall not be required to compensate any Lender or an Issuing Lender or any other Recipient pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such Issuing Lender or such other Recipient, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or such Issuing Lender's or such other Recipient's intention to claim compensation therefor (except that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 5.11 Taxes.

(a) Defined Terms. For purposes of this Section 5.11, the term “Lender” includes the Issuing Lender and the term “Applicable Law” includes FATCA.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Credit Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Credit Party shall be increased as necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section), the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Credit Parties. The Credit Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Credit Parties. The Credit Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Recipient (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), (ii) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 12.9(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority pursuant to this Section 5.11, such Credit Party shall deliver to the

Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower 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 Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.11(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing:

(A) Any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from United States federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;



(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of *Exhibit H-1* to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of *Exhibit H-2* or *Exhibit H-3*, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of *Exhibit H-4* on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United States federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to



this Section 5.11 (including by the payment of additional amounts pursuant to this Section 5.11), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) 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.

(i) Indemnification of the Administrative Agent. Each Lender and the Issuing Lender shall severally indemnify the Administrative Agent within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.10(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (i). The agreements in paragraph (i) shall survive the resignation and/or replacement of the Administrative Agent.

(j) Survival. Each party's obligations under this Section 5.11 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

SECTION 5.12 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 5.10, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 5.11, then such Lender shall, at the request of the Borrower, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.10 or Section 5.11, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The

Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 5.10, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 5.11, and, in each case, such Lender has declined or is unable to designate a different Lending Office in accordance with Section 5.12(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.9), all of its interests, rights (other than its existing rights to payments pursuant to Section 5.10 or Section 5.11) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 12.9;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 5.9) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 5.10 or payments required to be made pursuant to Section 5.11, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with Applicable Law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Each party hereto agrees that (x) an assignment required pursuant to this Section 5.12 may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and (y) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender or the Administrative Agent, provided, further that any such documents shall be without recourse to or warranty by the parties thereto.

SECTION 5.13 Cash Collateral. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent, the Issuing Lender (with a copy to the Administrative Agent) or the Swingline Lender (with a copy to the Administrative



Agent), the Borrower shall Cash Collateralize the Fronting Exposure of such Issuing Lender and/or the Swingline Lender, as applicable, with respect to such Defaulting Lender (determined after giving effect to Section 5.14(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(a) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Lender and the Swingline Lender, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of L/C Obligations and Swingline Loans, to be applied pursuant to subsection (b) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Lender and the Swingline Lender as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 5.13 or Section 5.14 in respect of Letters of Credit and Swingline Loans shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of L/C Obligations and Swingline Loans (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce the Fronting Exposure of the Issuing Lender and/or the Swingline Lender, as applicable, shall no longer be required to be held as Cash Collateral pursuant to this Section 5.13 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent, the Issuing Lender and the Swingline Lender that there exists excess Cash Collateral; provided that, subject to Section 5.14, the Person providing Cash Collateral, the Issuing Lender and the Swingline Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

SECTION 5.14 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders", "Required Revolving Credit Lenders", "Required Term A-1 Loan Lenders" or "Required Term A-2 Loan Lenders" and Section 12.2.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article X or otherwise) or received by

the Administrative Agent from a Defaulting Lender pursuant to Section 12.4 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or the Swingline Lender hereunder; *third*, to Cash Collateralize the Fronting Exposure of the Issuing Lender and the Swingline Lender with respect to such Defaulting Lender in accordance with Section 5.13; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan or funded participation in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans and funded participations under this Agreement and (B) Cash Collateralize the Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit and Swingline Loans issued under this Agreement, in accordance with Section 5.13; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lender or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lender or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or funded participations in Letters of Credit or Swingline Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letters of Credit or Swingline Loans were issued at a time when the conditions set forth in Section 6.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and funded participations in Letters of Credit or Swingline Loans owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or funded participations in Letters of Credit or Swingline Loans owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Revolving Credit Commitments under the applicable Revolving Credit Facility without giving effect to Section 5.14(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 5.14(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit commissions pursuant to Section 3.3 for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Revolving Credit Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to ~~Section 5.13~~.



(C) With respect to any Commitment Fee or letter of credit commission not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (2) pay to the Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Revolving Credit Commitment Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, repay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, Cash Collateralize the Issuing Lender's Fronting Exposure in accordance with the procedures set forth in Section 5.13.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Issuing Lender and the Swingline Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with the Commitments under the applicable Credit Facility (without giving effect to Section 5.14(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.



SECTION 5.15 Incremental Loans.

(a) Request for Incremental Increase. At any time after the Closing Date, the Borrower may by written notice to the Administrative Agent elect to request the establishment of:

(i) one or more incremental term loan commitments (any such incremental term loan commitment, an "Incremental Term Loan Commitment" and, collectively, the "Incremental Term Loan Commitments") to make one or more additional term loans, including a borrowing of an additional term loan the principal amount of which will be added to the outstanding principal amount of the existing tranche of Term Loans with the latest scheduled maturity date (any such additional term loan, an "Incremental Term Loan") (any such additional term loan, an "Incremental Term Loan" and, collectively, the "Incremental Term Loans"); or

(ii) one or more increases in the Revolving Credit Commitments (any such increase, an "Incremental Revolving Credit Commitment" and, collectively, the "Incremental Revolving Credit Commitments" and, together with the Incremental Term Loan Commitments, the "Incremental Loan Commitments") to make revolving credit loans under the Revolving Credit Facility (any such increase, an "Incremental Revolving Credit Increase" and, collectively, the "Incremental Revolving Credit Increases" and, and, together with the Incremental Term Loan Commitments and Incremental Term Loans, the "Incremental Increases");

provided that (1) the aggregate initial principal amount of such requested Incremental Increase shall not exceed the Incremental Facilities Limit, (2) the total aggregate amount for each Incremental Increase shall not be less than a minimum principal amount of \$5,000,000 or, if less, the remaining amount of the Incremental Facilities Limit, (3) no Lender will be required otherwise obligated to provide any portion of any Incremental Increase and (4) the Borrower shall make a maximum of five (5) requests in the aggregate for Incremental Increases.

(b) Incremental Lenders. Each notice from the Borrower pursuant to this Section 5.13 shall set forth the requested amount and proposed terms of the relevant Incremental Increase. Incremental Increases may be provided by any existing Lender or by any other Persons (each such Lender or other Person, an "Incremental Lender"); provided that the Administrative Agent, the Issuing Lender and/or the Swingline Lender, as applicable, shall have consented (not to be unreasonably withheld or delayed) to such Incremental Lender's providing such Incremental Increases to the extent any such consent would be required under Section 12.9(b) for an assignment of Loans or Commitments, as applicable, to such Incremental Lender. At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each proposed Incremental Lender is requested to respond, which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the proposed Incremental Lenders (or such shorter period as agreed to by the Administrative Agent). Each proposed Incremental Lender may elect or decline, in its sole discretion, and shall notify the Administrative Agent within such time period whether it agrees, to provide an Incremental Increase and, if so, whether by an amount equal to, greater than or less than requested. Any Person not responding within such time period shall be deemed to have declined to provide an Incremental Increase.

(c) Increase Effective Date and Allocations. The Administrative Agent and the Borrower shall determine the effective date (the "Increase Effective Date") and the final allocation of such Incremental Increase (limited in the case of the Incremental Lenders to their own respective allocations thereof). The Administrative Agent shall promptly notify the Borrower and the Incremental Lenders of the final allocation of such Incremental Increases and the Increase Effective Date.



(d) Conditions to Effectiveness of Incremental Increases. Any Incremental Increase shall become effective as of such Increase Effective Date and shall be subject to the following conditions precedent:

(i) no Default or Event of Default shall exist on such Increase Effective Date before or after giving effect to (A) any Incremental Increase, (B) the making of any Extensions of Credit pursuant thereto and (C) any Permitted Acquisition consummated in connection therewith; provided that, in the case of an Incremental Term Loan incurred solely to finance a substantially concurrent Limited Condition Acquisition, the foregoing condition shall be subject to Section 1.11;

(ii) the Administrative Agent and the Lenders shall have received from the Borrower an Officer's Compliance Certificate demonstrating, in form and substance reasonably satisfactory to the Administrative Agent, that the Borrower is in compliance with the financial covenants set forth in Section 9.13, in each case based on the financial statements most recently delivered pursuant to Section 8.1(a) or 8.1(b), as applicable, both before and after giving effect (on a Pro Forma Basis) to (A) any Incremental Increase, (B) the making of any Extension of Credit pursuant thereto (with any Incremental Loan Commitment being deemed to be fully funded) and (C) any Permitted Acquisition consummated in connection therewith; provided that, in the case of an Incremental Term Loan incurred solely to finance a substantially concurrent Limited Condition Acquisition, the foregoing condition shall be subject to Section 1.11;

(iii) each of the representations and warranties contained in Article VII shall be true and correct in all material respects, except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty shall be true, correct and complete in all respects, on such Increase Effective Date with the same effect as if made on and as of such date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct as of such earlier date); provided that, in the case of an Incremental Term Loan incurred solely to finance a substantially concurrent Limited Condition Acquisition, the foregoing condition shall be subject to Section 1.11;

(iv) the proceeds of any Incremental Increase shall be used for working capital and general corporate purposes of the Borrower and its Subsidiaries (including, without limitation, Permitted Acquisitions);

(v) each Incremental Increase (and the Extensions of Credit made thereunder) shall constitute Obligations of the Borrower and shall be guaranteed with the other Extensions of Credit on a *pari passu* basis;

(vi) the Credit Parties shall have executed an Incremental Amendment in form and substance reasonably acceptable to the Borrower and the applicable Incremental Lenders; and

(vii) the Administrative Agent shall have received from the Borrower, any customary legal opinions and any other documents (including a resolution duly adopted by the board of directors (or equivalent governing body) of each Credit Party authorizing such Incremental Increase) reasonably requested by Administrative Agent in connection with such Incremental Increase.



(e) Terms of Incremental Increases. The terms of each Incremental Increase (which shall be set forth in the relevant Incremental Amendment) shall be determined by the Borrower and the applicable Incremental Lenders; provided that:

(i) in the case of each Incremental Term Loan:

(A) the maturity of any such Incremental Term Loan shall not be earlier than the then the latest scheduled maturity date of the Loans and Commitments in effect as of the Increase Effective Date and the Weighted Average Life to Maturity of any such Incremental Term Loan shall not be shorter than the remaining Weighted Average Life to Maturity of such latest maturing Term Loans;

(B) the Applicable Margin and pricing grid, if applicable, for such Incremental Term Loan shall be determined by the Administrative Agent, the applicable Incremental Lenders and the Borrower on the applicable Increase Effective Date;

(C) any mandatory prepayment (other than scheduled amortization payments) of each Incremental Term Loan shall be made on a pro rata basis with all then existing Term Loans, except that the Borrower and the Incremental Lenders in respect of such Incremental Term Loan may, in their sole discretion, elect to prepay or receive, as applicable, any prepayments on a less than pro rata basis (but not on a greater than pro rata basis); and

(D) except as provided above, all other terms and conditions applicable to any Incremental Term Loan shall be consistent with the terms and conditions applicable to the Term A-1 Loan and the Term A-2 Loan or otherwise reasonably satisfactory to the Administrative Agent and the Borrower (provided that such other terms and conditions, taken as a whole, shall not be more favorable to the Lenders under any Incremental Term Loans than such other terms and conditions, taken as a whole, under the Term A-1 Loans and the Term A-2 Loans);

(ii) in the case of each Incremental Revolving Credit Increase:

(A) such Incremental Revolving Credit Increase shall mature on the Revolving Credit Maturity Date, shall bear interest and be entitled to fees, in each case at the rate applicable to the Revolving Credit Loans, and shall be subject to the same terms and conditions as the Revolving Credit Loans (except for interest rate margins, commitment fees and upfront fees); provided that if the interest rate margins and/or commitment fees in respect of any Incremental Revolving Credit Increase exceed the interest rate margins and/or commitment fees for any other Revolving Credit Commitments, then the interest rate margins and/or commitment fees, as applicable, for such other Revolving Credit Commitments shall be increased so that the interest rate margins and/or commitment fees, as applicable, are equal to the interest rate margins and/or commitment fees for such Incremental Revolving Credit Increase;

(B) the outstanding Revolving Credit Loans and Revolving Credit Commitment Percentages of Swingline Loans and L/C Obligations will be reallocated by the Administrative Agent on the applicable Increase Effective Date among the Revolving Credit Lenders (including the Incremental Lenders providing such Incremental Revolving Credit Increase) in accordance with their revised Revolving Credit Commitment Percentages (and the Revolving Credit Lenders (including the Incremental Lenders providing such Incremental Revolving Credit Increase) agree to make all



payments and adjustments necessary to effect such reallocation and the Borrower shall pay any and all costs required pursuant to Section 5.9 in connection with such reallocation as if such reallocation were a repayment); and

(C) except as provided above, all of the other terms and conditions applicable to such Incremental Revolving Credit Increase shall be identical to the terms and conditions applicable to the Revolving Credit Facility (and any Incremental Lender with an Incremental Revolving Credit Increase shall be entitled to the same voting rights as the existing Revolving Credit Lenders under the Revolving Credit Facility and any Extensions of Credit made in connection with each Incremental Revolving Credit Increase shall receive proceeds of prepayments on the same basis as the other Revolving Credit Loans made hereunder).

(f) Incremental Lenders.

(i) On any Increase Effective Date on which any Incremental Term Loan Commitment becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Term Loan Commitment shall make, or be obligated to make, an Incremental Term Loan to the Borrower in an amount equal to its Incremental Term Loan Commitment and shall become an Incremental Term Loan Lender hereunder with respect to such Incremental Term Loan Commitment and the Incremental Term Loan made pursuant thereto.

(ii) On any Increase Effective Date on which any Incremental Revolving Credit Increase becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Revolving Credit Commitment shall become a Revolving Credit Lender hereunder with respect to such Incremental Revolving Credit Commitment.

(g) Incremental Amendments. Each such Incremental Increase shall be effected pursuant to an amendment (an “Incremental Amendment”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Credit Parties, the Administrative Agent and the applicable Incremental Lenders, which Incremental Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 5.15.

ARTICLE VI

CONDITIONS OF CLOSING AND BORROWING

SECTION 6.1 Conditions to Closing and Necessary Closing Funds. The obligation of the Lenders to close this Agreement and to fund the Necessary Closing Funds is subject to the satisfaction of each of the following conditions:

(a) Executed Loan Documents. This Agreement, a Revolving Credit Note in favor of each Revolving Credit Lender requesting a Revolving Credit Note, a Term A-1 Loan Note in favor of each Term A-1 Loan Lender requesting a Term A-1 Loan Note, a Term A-2 Loan Note in favor of each Term A-2 Loan Lender requesting a Term A-2 Loan Note, a Swingline Note in favor of the Swingline Lender (in each case, if requested thereby) and the Guaranty Agreement, together with any other applicable Loan Documents, shall have been duly authorized, executed and delivered to the Administrative Agent by the parties thereto, shall be in full force and effect and no Default or Event of Default shall exist hereunder or thereunder.

(b) Closing Certificates; Etc. The Administrative Agent shall have received each of the following in form and substance reasonably satisfactory to the Administrative Agent:

(i) Officer's Certificate. A certificate from a Responsible Officer of the Borrower to the effect that (A) all representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true, correct and complete in all material respects (except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty shall be true, correct and complete in all respects); (B) none of the Credit Parties is in violation of any of the covenants contained in this Agreement and the other Loan Documents; (C) after giving effect to the Transactions, no Default or Event of Default has occurred and is continuing; (D) since December 31, 2020, no event has occurred or condition arisen, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect; and (E) each of the Credit Parties, as applicable, has satisfied each of the conditions set forth in Section 6.1 and Section 6.2.

(ii) Certificate of Secretary of each Credit Party. A certificate of a Responsible Officer of each Credit Party certifying as to the incumbency and genuineness of the signature of each officer of such Credit Party executing Loan Documents to which it is a party and certifying that attached thereto is a true, correct and complete copy of (A) the articles or certificate of incorporation or formation (or equivalent), as applicable, of such Credit Party and all amendments thereto, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of incorporation, organization or formation (or equivalent), as applicable, (B) the bylaws or other governing document of such Credit Party as in effect on the Closing Date, (C) resolutions duly adopted by the board of directors (or other governing body) of such Credit Party authorizing and approving the transactions contemplated hereunder and the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party, and (D) each certificate required to be delivered pursuant to Section 6.1(b)(iii).

(iii) Certificates of Good Standing. Certificates as of a recent date of the good standing of each Credit Party under the laws of its jurisdiction of incorporation, organization or formation (or equivalent), as applicable, and, to the extent requested by the Administrative Agent, each other jurisdiction where such Credit Party is qualified to do business, except to the extent that the failure to be so qualified in such other jurisdiction could not reasonably be expected to result in a Material Adverse Effect.

(iv) Opinions of Counsel. Opinions of counsel to the Credit Parties addressed to the Administrative Agent and the Lenders with respect to the Credit Parties, the Loan Documents and such other matters as the Administrative Agent shall request (which such opinions shall expressly permit reliance by permitted successors and assigns of the Administrative Agent and the Lenders).



(c) Lien Searches. The Administrative Agent shall have received the results of a Lien search (including a search as to judgments, bankruptcy, tax and intellectual property matters), in form and substance reasonably satisfactory thereto, made against the Credit Parties under the Uniform Commercial Code (or applicable judicial docket) as in effect in each jurisdiction in which filings or recordations under the Uniform Commercial Code should be made to evidence or perfect security interests in all assets of such Credit Party, indicating among other things that the assets of each such Credit Party are free and clear of any Lien (except for Permitted Liens).

(d) Consents; Defaults.

(i) Governmental and Third Party Approvals. The Credit Parties shall have received all material governmental, shareholder and third party consents and approvals necessary (or any other material consents as determined in the reasonable discretion of the Administrative Agent) in connection with the transactions contemplated by this Agreement and the other Loan Documents and all applicable waiting periods shall have expired without any action being taken by any Person that could reasonably be expected to restrain, prevent or impose any material adverse conditions on any of the Credit Parties or such other transactions or that could seek or threaten any of the foregoing, and no law or regulation shall be applicable which in the reasonable judgment of the Administrative Agent could reasonably be expected to have such effect.

(ii) No Injunction, Etc. No action, suit, proceeding or investigation shall be pending or, to the knowledge of the Borrower, threatened in any court or before any arbitrator or any Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

(e) Financial Matters.

(i) Financial Statements. The Administrative Agent shall have received (in form and substance reasonably satisfactory to the Administrative Agent):

(A) with respect to the Borrower and its Subsidiaries (other than NIC and its Subsidiaries), (1) audited Consolidated balance sheets and related Consolidated statements of income, shareholders' equity and cash flows for the three most recently completed Fiscal Years ended for which financial statements are available and (2) unaudited Consolidated balance sheets and related Consolidated statements of income, shareholders' equity and cash flows for each interim fiscal quarter ended since the last audited financial statements for which financial statements are available;

(B) with respect to NIC and its Subsidiaries, (1) audited Consolidated balance sheets and related Consolidated statements of income, shareholders' equity and cash flows for the three most recently completed Fiscal Years ended for which financial statements are available and (2) unaudited Consolidated balance sheets and related Consolidated statements of income, shareholders' equity and cash flows for each interim fiscal quarter ended since the last audited financial statements for which financial statements are available;

(C) a pro forma Consolidated balance sheet and related pro forma consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the Fiscal Year most recently ended for which audited financial statements have been provided and for the most recently completed fiscal quarters ending at least 45 days before the Closing Date, calculated on a Pro Forma Basis after giving effect to the Transactions (in accordance with Regulation S-X under the Securities Act, and all other



rules and regulations of the SEC under such Securities Act, and including other adjustments previously agreed between the Borrower and Wells Fargo Securities, LLC) as if the Transactions had occurred on the last day of such fiscal quarter (in the case of such balance sheet) or at the beginning of such fiscal quarter (in the case of such other financial statements); and

(D) projections prepared by management of the Borrower, of balance sheets, income statements and cash flow statements on an annual basis for each year during the term of the Credit Facility, which shall not be inconsistent with any financial information or projections previously delivered to the Administrative Agent.

(ii) Solvency Certificate. The Borrower shall have delivered to the Administrative Agent a certificate, in form and substance satisfactory to the Administrative Agent, and certified as accurate by the chief financial officer of the Borrower, that after giving effect to the Transactions, (A) the Borrower is Solvent and (B) the Borrower and its Subsidiaries, on a Consolidated basis, are Solvent.

(iii) Payment at Closing. The Borrower shall have paid or made arrangements to pay contemporaneously with closing (A) to the Administrative Agent, Wells Fargo Securities, LLC and the Lenders the fees set forth or referenced in Section 5.3 and any other accrued and unpaid fees or commissions due hereunder, (B) to the extent invoiced at least three (3) Business Days (or such shorter period of time as reasonably agreed by the Borrower) prior to the Closing Date (or as otherwise set forth in a funds flow or settlement statement executed by the Borrower), all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent accrued and unpaid prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent) and (C) to any other Person such amount as may be due thereto in connection with the transactions contemplated hereby, including all taxes, fees and other charges in connection with the execution, delivery, recording, filing and registration of any of the Loan Documents.

(f) NIC Acquisition.

(i) The Administrative Agent shall have received (in form and substance reasonably satisfactory to the Administrative Agent) true and correct fully-executed copies of documentation for the NIC Acquisition, including the NIC Acquisition Agreement and all annexes, exhibits and schedules thereto.

(ii) The NIC Acquisition shall have been consummated substantially concurrently with the funding of the Necessary Closing Funds on the Closing Date in accordance with Applicable Law and on the terms described in the Acquisition Agreement without giving effect to any waiver, modification or consent thereunder that is materially adverse to the interests of the Lenders (as reasonably determined by Wells Fargo Securities, LLC).

(g) Permitted Convertible Indebtedness and Committed Bridge Financing. The Administrative Agent shall have received (in form and substance reasonably satisfactory to the Administrative Agent) evidence that:

(i) the Borrower shall have received the net proceeds from the Permitted Convertible Indebtedness of not less than \$594,000,000; and



(ii) the commitments in respect of that certain bridge financing facility providing for a senior, unsecured 364-day term loan facility to the Borrower in connection with the NIC Acquisition shall have been terminated without any funding thereunder.

(h) Miscellaneous.

(i) Notice of Account Designation. The Administrative Agent shall have received a Notice of Account Designation specifying the account or accounts to which the proceeds of any Loans made on or after the Closing Date are to be disbursed.

(ii) Existing Indebtedness. All existing Indebtedness of the Borrower and its Subsidiaries (including Indebtedness under the Existing Credit Agreement, but excluding Indebtedness permitted pursuant to Section 9.1) shall be repaid in full, all commitments (if any) in respect thereof shall have been terminated and all guarantees therefor and security therefor shall be released, and the Administrative Agent shall have received any pay-off letters reasonably requested thereby in form and substance satisfactory to it evidencing such repayment, termination and release.

(iii) PATRIOT Act, etc. The Borrower and each other Credit Party shall have provided to the Administrative Agent and the Lenders, at least five (5) Business Days prior to the Closing Date, the documentation and other information requested by the Administrative Agent in order to comply with requirements of any Anti-Money Laundering Laws, including the PATRIOT Act and any applicable “know your customer” rules and regulations.

(iv) Beneficial Ownership Regulations. The Borrower shall have delivered to the Administrative Agent, and directly to any Lender requesting the same, a Beneficial Ownership Certification in relation to it, in each case at least five (5) Business Days prior to the Closing Date.

(v) Other Documents. All opinions, certificates and other instruments and all proceedings in connection with the transactions contemplated by this Agreement shall be satisfactory in form and substance to the Administrative Agent. The Administrative Agent shall have received copies of all other documents, certificates and instruments reasonably requested thereby, with respect to the transactions contemplated by this Agreement.

Without limiting the generality of the provisions of Section 11.3(c) and Section 11.4, for purposes of determining compliance with the conditions specified in this Section 6.1, the Administrative Agent and each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 6.2 Conditions to All Extensions of Credit. Subject to Section 5.15 and Section 1.11 solely with respect to any Incremental Term Loan incurred to finance a substantially concurrent Limited Condition Acquisition, the obligations of the Lenders to make or participate in any Extensions of Credit (including the initial Extension of Credit) and/or the Issuing Lender to issue or extend any Letter of Credit are subject to the satisfaction of the following conditions precedent on the relevant borrowing, continuation, conversion, issuance or extension date:

(a) Continuation of Representations and Warranties. The representations and warranties contained in this Agreement and the other Loan Documents shall be true and correct in all material



respects, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects, on and as of such borrowing, continuation, conversion, issuance or extension date with the same effect as if made on and as of such date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct in all material respects as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects as of such earlier date).

(b) No Existing Default. No Default or Event of Default shall have occurred and be continuing (i) on the borrowing, continuation or conversion date with respect to such Loan or after giving effect to the Loans to be made, continued or converted on such date or (ii) on the issuance or extension date with respect to such Letter of Credit or after giving effect to the issuance or extension of such Letter of Credit on such date.

(c) Notices. The Administrative Agent shall have received a Notice of Borrowing, Letter of Credit Application, or Notice of Conversion/Continuation, as applicable, from the Borrower in accordance with Section 2.3(a), Section 3.2 or Section 5.2, as applicable.

(d) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan and (ii) the Issuing Lender shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF THE CREDIT PARTIES

To induce the Administrative Agent and Lenders to enter into this Agreement and to induce the Lenders to make Extensions of Credit, the Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders both before and after giving effect to the transactions contemplated hereunder, which representations and warranties shall be deemed made on the Closing Date and as otherwise set forth in Section 6.2, that:

SECTION 7.1 Organization; Power; Qualification. Each Credit Party and each Subsidiary thereof (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, (b) has the power and authority to own its Properties and to carry on its business as now being and hereafter proposed to be conducted and (c) is duly qualified and authorized to do business in each jurisdiction in which the character of its Properties or the nature of its business requires such qualification and authorization except (i) in jurisdictions where the failure to be so qualified or in good standing could not reasonably be expected to result in a Material Adverse Effect and (ii) solely with respect to any Immaterial Subsidiary, with respect to clauses (a), (b) and (c) above, in jurisdictions where the failure could not reasonably be expected to result in a Material Adverse Effect. The jurisdictions in which each Credit Party is organized and qualified to do business as of the Closing Date are described on Schedule 7.1. No Credit Party nor any Subsidiary thereof is an Affected Financial Institution. No Credit Party nor any Subsidiary thereof is a Covered Entity.

SECTION 7.2 Ownership. Each Subsidiary of each Credit Party as of the Closing Date is listed on Schedule 7.2. As of the Closing Date, the capitalization of each Credit Party and its Subsidiaries consists of the number of shares, authorized, issued and outstanding, of such classes and



series, with or without par value, described on Schedule 7.2. All outstanding shares have been duly authorized and validly issued and are fully paid and nonassessable and not subject to any preemptive or similar rights, except as described in Schedule 7.2. As of the Closing Date, there are no outstanding stock purchase warrants, subscriptions, options, securities, instruments or other rights of any type or nature whatsoever, which are convertible into, exchangeable for or otherwise provide for or require the issuance of Equity Interests of any Credit Party or any Subsidiary thereof, except as described on Schedule 7.2.

SECTION 7.3 Authorization; Enforceability. Each Credit Party has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party in accordance with their respective terms. This Agreement and each of the other Loan Documents have been duly executed and delivered by the duly authorized officers of each Credit Party that is a party thereto, and each such document constitutes the legal, valid and binding obligation of each Credit Party that is a party thereto, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal Debtor Relief Laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

SECTION 7.4 Compliance of Agreement, Loan Documents and Borrowing with Laws, Etc. The execution, delivery and performance by each Credit Party of the Loan Documents to which each such Person is a party, in accordance with their respective terms, the Extensions of Credit hereunder and the transactions contemplated hereby or thereby do not and will not, by the passage of time, the giving of notice or otherwise, (a) require any Governmental Approval or violate any Applicable Law relating to any Credit Party where the failure to obtain such Governmental Approval or such violation could reasonably be expected to have a Material Adverse Effect, (b) conflict with, result in a breach of or constitute a default under the articles of incorporation, bylaws or other organizational documents of any Credit Party, (c) conflict with, result in a breach of or constitute a default under any indenture, agreement or other instrument to which such Person is a party or by which any of its properties may be bound or any Governmental Approval relating to such Person, which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (d) result in or require the creation or imposition of any Lien upon or with respect to any property now owned or hereafter acquired by such Person other than Permitted Liens or (e) require any consent or authorization of, filing with, or other act in respect of, an arbitrator or Governmental Authority and no consent of any other Person is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement other than consents, authorizations, filings or other acts or consents for which the failure to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 7.5 Compliance with Law; Governmental Approvals. Each Credit Party (a) has all Governmental Approvals required by any Applicable Law for it to conduct its business, each of which is in full force and effect, is final and not subject to review on appeal and is not the subject of any pending or, to its knowledge, threatened attack by direct or collateral proceeding, (b) is in compliance with each Governmental Approval applicable to it and in compliance with all other Applicable Laws relating to it or any of its respective properties and (c) has timely filed all material reports, documents and other materials required to be filed by it under all Applicable Laws with any Governmental Authority and has retained all material records and documents required to be retained by it under Applicable Law except in each case (a), (b) or (c) where the failure to have, comply or file could not reasonably be expected to have a Material Adverse Effect.

SECTION 7.6 Tax Returns and Payments. Each Credit Party and each Subsidiary thereof has duly filed or caused to be filed all federal, state and other material tax returns required by Applicable

Law to be filed, and has paid, or made adequate provision for the payment of, all federal, state, local and other taxes, assessments and governmental charges or levies upon it and its property, income, profits and assets which are due and payable (other than any amount the validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided for on the books of the relevant Credit Party), except solely with respect to any Immaterial Subsidiary where the failure to so file or pay could not reasonably be expected to result in a Material Adverse Effect. Such returns accurately reflect in all material respects all liability for taxes of any Credit Party or any Subsidiary thereof for the periods covered thereby. As of the Closing Date, except as set forth on Schedule 7.6, there is no ongoing audit or examination or, to its knowledge, other investigation by any Governmental Authority that could be reasonably expected to result in any material tax liability to any Credit Party or any Subsidiary thereof. No Governmental Authority has asserted any Lien or other claim against any Credit Party or any Subsidiary thereof with respect to material unpaid taxes which has not been discharged or resolved (other than (a) any amount the validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided for on the books of the relevant Credit Party and (b) Permitted Liens). The charges, accruals and reserves on the books of each Credit Party and each Subsidiary thereof in respect of federal, state, local and other material taxes for all Fiscal Years and portions thereof since the organization of any Credit Party or any Subsidiary thereof are in the judgment of the Borrower adequate, and the Borrower does not anticipate any additional taxes or assessments for any of such years.

SECTION 7.7 Intellectual Property Matters. Each Credit Party and each Subsidiary thereof owns or possesses rights to use all material franchises, licenses, copyrights, copyright applications, patents, patent rights or licenses, patent applications, trademarks, trademark rights, service mark, service mark rights, trade names, trade name rights, copyrights and other rights with respect to the foregoing which are reasonably necessary to conduct its business, except to the extent the failure to have any such rights, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. No event has occurred which permits, or after notice or lapse of time or both would permit, the revocation or termination of any such rights, and no Credit Party nor any Subsidiary thereof is liable to any Person for infringement under Applicable Law with respect to any such rights as a result of its business operations, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 7.8 Environmental Matters.

(a) The properties owned, leased or operated by each Credit Party and each Subsidiary thereof now or in the past do not contain, and to their knowledge have not previously contained, any Hazardous Materials in amounts or concentrations which constitute or constituted a violation of applicable Environmental Laws that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;

(b) To its knowledge, each Credit Party and each Subsidiary thereof and such properties and all operations conducted in connection therewith are in compliance, and have been in compliance, with all applicable Environmental Laws, and there is no contamination at, under or about such properties or such operations that could reasonably be expected to materially interfere with the continued operation of such properties or materially impair the fair saleable value thereof;

(c) No Credit Party nor any Subsidiary thereof has received any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters, Hazardous Materials, or compliance with applicable Environmental Laws that, if adversely determined, could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, nor does

any Credit Party or any Subsidiary thereof have knowledge or reason to believe that any such notice will be received or is being threatened;

(d) To its knowledge, Hazardous Materials have not been transported or disposed of to or from the properties owned, leased or operated by any Credit Party or any Subsidiary thereof in violation of, or in a manner or to a location which could give rise to liability under, applicable Environmental Laws, nor have any Hazardous Materials been generated, treated, stored or disposed of at, on or under any of such properties in violation of, or in a manner that could give rise to liability under, any applicable Environmental Laws that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;

(e) No judicial proceedings or governmental or administrative action is pending, or, to the knowledge of the Borrower, threatened, under any Environmental Law to which any Credit Party or any Subsidiary thereof is or will be named as a potentially responsible party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any applicable Environmental Law with respect to any Credit Party, any Subsidiary thereof, with respect to any real property owned, leased or operated by any Credit Party or any Subsidiary thereof or operations conducted in connection therewith that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and

(f) There has been no release, or to its knowledge, threat of release, of Hazardous Materials at or from properties owned, leased or operated by any Credit Party or any Subsidiary, now or in the past, in violation of or in amounts or in a manner that could give rise to liability under applicable Environmental Laws that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 7.9 Employee Benefit Matters.

(a) [Reserved];

(b) Each Credit Party and each ERISA Affiliate is in compliance with all applicable provisions of ERISA, the Code and the regulations and published interpretations thereunder with respect to all Employee Benefit Plans except for any required amendments for which the remedial amendment period as defined in Section 401(b) of the Code has not yet expired and except where a failure to so comply could not reasonably be expected to have a Material Adverse Effect. Each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code has been determined by the IRS to be so qualified, and each trust related to such plan has been determined to be exempt under Section 501(a) of the Code except for such plans that have not yet received determination letters but for which the remedial amendment period for submitting a determination letter has not yet expired. No liability has been incurred by any Credit Party or any ERISA Affiliate which remains unsatisfied for any taxes or penalties assessed with respect to any Employee Benefit Plan or any Multiemployer Plan except for a liability that could not reasonably be expected to have a Material Adverse Effect;

(c) As of the Closing Date, no Pension Plan has been terminated, nor has any Pension Plan become subject to funding based benefit restrictions under Section 436 of the Code, nor has any funding waiver from the IRS been received or requested with respect to any Pension Plan, nor has any Credit Party or any ERISA Affiliate failed to make any contributions or to pay any amounts due and owing as required by Sections 412 or 430 of the Code, Section 302 of ERISA or the terms of any Pension Plan on or prior to the due dates of such contributions under Sections 412 or 430 of the Code or Section 302 of ERISA, nor has there been any event requiring any disclosure under Section 4041(c)(3)(C) or 4063(a) of ERISA with respect to any Pension Plan;

(d) Except where the failure of any of the following representations to be correct could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, no Credit Party nor any ERISA Affiliate has: (i) engaged in a nonexempt prohibited transaction described in Section 406 of the ERISA or Section 4975 of the Code, (ii) incurred any liability to the PBGC which remains outstanding other than the payment of premiums and there are no premium payments which are due and unpaid, (iii) failed to make a required contribution or payment to a Multiemployer Plan, or (iv) failed to make a required installment or other required payment under Sections 412 or 430 of the Code;

(e) No Termination Event has occurred or is reasonably expected to occur;

(f) Except where the failure of any of the following representations to be correct could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, no proceeding, claim (other than a benefits claim in the ordinary course of business), lawsuit and/or investigation is existing or, to its knowledge, threatened concerning or involving (i) any employee welfare benefit plan (as defined in Section 3(1) of ERISA) currently maintained or contributed to by any Credit Party or any ERISA Affiliate, (ii) any Pension Plan or (iii) any Multiemployer Plan.

(g) No Credit Party nor any Subsidiary thereof is a party to any contract, agreement or arrangement that could, solely as a result of the delivery of this Agreement or the consummation of transactions contemplated hereby, result in the payment of any “excess parachute payment” within the meaning of Section 280G of the Code.

(h) As of the Closing Date, the Borrower is not and will not be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

SECTION 7.10 Margin Stock. No Credit Party nor any Subsidiary thereof is engaged principally or as one of its activities in the business of extending credit for the purpose of “purchasing” or “carrying” any “margin stock” (as each such term is defined or used, directly or indirectly, in Regulation U of the Board of Governors of the Federal Reserve System). No part of the proceeds of any of the Loans or Letters of Credit will be used for purchasing or carrying margin stock or for any purpose which violates, or which would be inconsistent with, the provisions of Regulation T, U or X of such Board of Governors. Following the application of the proceeds of each Extension of Credit, not more than twenty-five percent (25%) of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a Consolidated basis) subject to the provisions of Section 9.2 or Section 9.5 or subject to any restriction contained in any agreement or instrument between the Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness in excess of the Threshold Amount will be “margin stock”.

SECTION 7.11 Government Regulation. No Credit Party nor any Subsidiary thereof is an “investment company” or a company “controlled” by an “investment company” (as each such term is defined or used in the Investment Company Act of 1940) and no Credit Party nor any Subsidiary thereof is, or after giving effect to any Extension of Credit will be, subject to regulation under the Interstate Commerce Act, or any other Applicable Law which limits its ability to incur or consummate the transactions contemplated hereby.

SECTION 7.12 Employee Relations. As of the Closing Date, no Credit Party is party to any collective bargaining agreement, nor has any labor union been recognized as the representative of its employees except as set forth on Schedule 7.12. The Borrower knows of no pending, threatened or contemplated strikes, work stoppage or other collective labor disputes involving its employees or those of



its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 7.13 Burdensome Provisions. The Credit Parties and their respective Subsidiaries do not presently anticipate that future expenditures needed to meet the provisions of any statutes, orders, rules or regulations of a Governmental Authority will be so burdensome as to have a Material Adverse Effect. No Subsidiary is party to any agreement or instrument or otherwise subject to any restriction or encumbrance that restricts or limits its ability to make dividend payments or other distributions in respect of its Equity Interests to the Borrower or any Subsidiary or to transfer any of its assets or properties to the Borrower or any other Subsidiary in each case other than existing under or by reason of the Loan Documents or Applicable Law.

SECTION 7.14 Financial Statements. The audited and unaudited financial statements (i) delivered pursuant to Section 6.1(e)(i)(A) with respect to the Borrower and its Subsidiaries (other than NIC and its Subsidiaries), are complete and correct and fairly present on a Consolidated basis the assets, liabilities and financial position of the Borrower and its Subsidiaries (other than NIC and its Subsidiaries) as at such dates, and the results of the operations and changes of financial position for the periods then ended (other than customary year-end adjustments for unaudited financial statements and the absence of footnotes from unaudited financial statements) and (ii) delivered pursuant to Section 6.1(e)(i)(B) with respect to NIC and its Subsidiaries, to the best of its knowledge, are complete and correct and fairly present on a Consolidated basis the assets, liabilities and financial position of NIC and its Subsidiaries as at such dates, and the results of the operations and changes of financial position for the periods then ended (other than customary year-end adjustments for unaudited financial statements and the absence of footnotes from unaudited financial statements). All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP. Such financial statements show all material indebtedness and other material liabilities, direct or contingent, of (A) the Borrower and its Subsidiaries (other than NIC and its Subsidiaries) or (B) to the best of its knowledge, NIC and its Subsidiaries, as applicable, in each case as of the date thereof, including material liabilities for taxes, material commitments, and Indebtedness, in each case, to the extent required to be disclosed under GAAP. The projections delivered pursuant to Section 6.1(e)(i)(C) and were prepared in good faith on the basis of the assumptions stated therein, which assumptions are believed to be reasonable in light of then existing conditions except that such financial projections and statements shall be subject to normal year end closing and audit adjustments (it being recognized by the Lenders that projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections).

SECTION 7.15 No Material Adverse Change. Since December 31, 2020, there has been no material adverse change in the properties, business, operations, or condition (financial or otherwise) of the Borrower and its Subsidiaries and no event has occurred or condition arisen, either individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect.

SECTION 7.16 Solvency. The Borrower is Solvent, and the Borrower and its Subsidiaries, on a Consolidated basis, are Solvent.

SECTION 7.17 Title to Properties. Each Credit Party and each Subsidiary thereof has such title to the real property owned or leased by it as is necessary or desirable to the conduct of its business and valid and legal title to all of its personal property and assets, except (a) those which have been disposed of by the Credit Parties and their Subsidiaries subsequent to such date which dispositions have been in the ordinary course of business or as otherwise expressly permitted hereunder and (b) where the failure to have such title, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.



SECTION 7.18 Litigation. There are no actions, suits or proceedings pending nor, to its knowledge, threatened against or in any other way relating adversely to or affecting any Credit Party or any Subsidiary thereof or any of their respective properties in any court or before any arbitrator of any kind or before or by any Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

SECTION 7.19 Insurance. The Borrower and each Subsidiary maintains in effect insurance that complies with the requirements of Section 8.6.

SECTION 7.20 Anti-Corruption Laws; Anti-Money Laundering Laws; and Sanctions.

(a) None of (i) the Borrower, any Subsidiary or, to the knowledge of the Borrower or such Subsidiary, any of their respective directors, officers, employees or affiliates, or (ii) to the knowledge of any Credit Party, any agent or representative of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the Credit Facility, (A) is a Sanctioned Person or currently the subject or target of any Sanctions, (B) has its assets located in a Sanctioned Country, (C) is under administrative, civil or criminal investigation for an alleged violation of, or received notice from or made a voluntary disclosure to any governmental entity regarding a possible violation of, Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions by a governmental authority that enforces Sanctions or any Anti-Corruption Laws or Anti-Money Laundering Laws, or (D) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons.

(b) Each of the Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with the Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions.

(c) Each of the Borrower and its Subsidiaries, and to the knowledge of the Borrower, each director, officer, employee, agent and Affiliate of the Borrower and each such Subsidiary, is in compliance with the Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions in all material respects.

(d) No proceeds of any Extension of Credit have been used, directly or indirectly, by the Borrower, any of its Subsidiaries or any of its or their respective directors, officers, employees and agents (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, including any payments (directly or indirectly) to a Sanctioned Person or a Sanctioned Country or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 7.21 Absence of Defaults. No event has occurred or is continuing (a) which constitutes a Default or an Event of Default, or (b) which constitutes, or which with the passage of time or giving of notice or both would constitute, a default or event of default by any Credit Party or any Subsidiary thereof under any judgment, decree or order to which any Credit Party or any Subsidiary thereof is a party or by which any Credit Party or any Subsidiary thereof or any of their respective properties may be bound or which would require any Credit Party or any Subsidiary thereof to make any payment thereunder prior to the scheduled maturity date therefor that, in any case under this clause (b), could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.



SECTION 7.22 Senior Indebtedness Status. The Obligations of each Credit Party under this Agreement and each of the other Loan Documents ranks and shall continue to rank at least senior in priority of payment to all Subordinated Indebtedness of each such Person and is designated as “Senior Indebtedness” under all instruments and documents, now or in the future, relating to all Subordinated Indebtedness of such Person.

SECTION 7.23 Disclosure. The Borrower has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which any Credit Party and any Subsidiary thereof are subject, and all other matters known to them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No financial statement, material report, material certificate or other material information furnished (whether in writing or orally) by or on behalf of any Credit Party or any Subsidiary thereof to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken together as a whole, contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, pro forma financial information, estimated financial information and other projected or estimated information, such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being recognized by the Lenders that projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections). As of the Closing Date, all of the information included in the Beneficial Ownership Certification is true and correct.

ARTICLE VIII

AFFIRMATIVE COVENANTS

Until all of the Obligations (other than contingent indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired and the Commitments terminated, each Credit Party will, and will cause each of its Subsidiaries to:

SECTION 8.1 Financial Statements. Deliver to the Administrative Agent, in form and detail satisfactory to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) Annual Financial Statements. As soon as practicable and in any event within ninety (90) days (or, if earlier, on the date of any required public filing thereof) after the end of each Fiscal Year (commencing with the Fiscal Year ended December 31, 2021), an audited Consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as of the close of such Fiscal Year and audited Consolidated and consolidating statements of income, retained earnings and cash flows including the notes thereto, all in reasonable detail setting forth in comparative form the corresponding figures as of the end of and for the preceding Fiscal Year and prepared in accordance with GAAP and, if applicable, containing disclosure of the effect on the financial position or results of operations of any change in the application of accounting principles and practices during the year. Such annual financial statements shall be audited by an independent certified public accounting firm of recognized national standing acceptable to the Administrative Agent, and accompanied by a report and opinion thereon by such certified public accountants prepared in accordance with generally accepted auditing standards that is not subject to any “going concern” or similar qualification or exception or any qualification as to the scope of such audit or with respect to accounting principles followed by the Borrower or any of its Subsidiaries not in accordance with GAAP.



(b) Quarterly Financial Statements. As soon as practicable and in any event within forty-five (45) days (or, if earlier, on the date of any required public filing thereof) after the end of the first three fiscal quarters of each Fiscal Year (commencing with the fiscal quarter ended March 31, 2021), an unaudited Consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as of the close of such fiscal quarter and unaudited Consolidated and consolidating statements of income, retained earnings and cash flows and a report containing management's discussion and analysis of such financial statements for the fiscal quarter then ended and that portion of the Fiscal Year then ended, including the notes thereto, all in reasonable detail setting forth in comparative form the corresponding figures as of the end of and for the corresponding period in the preceding Fiscal Year and prepared by the Borrower in accordance with GAAP and, if applicable, containing disclosure of the effect on the financial position or results of operations of any change in the application of accounting principles and practices during the period, and certified by the chief financial officer of the Borrower to present fairly in all material respects the financial condition of the Borrower and its Subsidiaries on a Consolidated and consolidating basis as of their respective dates and the results of operations of the Borrower and its Subsidiaries for the respective periods then ended, subject to normal year-end adjustments and the absence of footnotes.

SECTION 8.2 Certificates; Other Reports. Deliver to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) at each time financial statements are delivered pursuant to Sections 8.1(a) or (b) and at such other times as the Administrative Agent shall reasonably request, a duly completed Officer's Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower and a report containing management's discussion and analysis of such financial statements;

(b) [reserved];

(c) at each time financial statements are delivered pursuant to Section 8.1(a), a certificate of the independent certified public accountants of the Borrower certifying such financial statements that in connection with their audit, nothing came to their attention that caused them to believe that the Credit Parties failed to comply with the terms, covenants, provisions or conditions of Section 9.13, insofar as they relate to financial and accounting matters or, if such is not the case, specifying such non-compliance and its nature and period of existence;

(d) promptly upon receipt thereof, copies of all reports, if any, submitted to any Credit Party, any Subsidiary thereof or any of their respective boards of directors by their respective independent public accountants in connection with their auditing function, including, without limitation, any management report and any management responses thereto;

(e) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of Indebtedness of any Credit Party or any Subsidiary thereof in excess of the Threshold Amount pursuant to the terms of any indenture, loan or credit or similar agreement;

(f) promptly after the assertion or occurrence thereof, notice of any action or proceeding against or of any noncompliance by any Credit Party or any Subsidiary thereof with any Environmental Law that could reasonably be expected to have a Material Adverse Effect;

(g) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all



annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange Act, or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(h) promptly, and in any event within five (5) Business Days after receipt thereof by any Credit Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Credit Party or any Subsidiary thereof;

(i) promptly upon the request thereof, such other information and documentation required under applicable “know your customer” rules and regulations, the PATRIOT Act or any applicable Anti-Money Laundering Laws or Anti-Corruption Laws, in each case as from time to time reasonably requested by the Administrative Agent or any Lender; and

(j) such other information regarding the operations, business affairs and financial condition of any Credit Party or any Subsidiary thereof as the Administrative Agent or any Lender may reasonably request.

Documents required to be delivered pursuant to Section 8.1(a) or (b) or Section 8.2(f) or (g) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower’s website on the Internet at the website address listed in Section 12.1; or (ii) on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions of such documents. Notwithstanding anything contained herein, upon request from the Administrative Agent, the Borrower shall provide paper copies of the Officer’s Compliance Certificates required by Section 8.2 to the Administrative Agent. Except for such Officer’s Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and the Issuing Lender materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on the Platform and (b) certain of the Lenders may be “public-side” Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a “Public Lender”). The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, means that the word “PUBLIC” shall appear prominently on the first page thereof; (x) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Lender and the Lenders to treat such Borrower Materials as not containing any

material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States ~~Federal~~federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 12.10); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor;" and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

SECTION 8.3 Notice of Litigation and Other Matters. Promptly (but in no event later than ten (10) days after any Responsible Officer of any Credit Party obtains knowledge thereof) notify the Administrative Agent in writing of (which shall promptly make such information available to the Lenders in accordance with its customary practice):

- (a) the occurrence of any Default or Event of Default;
- (b) the commencement of all proceedings and investigations by or before any Governmental Authority and all actions and proceedings in any court or before any arbitrator against or involving any Credit Party or any Subsidiary thereof or any of their respective properties, assets or businesses in each case that if adversely determined could reasonably be expected to result in a Material Adverse Effect;
- (c) any notice of any violation received by any Credit Party or any Subsidiary thereof from any Governmental Authority including, without limitation, any notice of violation of applicable Environmental Laws which in any such case could reasonably be expected to have a Material Adverse Effect;
- (d) any labor controversy that has resulted in a strike or other work action against any Credit Party or any Subsidiary thereof that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;
- (e) any attachment, judgment, lien, levy or order exceeding the Threshold Amount that may be assessed against any Credit Party or any Subsidiary thereof;
- (f) (i) any unfavorable determination letter from the IRS regarding the qualification of an Employee Benefit Plan under Section 401(a) of the Code (along with a copy thereof), (ii) all notices received by any Credit Party or any ERISA Affiliate of the PBGC's intent to terminate any Pension Plan or to have a trustee appointed to administer any Pension Plan, (iii) all notices received by any Credit Party or any ERISA Affiliate from a Multiemployer Plan sponsor concerning the imposition or amount of withdrawal liability pursuant to Section 4202 of ERISA and (iv) the Borrower obtaining knowledge or reason to know that any Credit Party or any ERISA Affiliate has filed or intends to file a notice of intent to terminate any Pension Plan under a distress termination within the meaning of Section 4041(c) of ERISA; and
- (g) any event which makes any of the representations set forth in Article VII that is subject to materiality or Material Adverse Effect qualifications inaccurate in any respect or any event which makes any of the representations set forth in Article VII that is not subject to materiality or Material Adverse Effect qualifications inaccurate in any material respect.

Each notice pursuant to Section 8.3 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 8.3(a)



shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

SECTION 8.4 Preservation of Corporate Existence and Related Matters. Except as permitted by Section 9.4, preserve and maintain its separate corporate existence and all rights, franchises, licenses and privileges necessary to the conduct of its business, and qualify and remain qualified as a foreign corporation or other entity and authorized to do business in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect.

SECTION 8.5 Maintenance of Property and Licenses.

(a) Protect and preserve all Properties necessary in and material to its business, including material copyrights, patents, trade names, service marks and trademarks; maintain in good working order and condition, ordinary wear and tear excepted, all buildings, equipment and other tangible real and personal property; and from time to time make or cause to be made all repairs, renewals and replacements thereof and additions to such Property necessary for the conduct of its business, so that the business carried on in connection therewith may be conducted in a commercially reasonable manner, in each case except as such action or inaction would not reasonably be expected to result in a Material Adverse Effect.

(b) Maintain, in full force and effect in all material respects, each and every material license, permit, certification, qualification, approval or franchise issued by any Governmental Authority (each a "License") required for each of them to conduct their respective businesses as presently conducted.

SECTION 8.6 Insurance. Maintain insurance with financially sound and reputable insurance companies against at least such risks and in at least such amounts as are customarily maintained by similar businesses and as may be required by Applicable Law. The Borrower shall, from time to time upon reasonable request, deliver to the Administrative Agent information in reasonable detail as to the insurance then in effect, stating the names of the insurance companies, the amounts and rates of the insurance, the dates of the expiration thereof and the properties and risks covered thereby.

SECTION 8.7 Accounting Methods and Financial Records. Maintain a system of accounting, and keep proper books, records and accounts (which shall be true and complete in all material respects) as may be required or as may be necessary to permit the preparation of financial statements in accordance with GAAP and in compliance with the regulations of any Governmental Authority having jurisdiction over it or any of its Properties.

SECTION 8.8 Payment of Taxes and Other Obligations. Pay and perform (a) all material taxes, assessments and other governmental charges that may be levied or assessed upon it or any of its Property; provided, that the Borrower or such Subsidiary may contest any item described in this clause (a) in good faith so long as adequate reserves are maintained with respect thereto in accordance with GAAP and (b) except where the failure to pay or perform such items described in this clause (b) could not reasonably be expected to have a Material Adverse Effect, all other Indebtedness, obligations and liabilities in accordance with customary trade practices.

SECTION 8.9 Compliance with Laws and Approvals. Observe and remain in compliance with all Applicable Laws and maintain in full force and effect all Governmental Approvals, in each case applicable to the conduct of its business, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.



SECTION 8.10 Environmental Laws. In addition to and without limiting the generality of Section 8.9, except where the failure to so comply could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) comply with, and ensure such compliance by all tenants and subtenants with all applicable Environmental Laws and obtain and comply with and maintain, and ensure that all tenants and subtenants, if any, obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws and (b) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under applicable Environmental Laws, and promptly comply with all lawful orders and directives of any Governmental Authority regarding applicable Environmental Laws.

SECTION 8.11 Compliance with ERISA. In addition to and without limiting the generality of Section 8.9, (a) except where the failure to so comply could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) comply with applicable provisions of ERISA, the Code and the regulations and published interpretations thereunder with respect to all Employee Benefit Plans, (ii) not take any action or fail to take action the result of which could reasonably be expected to result in a liability to the PBGC or to a Multiemployer Plan, (iii) not participate in any prohibited transaction that could result in any civil penalty under ERISA or tax under the Code and (iv) operate each Employee Benefit Plan in such a manner that will not incur any tax liability under Section 4980B of the Code or any liability to any qualified beneficiary as defined in Section 4980B of the Code and (b) furnish to the Administrative Agent upon the Administrative Agent's request such additional information about any Employee Benefit Plan as may be reasonably requested by the Administrative Agent.

SECTION 8.12 Visits and Inspections. Permit representatives of the Administrative Agent or any Lender, from time to time upon prior reasonable notice and at such times during normal business hours, all at the expense of the Borrower, to visit and inspect its properties; inspect, audit and make extracts from its books, records and files, including, but not limited to, management letters prepared by independent accountants; and discuss with its principal officers, and its independent accountants, its business, assets, liabilities, financial condition, results of operations and business prospects; provided that excluding any such visits and inspections during the continuation of an Event of Default, the Administrative Agent shall not exercise such rights more often than once per fiscal year at the Borrower's expense; provided further that upon the occurrence and during the continuance of an Event of Default, the Administrative Agent or any Lender may do any of the foregoing at the expense of the Borrower at any time during normal business hours without advance notice.

SECTION 8.13 Additional Subsidiaries.

(a) Additional Domestic Subsidiaries. Promptly (and, in any event, within ninety (90) days, as such time period may be extended by the Administrative Agent in its sole discretion) (x) after the creation or acquisition (including by division) of any Person that becomes a Subsidiary (other than an Excluded Subsidiary) or (y) after any Domestic Subsidiary ceases to be an Excluded Subsidiary, cause such Person to (i) become a Subsidiary Guarantor by delivering to the Administrative Agent a duly executed supplement to the Guaranty Agreement or such other document as the Administrative Agent shall deem appropriate for such purpose, (ii) deliver to the Administrative Agent such opinions, documents and certificates referred to in Section 6.1 as may be reasonably requested by the Administrative Agent, (iii) deliver to the Administrative Agent such updated Schedules to the Loan Documents as requested by the Administrative Agent with respect to such Person, and (iv) deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(b) Merger Subsidiaries. Notwithstanding the foregoing, to the extent any new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to a Permitted Acquisition, and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transaction, such new Subsidiary shall not be required to take the actions set forth in Section 8.13(a) until the consummation of such Permitted Acquisition (at which time, the surviving entity of the respective merger transaction shall be required to so comply with Section 8.13(a) within ninety (90) days of the consummation of such Permitted Acquisition, as such time period may be extended by the Administrative Agent in its sole discretion).

(c) Immaterial Subsidiaries. If at any time after a Responsible Officer of the Borrower obtains knowledge that the Subsidiaries that constitute Immaterial Subsidiaries account for, in the aggregate, more than (i) fifteen percent (15%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries or (ii) ~~fifteen~~twenty percent (~~+520%~~) of the Consolidated revenue, then the Borrower shall, ~~(1)~~ at each time financial statements are delivered pursuant to ~~(x) Section 8.1(b) for the Fiscal Quarter ending June 30th of each Fiscal Year and (y) Section 8.1(a) for each Fiscal Year and (2) concurrently with the consummation of each Permitted Acquisition~~ Section 8.1(a) or Section 8.1(b), (A) identify in writing to the Administrative Agent one or more Subsidiaries to be removed from its designation as an Immaterial Subsidiary so that the Subsidiaries constituting Immaterial Subsidiaries account for, in the aggregate, not more than (1) fifteen percent (15%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries and (2) ~~fifteen~~twenty percent (~~+520%~~) of the Consolidated revenue and (B) cause such identified Subsidiaries to comply with the applicable provisions of Section 8.13(a) within the time provided therein.

SECTION 8.14 Use of Proceeds.

(a) Use the proceeds of (i) the Necessary Closing Funds (A) to fund a portion of the purchase price of the NIC Acquisition, (B) to refinance certain Indebtedness of the Borrower and its Subsidiaries, including, without limitation, the Existing Credit Agreement and (C) to pay fees, commissions and expenses in connection with the Transactions, and (ii) the Revolving Credit Loans, the Swingline Loans and the Letters of Credit, for working capital and general corporate purposes, including, without limitation, in each case to the extent permitted hereunder, capital expenditures, Permitted Acquisitions and Restricted Payments, of the Borrower and its Subsidiaries.

(b) Use the proceeds of any Incremental Term Loan and any Incremental Revolving Credit Increase as permitted pursuant to Section 5.15, as applicable.

(c) Not request any Extension of Credit, and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Extension of Credit, directly or indirectly, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or Anti-Money Laundering Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto or (iv) for purchasing or carrying margin stock (within the meaning of Regulation T, U or X of the FRB) or for any purpose which violates the provisions of Regulation T, U or X of the FRB (it being agreed that the Borrower shall promptly furnish to the Administrative Agent and each requesting Lender a statement in conformity with the requirements of Form G-3 or Form U-1, as applicable, under Regulation U of the FRB).

SECTION 8.15 Compliance with Anti-Corruption Laws and Sanctions. (a) Maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions, (b) notify the Administrative Agent and each Lender that previously received a Beneficial Ownership Certification of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein (or, if applicable, the Borrower ceasing to fall within an express exclusion to the definition of “legal entity customer” under the Beneficial Ownership Regulation) and (c) promptly upon the reasonable request of the Administrative Agent or any Lender, provide the Administrative Agent or directly to such Lender, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

SECTION 8.16 Corporate Governance. (a) Maintain entity records and books of account separate from those of any other entity which is an Affiliate of such entity, (b) not commingle its funds or assets with those of any other entity which is an Affiliate of such entity (except pursuant to cash management systems reasonably acceptable to the Administrative Agent) and (c) provide that its board of directors (or equivalent governing body) will hold all appropriate meetings to authorize and approve such entity’s actions, which meetings will be separate from those of any other entity which is an Affiliate of such entity. For the purposes of this Section 8.16, “Affiliate” shall not include the Borrower or any Subsidiary thereof.

SECTION 8.17 Further Assurances. Execute any and all further documents, agreements and instruments, and take all such further actions, which may be required under any Applicable Law, or which the Administrative Agent or the Required Lenders may reasonably request, to effectuate the transactions contemplated by the Loan Documents.

ARTICLE IX

NEGATIVE COVENANTS

Until all of the Obligations (other than contingent, indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired and the Commitments terminated, the Credit Parties will not, and will not permit any of their respective Subsidiaries to:

SECTION 9.1 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness except:

(a) the Obligations;

(b) Indebtedness (i) owing under Hedge Agreements entered into in order to manage existing or anticipated interest rate, exchange rate or commodity price risks and not for speculative purposes and (ii) owing under Guaranteed Cash Management Agreements entered into the ordinary course of business;

(c) Indebtedness existing on the Closing Date and listed on Schedule 9.1, and any refinancings, refundings, renewals or extensions thereof; provided that (i) the principal amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder, (ii) the final maturity date and weighted average life of



such refinancing, refunding, renewal or extension shall not be prior to or shorter than that applicable to the Indebtedness prior to such refinancing, refunding, renewal or extension and (iii) any refinancing, refunding, renewal or extension of any Subordinated Indebtedness shall be (A) on subordination terms at least as favorable to the Lenders, (B) no more restrictive on the Borrower and its Subsidiaries than the Subordinated Indebtedness being refinanced, refunded, renewed or extended and (C) in an amount not less than the amount outstanding at the time of such refinancing, refunding, renewal or extension;

(d) Capital Lease Obligations and Indebtedness incurred by the Borrower or any Domestic Subsidiary in connection with purchase money Indebtedness in an aggregate amount not to exceed the greater of (i) \$100,000,000 and (ii) six and one-half percent (6.5%) of the Consolidated total assets of the Borrower and its Subsidiaries as shown on the balance sheets of the Borrower most recently delivered pursuant to Section 8.1(a) or 8.1(b), as applicable;

(e) Indebtedness of a Person existing at the time such Person became a Domestic Subsidiary or assets were acquired by the Borrower or any Domestic Subsidiary from such Person in connection with an Investment permitted pursuant to Section 9.3, to the extent that (i) such Indebtedness was not incurred in connection with, or in contemplation of, such Person becoming a Domestic Subsidiary or the acquisition of such assets, (ii) neither the Borrower nor any Subsidiary thereof (other than such Person or any other Person that such Person merges with or that acquires the assets of such Person) shall have any liability or other obligation with respect to such Indebtedness and (iii) the aggregate outstanding principal amount of such Indebtedness does not exceed \$70,000,000 at any time outstanding;

(f) Guarantees with respect to Indebtedness permitted pursuant to subsections (a) through (e) of this Section;

(g) unsecured intercompany Indebtedness:

(i) owed by any Credit Party to another Credit Party;

(ii) owed by any Credit Party to any Non-Guarantor Subsidiary (provided that such Indebtedness shall be subordinated to the Obligations in a manner reasonably satisfactory to the Administrative Agent); and

(iii) owed by any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary; and

(iv) owed by any Non-Guarantor Subsidiary to any Credit Party to the extent permitted pursuant to Section 9.3(a)(vi);

(h) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or other similar instrument drawn against insufficient funds in the ordinary course of business;

(i) Subordinated Indebtedness of the Borrower and or any Subsidiary Guarantor; provided, that in the case of each incurrence of such Subordinated Indebtedness, (i) no Default or Event of Default shall have occurred and be continuing or would be caused by the incurrence of such Subordinated Indebtedness and (ii) the Administrative Agent shall have received satisfactory written evidence that the Borrower would be in compliance with the financial covenants set forth in Section 9.13 on a Pro Forma Basis after giving effect to the issuance of any such Subordinated Indebtedness;



(j) Indebtedness under performance bonds, surety bonds, release, appeal and similar bonds, statutory obligations or with respect to workers' compensation claims, in each case incurred in the ordinary course of business, and reimbursement obligations in respect of any of the foregoing;

(k) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not to exceed \$100,000,000 at any time outstanding;

(l) unsecured Indebtedness of the Borrower or any Subsidiary Guarantor thereof not otherwise permitted pursuant to this Section; provided that (i) the Borrower shall be in compliance with the financial covenants set forth in Section 9.13, in each case on a Pro Forma Basis (based on the financial statements for the most recent fiscal quarter end for which financial statements have been provided) immediately after giving effect to the incurrence of such Indebtedness, (ii) the final maturity of such Indebtedness shall not be prior to the date that is ninety-one (91) days after the Latest Maturity Date, (iii) such Indebtedness will not have mandatory prepayment or mandatory amortization, redemption, sinking fund or similar prepayments (other than asset sale, change of control, fundamental change or similar mandatory offers to repurchase customary for high-yield or convertible debt securities, including settling such repurchases with cash) prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of the issuance of such Indebtedness, (iv) such Indebtedness is not guaranteed by any Domestic Subsidiary that is not a Subsidiary Guarantor, (v) to the extent such Indebtedness is subordinated in right of payment to the Obligations, any guaranty thereof by the Credit Parties shall be expressly subordinated to the Guaranteed Obligations on terms materially not less favorable to the Lenders than the subordination terms of such Indebtedness, (vi) other than as set forth in clauses (ii) and (iii) above, the terms of such Indebtedness, taken as a whole, are no more restrictive on the Borrower and its Subsidiaries than the terms of the Loan Documents, taken as a whole, and (vii) no Event of Default shall have occurred and be continuing or result from the incurrence of such Indebtedness; and

(m) other Indebtedness of any Credit Party or any Domestic Subsidiary thereof not otherwise permitted pursuant to this Section in an aggregate principal amount not to exceed \$100,000,000 at any time outstanding; provided that, immediately before and immediately after giving pro forma effect to any secured Indebtedness, (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Borrower shall have demonstrated compliance (based on the financial statements for the most recent fiscal quarter end for which financial statements have been provided) with the financial covenants set forth in Section 9.13.

SECTION 9.2 Liens. Create, incur, assume or suffer to exist, any Lien on or with respect to any of its Property, whether now owned or hereafter acquired, except:

(a) Liens created pursuant to the Loan Documents (including, without limitation, Liens in favor of the Swingline Lender and/or the Issuing Lender, as applicable, on Cash Collateral granted pursuant to the Loan Documents);

(b) Liens in existence on the Closing Date and described on Schedule 9.2, and the replacement, renewal or extension thereof (including Liens incurred, assumed or suffered to exist in connection with any refinancing, refunding, renewal or extension of Indebtedness pursuant to Section 9.1(c) (solely to the extent that such Liens were in existence on the Closing Date and described on Schedule 9.2)); provided that the scope of any such Lien shall not be increased, or otherwise expanded, to cover any additional property or type of asset, as applicable, beyond that in existence on the Closing Date, except for products and proceeds of the foregoing;



(c) Liens for taxes, assessments and other governmental charges or levies (excluding any Lien imposed pursuant to any of the provisions of ERISA or applicable Environmental Laws) (i) not yet due or as to which the period of grace (not to exceed thirty (30) days), if any, related thereto has not expired or (ii) which are being contested in good faith and by appropriate proceedings if adequate reserves are maintained to the extent required by GAAP;

(d) the claims of materialmen, mechanics, carriers, warehousemen, processors or landlords for labor, materials, supplies or rentals incurred in the ordinary course of business, which (i) are not overdue for a period of more than thirty (30) days, or if more than thirty (30) days overdue, no action has been taken to enforce such Liens and such Liens are being contested in good faith and by appropriate proceedings if adequate reserves are maintained to the extent required by GAAP and (ii) do not, individually or in the aggregate, materially impair the use thereof in the operation of the business of the Borrower or any of its Subsidiaries;

(e) deposits or pledges made in the ordinary course of business in connection with, or to secure payment of, obligations under workers' compensation, unemployment insurance and other types of social security or similar legislation, or to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(f) encumbrances in the nature of zoning restrictions, easements and rights or restrictions of record on the use of real property, which in the aggregate are not substantial in amount and which do not, in any case, detract from the value of such property or impair the use thereof in the ordinary conduct of business;

(g) Liens arising from the filing of precautionary UCC financing statements relating solely to personal property leased pursuant to operating leases entered into in the ordinary course of business of the Borrower and its Subsidiaries;

(h) Liens securing Indebtedness permitted under Section 9.1(d); provided that (i) such Liens shall be created substantially simultaneously with the acquisition, repair, improvement or lease, as applicable, of the related Property, (ii) such Liens do not at any time encumber any property other than the Property financed by such Indebtedness and (iii) the principal amount of Indebtedness secured by any such Lien shall at no time exceed one hundred percent (100%) of the original price for the purchase, repair improvement or lease amount (as applicable) of such Property at the time of purchase, repair, improvement or lease (as applicable);

(i) Liens securing judgments for the payment of money not constituting an Event of Default under Section 10.1(l) or securing appeal or other surety bonds relating to such judgments;

(j) Liens on Property (i) of any Subsidiary which are in existence at the time that such Subsidiary is acquired pursuant to a Permitted Acquisition and (ii) of the Borrower or any of its Subsidiaries existing at the time such tangible property or tangible assets are purchased or otherwise acquired by the Borrower or such Subsidiary thereof pursuant to a transaction permitted pursuant to this Agreement; provided that, with respect to each of the foregoing clauses (i) and (ii), (A) such Liens are not incurred in connection with, or in anticipation of, such Permitted Acquisition, purchase or other acquisition, (B) such Liens are applicable only to specific Property, (C) such Liens are not "blanket" or all asset Liens, (D) such Liens do not attach to any other Property of the Borrower or any of its Subsidiaries and (E) the Indebtedness secured by such Liens is permitted under Section 9.1(e) of this Agreement (provided that, for purposes of this Section 9.2(j), the aggregate amount of



Indebtedness under Section 9.1(e) which is secured by such Liens shall not to exceed \$50,000,000 at any time outstanding);

(k) (i) Liens of a collecting bank arising in the ordinary course of business under Section 4-210 of the Uniform Commercial Code in effect in the relevant jurisdiction and (ii) Liens of any depositary bank in connection with statutory, common law and contractual rights of set-off and recoupment with respect to any deposit account of the Borrower or any Subsidiary thereof;

(l) (i) contractual or statutory Liens of landlords to the extent relating to the property and assets relating to any lease agreements with such landlord, and (ii) contractual Liens of suppliers (including sellers of goods) or customers granted in the ordinary course of business to the extent limited to the property or assets relating to such contract;

(m) any interest or title of a licensor, sublicensor, lessor or sublessor with respect to any assets under any license or lease agreement entered into in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries or (ii) secure any Indebtedness; and

(n) Liens not otherwise permitted hereunder securing Indebtedness or other obligations in the aggregate principal amount not to exceed \$50,000,000 at any time outstanding.

SECTION 9.3 Investments. Purchase, own, invest in or otherwise acquire (in one transaction or a series of transactions), directly or indirectly, any Equity Interests, interests in any partnership or joint venture (including, without limitation, the creation or capitalization of any Subsidiary), evidence of Indebtedness or other obligation or security, substantially all or a portion of the business or assets of any other Person or any other investment or interest whatsoever in any other Person, or make, hold or otherwise permit to exist, directly or indirectly, any loans, advances or extensions of credit to, or any investment in cash or by delivery of Property in, any Person (all the foregoing, "Investments") except:

(a) (i) Investments existing on the Closing Date in Subsidiaries existing on the Closing Date;

(ii) Investments existing on the Closing Date (other than Investments in Subsidiaries existing on the Closing Date) and described on Schedule 9.3;

(iii) Investments made after the Closing Date by any Credit Party in any other Credit Party;

(iv) Investments made after the Closing Date by any Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary;

(v) Investments made after the Closing Date by any Non-Guarantor Subsidiary in any Credit Party; and

(vi) Investments made after the Closing Date by any Credit Party in any Non-Guarantor Subsidiary in an aggregate amount at any time outstanding not to exceed (A) \$25,000,000 less (B) the amount of outstanding Investments made pursuant to Section 9.3(f)(ii) (provided that any Investments in the form of loans or advances made by any Credit Party to any Non-Guarantor Subsidiary pursuant to this clause (vi) shall be evidenced by a demand note in form and substance reasonably satisfactory to the Administrative Agent);



- (b) Investments in cash and Cash Equivalents;
- (c) deposits made in the ordinary course of business to secure the performance of leases or other obligations as permitted by Section 9.2;
- (d) Hedge Agreements permitted pursuant to Section 9.1;
- (e) purchases of assets in the ordinary course of business;
- (f) Investments by the Borrower or any Subsidiary thereof in the form of:
 - (i) Permitted Acquisitions to the extent that any Person or Property acquired in such Acquisition becomes a part of the Borrower or a Subsidiary Guarantor or becomes (whether or not such Person is a Wholly-Owned Subsidiary) a Subsidiary Guarantor in the manner contemplated by Section 8.13; and
 - (ii) Permitted Acquisitions to the extent that any Person or Property acquired in such Acquisition does not become a Subsidiary Guarantor or a part of a Subsidiary Guarantor; provided that, after giving effect to any such Permitted Acquisition and determined on a Pro Forma Basis with respect thereto, the Consolidated EBITDA of all Credit Parties shall be greater than fifty percent (50%) of the Consolidated EBITDA of all Credit Parties and their Subsidiaries (including, without limitation, all Non-Guarantor Subsidiaries and the Person or Property acquired in connection with such Permitted Acquisition); provided, further, that, to the extent requested by the Administrative Agent, within thirty (30) days following the Permitted Acquisition (or such longer period of time as may be reasonably agreed by Administrative Agent), the Borrower shall deliver to the Administrative Agent an Officer's Compliance Certificate demonstrating that the Credit Parties are in compliance with such requirement;
- (g) Investments in the form of loans and advances to officers, directors and employees in the ordinary course of business in an aggregate amount not to exceed at any time outstanding \$5,000,000 (determined without regard to any write-downs or write-offs of such loans or advances);
- (h) Investments in the form of Restricted Payments permitted pursuant to Section 9.6;
- (i) Guarantees permitted pursuant to Section 9.1;
- (j) Investments consisting of extensions of credit in the nature of accounts receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss; and
- (k) Investments not otherwise permitted pursuant to this Section; provided that, immediately before and immediately after giving pro forma effect to any such Investments and any Indebtedness incurred in connection therewith, (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Borrower shall be in compliance with the financial covenants set forth in Section 9.13, in each case on a Pro Forma Basis based on the financial statements for the most recent fiscal quarter end for which financial statements have been provided.

For purposes of determining the amount of any Investment outstanding for purposes of this Section 9.3, such amount shall be deemed to be the amount of such Investment when made, purchased or acquired (without adjustment for subsequent increases or decreases in the value of such Investment) less any

amount realized in respect of such Investment upon the sale, collection or return of capital (not to exceed the original amount invested).

SECTION 9.4 Fundamental Changes. Merge, consolidate or enter into any similar combination with, or enter into any Asset Disposition of all or substantially all of its assets (whether in a single transaction or a series of transactions) with, any other Person or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution) except:

(a) (i) any Wholly-Owned Subsidiary of the Borrower may be merged, amalgamated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving entity) or (ii) any Wholly-Owned Subsidiary of the Borrower may be merged, amalgamated or consolidated with or into any Subsidiary Guarantor (provided that such Subsidiary Guarantor shall be the continuing or surviving entity or simultaneously with such transaction, the continuing or surviving entity shall become a Subsidiary Guarantor and the Borrower shall comply with Section 8.13 in connection therewith);

(b) (i) any Non-Guarantor Subsidiary that is a Foreign Subsidiary may be merged, amalgamated or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary and (ii) any Non-Guarantor Subsidiary that is a Domestic Subsidiary may be merged, amalgamated or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary that is a Domestic Subsidiary;

(c) any Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding up or otherwise) to the Borrower or any Subsidiary Guarantor; provided that, with respect to any such disposition by any Non-Guarantor Subsidiary, the consideration for such disposition shall not exceed the fair value of such assets;

(d) (i) any Non-Guarantor Subsidiary that is a Foreign Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding up or otherwise) to any other Non-Guarantor Subsidiary and (ii) any Non-Guarantor Subsidiary that is a Domestic Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding up or otherwise) to any other Non-Guarantor Subsidiary that is a Domestic Subsidiary;

(e) any Wholly-Owned Subsidiary of the Borrower may merge with or into the Person such Wholly-Owned Subsidiary was formed to acquire in connection with any acquisition permitted hereunder (including, without limitation, any Permitted Acquisition permitted pursuant to Section 9.3(g)); provided that in the case of any merger involving a Wholly-Owned Subsidiary that is a Domestic Subsidiary, (i) a Subsidiary Guarantor shall be the continuing or surviving entity or (ii) simultaneously with such transaction, the continuing or surviving entity shall become a Subsidiary Guarantor and the Borrower shall comply with Section 8.13 in connection therewith; and

(f) any Person may merge into the Borrower or any of its Wholly-Owned Subsidiaries in connection with a Permitted Acquisition permitted pursuant to Section 9.3(g); provided that (i) in the case of a merger involving the Borrower or a Subsidiary Guarantor, the continuing or surviving Person shall be the Borrower or such Subsidiary Guarantor and (ii) the continuing or surviving Person shall be the Borrower or a Wholly-Owned Subsidiary of the Borrower.

SECTION 9.5 Asset Dispositions. Make any Asset Disposition except:

(a) the sale of obsolete, worn-out or surplus assets no longer used or usable in the business of the Borrower or any of its Subsidiaries;



(b) non-exclusive licenses and sublicenses of intellectual property rights in the ordinary course of business not interfering, individually or in the aggregate, in any material respect with the conduct of the business of the Borrower and its Subsidiaries;

(c) leases, subleases, licenses or sublicenses of real or personal property granted by the Borrower or any of its Subsidiaries to others in the ordinary course of business not detracting from the value of such real or personal property or interfering in any material respect with the business of the Borrower or any of its Subsidiaries;

(d) Asset Dispositions in connection with Insurance and Condemnation Events;

(e) Assets Dispositions in connection with transactions permitted by Section 9.4;

(f) Asset Dispositions in connection with the issuance and sale of notes constituting the Permitted Convertible Indebtedness and any other Asset Disposition in connection with the conversion of such notes constituting the Permitted Convertible Indebtedness; and

(g) Asset Dispositions not otherwise permitted pursuant to this Section; provided that (i) at the time of such Asset Disposition, no Default or Event of Default shall exist or would result from such Asset Disposition and (ii) for Asset Dispositions with an aggregate fair market value excess of \$100,000,000, such Asset Disposition is made for fair market value and the consideration received shall be no less than 75% in cash, and (iii) the aggregate fair market value of all property disposed of in reliance on this clause (f) shall not exceed 10% of the Consolidated total assets of the Borrower and its Subsidiaries as shown on the balance sheets of the Borrower most recently delivered pursuant to Section 8.1(a) or (b), as applicable, in any Fiscal Year.

SECTION 9.6 Restricted Payments. Declare or pay any dividend on, or make any payment or other distribution on account of, or purchase, redeem, retire or otherwise acquire (directly or indirectly), or set apart assets for a sinking or other analogous fund for the purchase, redemption, retirement or other acquisition of, any class of Equity Interests of any Credit Party or any Subsidiary thereof, or make any distribution of cash, property or assets to the holders of shares of any Equity Interests of any Credit Party or any Subsidiary thereof (all of the foregoing, the “Restricted Payments”) provided that:

(a) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, the Borrower or any of its Subsidiaries may pay dividends in shares of its own Qualified Equity Interests;

(b) any Subsidiary of the Borrower may pay cash dividends to the Borrower or any Subsidiary Guarantor (and, if applicable, to other holders of its outstanding Qualified Equity Interests on a pro rata basis);

(c) (i) any Non-Guarantor Subsidiary that is a Domestic Subsidiary may make Restricted Payments to any other Non-Guarantor Subsidiary that is a Domestic Subsidiary (and, if applicable, to other holders of its outstanding Equity Interests on a ratable basis) and (ii) any Non-Guarantor Subsidiary that is a Foreign Subsidiary may make Restricted Payments to any other Non-Guarantor Subsidiary (and, if applicable, to other holders of its outstanding Equity Interests on a ratable basis); and

(d) the Borrower may declare and make Restricted Payments not otherwise permitted pursuant to this Section 9.6; provided that, immediately before and immediately after the making of

any such Restricted Payment, (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Borrower shall be in compliance with the financial covenants set forth in Section 9.13, in each case on a Pro Forma Basis based on the financial statements for the most recent fiscal quarter end for which financial statements have been provided.

SECTION 9.7 Transactions with Affiliates. Directly or indirectly enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with (a) any officer, director, holder of any Equity Interests in, or other Affiliate of the Borrower or any of its Subsidiaries or (b) any Affiliate of any such officer, director or holder, other than:

- (i) transactions permitted by Sections 9.1, 9.3, 9.4, 9.5, 9.6 and 9.12;
- (ii) transactions existing on the Closing Date and described on Schedule 9.7;
- (iii) transactions among Credit Parties;
- (iv) other transactions in the ordinary course of business on terms as favorable as would be obtained by it on a comparable arm's-length transaction with an independent, unrelated third party as determined in good faith by the board of directors (or equivalent governing body) of the Borrower;
- (v) employment and severance arrangements (including equity incentive plans and employee benefit plans and arrangements) with their respective officers and employees in the ordinary course of business; and
- (vi) payment of customary fees and reasonable out of pocket costs to, and indemnities for the benefit of, directors, officers and employees of the Borrower and its Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and its Subsidiaries.

SECTION 9.8 Accounting Changes; Organizational Documents.

- (a) Change its Fiscal Year end, or make (without the consent of the Administrative Agent) any material change in its accounting treatment and reporting practices except as required by GAAP.
- (b) Amend, modify or change its articles of incorporation (or corporate charter or other similar organizational documents) or amend, modify or change its bylaws (or other similar documents) in any manner materially adverse to the rights or interests of the Lenders.

SECTION 9.9 Payments and Modifications of Subordinated Indebtedness.

- (a) Amend, modify, waive or supplement (or permit the modification, amendment, waiver or supplement of) any of the terms or provisions of any Subordinated Indebtedness in any respect which would materially and adversely affect the rights or interests of the Administrative Agent and Lenders hereunder.
- (b) Cancel, forgive, make any payment or prepayment on, or redeem or acquire for value (including, without limitation, (x) by way of depositing with any trustee with respect thereto money or securities before due for the purpose of paying when due and (y) at the maturity thereof) any Subordinated Indebtedness, except:

(i) refinancings, refundings, renewals, extensions or exchange of any Subordinated Indebtedness permitted by Section 9.1(c), (g)(ii), (i), (l) or (m), and by any subordination provisions applicable thereto;

(ii) payments and prepayments of any Subordinated Indebtedness made solely with the proceeds of Qualified Equity Interests; and

(iii) the payment of interest, expenses and indemnities in respect of Subordinated Indebtedness incurred under Section 9.1(c), (g)(ii), (i), (l) or (m) (other than any such payments prohibited by any subordination provisions applicable thereto).

SECTION 9.10 No Further Negative Pledges; Restrictive Agreements.

(a) Enter into, assume or be subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation, except (i) pursuant to this Agreement and the other Loan Documents, (ii) pursuant to any document or instrument governing Indebtedness incurred pursuant to Section 9.1(d) (provided that any such restriction contained therein relates only to the asset or assets financed thereby), (iii) customary restrictions contained in the organizational documents of any Non-Guarantor Subsidiary as of the Closing Date and (iv) customary restrictions in connection with any Permitted Lien or any document or instrument governing any Permitted Lien (provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien).

(b) Create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Credit Party or any Subsidiary thereof to (i) pay dividends or make any other distributions to any Credit Party or any Subsidiary on its Equity Interests or with respect to any other interest or participation in, or measured by, its profits, (ii) pay any Indebtedness or other obligation owed to any Credit Party or (iii) make loans or advances to any Credit Party, except in each case for such encumbrances or restrictions existing under or by reason of (A) this Agreement and the other Loan Documents and (B) Applicable Law.

(c) Create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Credit Party or any Subsidiary thereof to (i) sell, lease or transfer any of its properties or assets to any Credit Party or (ii) act as a Credit Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except in each case for such encumbrances or restrictions existing under or by reason of (A) this Agreement and the other Loan Documents, (B) Applicable Law, (C) any document or instrument governing Indebtedness incurred pursuant to Section 9.1(d) (provided that any such restriction contained therein relates only to the asset or assets acquired in connection therewith), (D) any Permitted Lien or any document or instrument governing any Permitted Lien (provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien), (E) obligations that are binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary of the Borrower, so long as such obligations are not entered into in contemplation of such Person becoming a Subsidiary, (F) customary restrictions contained in an agreement related to the sale of Property (to the extent such sale is permitted pursuant to Section 9.5) that limit the transfer of such Property pending the consummation of such sale, (G) customary restrictions in leases, subleases, licenses and sublicenses or asset sale agreements otherwise permitted by this Agreement so long as such restrictions relate only to the assets subject thereto and (H) customary provisions restricting assignment of any agreement entered into in the ordinary course of business.



SECTION 9.11 Nature of Business. Engage in any business other than the business conducted by the Borrower and its Subsidiaries as of the Closing Date and business activities that are reasonably related or ancillary thereto, are reasonable extensions thereof or are useful in the primary business thereof.

SECTION 9.12 Sale Leasebacks. Directly or indirectly become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an operating lease, a finance lease or a capital lease, of any Property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which any Credit Party or any Subsidiary thereof has sold or transferred or is to sell or transfer to a Person which is not another Credit Party or Subsidiary of a Credit Party or (b) which any Credit Party or any Subsidiary of a Credit Party intends to use for substantially the same purpose as any other Property that has been sold or is to be sold or transferred by such Credit Party or such Subsidiary to another Person which is not another Credit Party or Subsidiary of a Credit Party in connection with such lease.

SECTION 9.13 Financial Covenants.

(a) Consolidated Total Net Leverage Ratio. As of the last day of any fiscal quarter ending during the periods specified below, permit the Consolidated Total Net Leverage Ratio to be greater than the corresponding ratio set forth below:

Period	Maximum Ratio
Closing Date through September 30, 2021	4.25 to 1.00
October 1, 2021 through September 30, 2022	4.00 to 1.00
October 1, 2022 and thereafter	3.50 to 1.00

(b) Consolidated Interest Coverage Ratio. As of the last day of any fiscal quarter, permit the Consolidated Interest Coverage Ratio to be less than 3.00 to 1.00.

SECTION 9.14 Disposal of Subsidiary Interests. Permit any Domestic Subsidiary (other than an Immaterial Subsidiary) to be a non-Wholly-Owned Subsidiary except as a result of or in connection with a dissolution, merger, amalgamation, consolidation or disposition permitted by Section 9.4 or 9.5.

ARTICLE X

DEFAULT AND REMEDIES

SECTION 10.1 Events of Default. Each of the following shall constitute an Event of Default:

(a) Default in Payment of Principal of Loans and Reimbursement Obligations. The Borrower shall default in any payment of principal of any Loan or Reimbursement Obligation when and as due (whether at maturity, by reason of acceleration or otherwise).

(b) Other Payment Default. The Borrower shall default in the payment when and as due (whether at maturity, by reason of acceleration or otherwise) of interest on any Loan or



Reimbursement Obligation or the payment of any other Obligation, and such default shall continue for a period of three (3) Business Days.

(c) Misrepresentation. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Credit Party or any Subsidiary thereof in this Agreement, in any other Loan Document, or in any document delivered in connection herewith or therewith that is subject to materiality or Material Adverse Effect qualifications, shall be incorrect or misleading in any respect when made or deemed made or any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Credit Party or any Subsidiary thereof in this Agreement, any other Loan Document, or in any document delivered in connection herewith or therewith that is not subject to materiality or Material Adverse Effect qualifications, shall be incorrect or misleading in any material respect when made or deemed made.

(d) Default in Performance of Certain Covenants. Any Credit Party or any Subsidiary thereof shall default in the performance or observance of any covenant or agreement contained in Sections 8.1, 8.2, 8.3, 8.4, 8.12, 8.13, 8.14, 8.15, 8.18 or Article IX.

(e) Default in Performance of Other Covenants and Conditions. Any Credit Party or any Subsidiary thereof shall default in the performance or observance of any term, covenant, condition or agreement contained in this Agreement (other than as specifically provided for in this Section) or any other Loan Document and such default shall continue for a period of thirty (30) days after the earlier of (i) the Administrative Agent's delivery of written notice thereof to the Borrower and (ii) a Responsible Officer of any Credit Party having obtained knowledge thereof.

(f) Indebtedness Cross-Default. Any Credit Party or any Subsidiary thereof shall (i) default in the payment of any Indebtedness (other than the Loans or any Reimbursement Obligation) the aggregate principal amount (including undrawn committed or available amounts), or with respect to any Hedge Agreement, the Hedge Termination Value, of which is in excess of the Threshold Amount beyond the period of grace if any, provided in the instrument or agreement under which such Indebtedness was created, or (ii) default in the observance or performance of any other agreement or condition relating to any Indebtedness (other than the Loans or any Reimbursement Obligation) the aggregate principal amount (including undrawn committed or available amounts), or with respect to any Hedge Agreement, the Hedge Termination Value, of which is in excess of the Threshold Amount or contained in any instrument or agreement evidencing, securing or relating thereto or any other event (other than any event which triggers any conversion right of holders of the Permitted Convertible Indebtedness) shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice and/or lapse of time, if required, any such Indebtedness to become due or be required to be prepaid, repurchased or redeemed, in each case prior to its stated maturity (any applicable grace period having expired).

(g) Change in Control. Any Change in Control shall occur.

(h) Voluntary Bankruptcy Proceeding. Any Credit Party or any Subsidiary thereof shall (i) commence a voluntary case under any Debtor Relief Laws, (ii) file a petition seeking to take advantage of any Debtor Relief Laws, (iii) consent to or fail to contest in a timely and appropriate manner any petition filed against it in an involuntary case under any Debtor Relief Laws, (iv) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign, (v) admit in writing its inability to pay its debts as they become due, (vi) make a general assignment for the benefit of creditors, or (vii) take any corporate action for the purpose of authorizing any of the foregoing.

(i) Involuntary Bankruptcy Proceeding. A case or other proceeding shall be commenced against any Credit Party or any Subsidiary thereof in any court of competent jurisdiction seeking (i) relief under any Debtor Relief Laws, or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like for any Credit Party or any Subsidiary thereof or for all or any substantial part of their respective assets, domestic or foreign, and such case or proceeding shall continue without dismissal or stay for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding (including, but not limited to, an order for relief under such federal bankruptcy laws) shall be entered.

(j) Failure of Agreements. Any provision of this Agreement or any provision of any other Loan Document shall for any reason cease to be valid and binding on any Credit Party or any Subsidiary thereof party thereto or any such Person shall so state in writing, in each case other than in accordance with the express terms hereof or thereof.

(k) ERISA Events. The occurrence of any of the following events: (i) any Credit Party or any ERISA Affiliate fails to make full payment when due of all amounts which, under the provisions of any Pension Plan or Sections 412 or 430 of the Code, any Credit Party or any ERISA Affiliate is required to pay as contributions thereto and such unpaid amounts are in excess of the Threshold Amount, (ii) a Termination Event or (iii) any Credit Party or any ERISA Affiliate as employers under one or more Multiemployer Plans makes a complete or partial withdrawal from any such Multiemployer Plan and the plan sponsor of such Multiemployer Plans notifies such withdrawing employer that such employer has incurred a withdrawal liability requiring payments in an amount exceeding the Threshold Amount.

(l) Judgment. One or more judgments, orders or decrees shall be entered against any Credit Party or any Subsidiary thereof by any court and continues without having been discharged, vacated or stayed for a period of thirty (30) consecutive days after the entry thereof and such judgments, orders or decrees (i) in the case of the payment of money, are individually or in the aggregate (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage), equal to or in excess of the Threshold Amount or (ii) in the case of injunctive or other non-monetary relief, could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 10.2 Remedies. Upon the occurrence and during the continuance of an Event of Default, with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower:

(a) Acceleration; Termination of Credit Facility. Terminate the Revolving Credit Commitment and declare the principal of and interest on the Loans and the Reimbursement Obligations at the time outstanding, and all other amounts owed to the Lenders and to the Administrative Agent under this Agreement or any of the other Loan Documents (including, without limitation, all L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented or shall be entitled to present the documents required thereunder) and all other Obligations, to be forthwith due and payable, whereupon the same shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by each Credit Party, anything in this Agreement or the other Loan Documents to the contrary notwithstanding, and terminate the Credit Facility and any right of the Borrower to request borrowings or Letters of Credit thereunder; provided, that upon the occurrence of an Event of Default specified in Section 10.1(h) or (i), the Credit Facility shall be automatically terminated and all Obligations shall automatically become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by each Credit Party, anything in this Agreement or in any other Loan Document to the contrary notwithstanding.

(b) Letters of Credit. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to the preceding paragraph, demand that the Borrower deposit in a Cash Collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such Cash Collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay the other Guaranteed Obligations in accordance with Section 10.3. After all such Letters of Credit shall have expired or been fully drawn upon, the Reimbursement Obligation shall have been satisfied and all other Guaranteed Obligations shall have been paid in full, the balance, if any, in such Cash Collateral account shall be returned to the Borrower.

(c) General Remedies. Exercise on behalf of the Guaranteed Parties all of its other rights and remedies under this Agreement, the other Loan Documents and Applicable Law, in order to satisfy all of the Guaranteed Obligations.

SECTION 10.3 Rights and Remedies Cumulative; Non-Waiver; etc.

(a) The enumeration of the rights and remedies of the Administrative Agent and the Lenders set forth in this Agreement is not intended to be exhaustive and the exercise by the Administrative Agent and the Lenders of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder or under the other Loan Documents or that may now or hereafter exist at law or in equity or by suit or otherwise. No delay or failure to take action on the part of the Administrative Agent or any Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default. No course of dealing between the Borrower, the Administrative Agent and the Lenders or their respective agents or employees shall be effective to change, modify or discharge any provision of this Agreement or any of the other Loan Documents or to constitute a waiver of any Event of Default.

(b) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 10.2 for the benefit of all the Lenders and the Issuing Lender; provided that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the Issuing Lender or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Lender or Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 12.4 (subject to the terms of Section 5.6), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 10.2 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 5.6, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

SECTION 10.4 Crediting of Payments and Proceeds. In the event that the Obligations have been accelerated pursuant to Section 10.2 or the Administrative Agent or any Lender has exercised any remedy set forth in this Agreement or any other Loan Document, all payments received on account of the Guaranteed Obligations and all net proceeds from the enforcement of the Guaranteed Obligations shall be applied by the Administrative Agent as follows:

First, to payment of that portion of the Guaranteed Obligations constituting fees, indemnities, expenses and other amounts, including attorney fees, payable to the Administrative Agent in its capacity as such, the Issuing Lender in their capacity as such and the Swingline Lender in its capacity as such, ratably among the Administrative Agent, the Issuing Lender and Swingline Lender in proportion to the respective amounts described in this clause First payable to them;

Second, to payment of that portion of the Guaranteed Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders under the Loan Documents, including attorney fees, ratably among the Lenders in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Guaranteed Obligations constituting accrued and unpaid interest on the Loans and Reimbursement Obligations, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Guaranteed Obligations constituting unpaid principal of the Loans, Reimbursement Obligations and payment obligations then owing under Guaranteed Hedge Agreements and Guaranteed Cash Management Agreements, ratably among the Lenders, the Issuing Lender, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth payable to them;

Fifth, to the Administrative Agent for the account of the Issuing Lender, to Cash Collateralize any L/C Obligations then outstanding; and

Last, the balance, if any, after all of the Guaranteed Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Applicable Law.

Notwithstanding the foregoing, Guaranteed Obligations arising under Guaranteed Cash Management Agreements and Guaranteed Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank that, in either case, is not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article XI for itself and its Affiliates as if a "Lender" party hereto.

SECTION 10.5 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:



(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Guaranteed Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lender and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lender and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lender and the Administrative Agent under Sections 3.3, 5.3 and 12.3) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lender, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 3.3, 5.3 and 12.3.

ARTICLE XI

THE ADMINISTRATIVE AGENT

SECTION 11.1 Appointment and Authority. Each of the Lenders and the Issuing Lender hereby irrevocably appoints, designates and authorizes Wells Fargo to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lender, and neither the Borrower nor any Subsidiary thereof shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

SECTION 11.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial advisory, underwriting, capital markets or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

SECTION 11.3 Exculpatory Provisions.

(a) The Administrative Agent, the Arrangers and their respective Related Parties shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent, the Arrangers and their respective Related Parties:

(i) shall not be subject to any agency, trust, fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(iii) shall not have any duty to disclose, and shall not be liable for the failure to disclose to any Lender, any Issuing Lender or any other Person, any credit or other information concerning the business, prospects, operations, properties, assets, financial or other condition or creditworthiness of the Borrower or any of its Subsidiaries or Affiliates that is communicated to, obtained by or otherwise in the possession of the Person serving as the Administrative Agent, the Arrangers or their respective Related Parties in any capacity, except for notices, reports and other documents that are required to be furnished by the Administrative Agent to the Lenders pursuant to the express provisions of this Agreement; and

(iv) shall not be required to account to any Lender or the Issuing Lender for any sum or profit received by the Administrative Agent for its own account.

(b) The Administrative Agent, the Arrangers and their respective Related Parties shall not be liable for any action taken or not taken by it under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 12.2 and Section 10.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default and indicating that such notice is a "Notice of Default" is given to the Administrative Agent by the Borrower, a Lender or an Issuing Lender.

(c) The Administrative Agent, the Arrangers and their respective Related Parties shall not be responsible for or have any duty or obligations to any Lender or Participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the



performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article VI or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 11.4 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely upon, shall be fully protected in relying upon and shall not incur any liability for relying upon, any notice, request, certificate, consent, communication, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person, including any certification pursuant to Section 11.9. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying thereon and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or the Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Each Lender and Issuing Lender that has signed this Agreement or a signature page to an Assignment and Assumption or any other Loan Document pursuant to which it is to become a Lender or Issuing Lender hereunder shall be deemed to have consented to, approved and accepted and shall be deemed satisfied with each document or other matter required thereunder to be consented to, approved or accepted by such Lender or Issuing Lender or that is to be acceptable or satisfactory to such Lender or Issuing Lender.

SECTION 11.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Credit Facility as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

SECTION 11.6 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lender and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower and subject to the consent (not to be unreasonably withheld or delayed) of the Borrower (provided no Event of Default has occurred and is continuing at the time of such resignation), to appoint a successor, which shall be a bank or financial institution reasonably experienced in serving as administrative agent on syndicated bank facilities with an office in the United States, or an Affiliate of any such bank or financial institution with an

office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lender, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by Applicable Law, by notice in writing to the Borrower and such Person, remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable), (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Lender under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 12.3 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

(d) Any resignation by, or removal of, Wells Fargo as Administrative Agent pursuant to this Section shall also constitute its resignation as an Issuing Lender and Swingline Lender. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender, if in its sole discretion it elects to, and Swingline Lender, (ii) the retiring Issuing Lender and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuing Lender, if in its sole discretion it elects to, shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring

Issuing Lender to effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit.

SECTION 11.7 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the Issuing Lender expressly acknowledges that none of the Administrative Agent, any Arranger or any of their respective Related Parties has made any representations or warranties to it and that no act taken or failure to act by the Administrative Agent, any Arranger or any of their respective Related Parties, including any consent to, and acceptance of any assignment or review of the affairs of the Borrower and its Subsidiaries or Affiliates shall be deemed to constitute a representation or warranty of the Administrative Agent, any Arranger or any of their respective Related Parties to any Lender, the Issuing Lender or any other Guaranteed Party as to any matter, including whether the Administrative Agent, any Arranger or any of their respective Related Parties have disclosed material information in their (or their respective Related Parties') possession. Each Lender and the Issuing Lender expressly acknowledges, represents and warrants to the Administrative Agent and each Arranger that (a) the Loan Documents set forth the terms of a commercial lending facility, (b) it is engaged in making, acquiring, purchasing or holding commercial loans in the ordinary course and is entering into this Agreement and the other Loan Documents to which it is a party as a Lender for the purpose of making, acquiring, purchasing and/or holding the commercial loans set forth herein as may be applicable to it, and not for the purpose of making, acquiring, purchasing or holding any other type of financial instrument, (c) it is sophisticated with respect to decisions to make, acquire, purchase or hold the commercial loans applicable to it and either it or the Person exercising discretion in making its decisions to make, acquire, purchase or hold such commercial loans is experienced in making, acquiring, purchasing or holding commercial loans, (d) it has, independently and without reliance upon the Administrative Agent, any Arranger, any other Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and appraisal of, and investigations into, the business, prospects, operations, property, assets, liabilities, financial and other condition and creditworthiness of the Borrower and its Subsidiaries, all applicable bank or other regulatory Applicable Laws relating to the Transactions and the transactions contemplated by this Agreement and the other Loan Documents and (e) it has made its own independent decision to enter into this Agreement and the other Loan Documents to which it is a party and to extend credit hereunder and thereunder. Each Lender and the Issuing Lender also acknowledges that (i) it will, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender or any of their respective Related Parties (A) continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder based on such documents and information as it shall from time to time deem appropriate and its own independent investigations and (B) continue to make such investigations and inquiries as it deems necessary to inform itself as to the Borrower and its Subsidiaries and (ii) it will not assert any claim in contravention of this Section 11.7.

SECTION 11.8 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the syndication agents, documentation agents, co-agents, arrangers or bookrunners listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder, but each such Person shall have the benefit of the indemnities and exculpatory provisions hereof.

SECTION 11.9 Guaranty Matters. Each of the Lenders (including in its or any of its Affiliate's capacities as a holder of obligations under Guaranteed Hedge Agreements and Guaranteed Cash Management Agreements) irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Subsidiary Guarantor from its obligations under any Loan Documents if such Person (i) ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents, as certified by the Borrower; provided that the release of Subsidiary Guarantors comprising substantially all of the credit support for the Guaranteed Obligations shall be subject to Section 12.2(h) or (ii) is designated as, and qualifies to become, an Immaterial Subsidiary.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty Agreement pursuant to this Section 11.9. In each case as specified in this Section 11.9, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release such Subsidiary Guarantor from its obligations under the Guaranty Agreement, in each case in accordance with the terms of the Loan Documents and this Section 11.9 as certified by the Borrower.

SECTION 11.10 Guaranteed Hedge Agreements and Guaranteed Cash Management Agreements. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 10.4 shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. ~~Notwithstanding any other provision of this Article XI to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Guaranteed Cash Management Agreements and Guaranteed Hedge Agreements unless the Administrative Agent has received written notice of such Guaranteed Cash Management Agreements and Guaranteed Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.~~ Furthermore, notwithstanding any other provision of this Article XI to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Guaranteed Cash Management Agreements and Guaranteed Hedge Agreements ~~in the case of the Revolving Credit Maturity Date, the Term A-1 Loan Maturity Date or the Term A-2 Loan Maturity Date, as applicable.~~

SECTION 11.11 Erroneous Payments.

(a) ~~(a)~~ Each Lender ~~and~~, the Issuing Lender, each other Guaranteed Party and any other party hereto hereby severally agrees that if (i) the Administrative Agent notifies (which such notice shall be conclusive absent manifest error) such Lender or the Issuing Lender or any other Guaranteed Party (or the Lender Affiliate of a Guaranteed Party) or any other Person that has received funds from the Administrative Agent or any of its Affiliates, either for its own account or on behalf of a Lender, the Issuing Lender or any other Guaranteed Party (each such recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion that any funds received by such ~~Lender or Issuing Lender from the Administrative Agent or any of its Affiliates~~ Payment Recipient were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such ~~Lender or Issuing Lender~~ Payment Recipient (whether or not known to such ~~Lender or Issuing Lender~~ Payment Recipient) or (ii) ~~any Payment Recipient~~ receives any payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, as applicable, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or



repayment, as applicable, or (z) that such ~~Lender or Issuing Lender~~ 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 ~~has~~ shall be presumed to have been made (any such amounts specified in clauses (i) or (ii) of this ~~Section 11.12.11.11(a)~~, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise; individually and collectively, an “Erroneous Payment”), ~~the Lender or Issuing Lender, as the case may be, 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 ~~and;~~ provided that nothing in this Section shall require the Administrative Agent to provide any of the extent permitted by Applicable Law, such Lender or Issuing Lender notices specified in clauses (i) or (ii) above. Each Payment Recipient agrees that it shall not assert any right or claim to ~~the any~~ Erroneous Payment, and hereby waives; any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments ~~received~~, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

~~(b)~~ (b) Without limiting the immediately preceding clause (a), each ~~Lender and the Issuing Lender~~ Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly ~~(and, in all events, within one (1) Business Day of its knowledge (or deemed knowledge) of such error)~~ notify the Administrative Agent in writing of such occurrence ~~and, in,~~

(c) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and upon demand from the Administrative Agent, ~~it~~ 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 ~~(1)~~ Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds ~~(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 ~~Lender or Issuing Lender~~ Payment Recipient to the date such amount is repaid to the Administrative Agent ~~in same day funds~~ at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

~~(c) — The Borrower and each other Credit Party~~

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (c), from any Lender that is a Payment Recipient or an Affiliate of a Payment Recipient (such unrecovered amount as to such Lender, an “Erroneous Payment Return Deficiency”), then at the sole discretion of the Administrative Agent and upon the Administrative Agent’s written notice to such Lender (i) such Lender shall be deemed to have made a cashless assignment of the full face amount of the portion of its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the “Erroneous Payment Impacted Class”) to the Administrative Agent or, at the option of the Administrative Agent, the Administrative Agent’s applicable lending affiliate in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “Erroneous Payment Deficiency Assignment”) plus any accrued and unpaid interest on such assigned amount, without further consent or approval of any party hereto and without any payment by the Administrative Agent or its applicable lending affiliate as the assignee of such Erroneous Payment Deficiency Assignment. The parties hereto acknowledge and

agree that (1) any assignment contemplated in this clause (d) shall be made without any requirement for any payment or other consideration paid by the applicable assignee or received by the assignor, (2) the provisions of this clause (d) shall govern in the event of any conflict with the terms and conditions of Section 12.9 and (3) the Administrative 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 ~~Lender or Issuing Lender~~ Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent (1) shall be subrogated to all the rights of such Lender or Issuing Lender Payment Recipient with respect to such amount and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Payment Recipient from any source, against any amount due to the Administrative Agent under this Section 11.11 or under the indemnification provisions of this Agreement, (y) the receipt of an Erroneous Payment by a Payment Recipient shall not pay, prepay, repay for the purpose of this Agreement be treated as a payment, prepayment, repayment, discharge or otherwise satisfy other satisfaction of any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Credit Party for the purpose of making a payment on the Obligations and (z) to the extent that an Erroneous Payment was in any way or at any time credited as payment or satisfaction of any of the Obligations, the Obligations or any part thereof that were so credited, and all rights of the ~~applicable Lender, Issuing Lender, Administrative Agent or other Guaranteed Party~~ 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) ~~(d)~~ Each party's obligations under this Section 11.11 shall survive the resignation or replacement of the Administrative Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

(g) Nothing in this Section 11.11 will constitute a waiver or release of any claim of the Administrative Agent hereunder arising from any Payment Recipient's receipt of an Erroneous Payment.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:



If to the Borrower:

Tyler Technologies, Inc.
5101 Tennyson Parkway
Plano, Texas 75024
Attention of: Brian Miller, Executive Vice President &
Chief Financial Officer
Telephone No.: (972) 713-3720
Facsimile No.: (972) 713-3741
E-mail: brian.miller@tyertech.com

With copies to:

Attention of: Abigail Diaz, Chief Legal Officer
Telephone No.: 800.772.2260 ext.4289
E-mail: Abigail.Diaz@tylertech.com

And to:

K&L Gates LLP
1717 Main Street, Suite 2800
Dallas, Texas 75201
Attention of: Laurie G. Lang
Telephone No.: (214) 939-4945
E-mail: Laurie.Lang@klgates.com

If to Wells Fargo as
Administrative
Agent:

Wells Fargo Bank, National Association
MAC D1109-019
1525 West W.T. Harris Blvd.
Charlotte, NC 28262
Attn: Syndication Agency Services
Telecopy: (704) 590-3481

If to any Lender:

To the address set forth on the Register

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative



Agent, provided that the foregoing shall not apply to notices to any Lender or the Issuing Lender pursuant to Article II if such Lender or ~~such~~^{the} Issuing Lender, as applicable, has notified the Administrative Agent that is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or other communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) Administrative Agent's Office. The Administrative Agent hereby designates its office located at the address set forth above, or any subsequent office which shall have been specified for such purpose by written notice to the Borrower and Lenders, as the Administrative Agent's Office referred to herein, to which payments due are to be made and at which Loans will be disbursed and Letters of Credit requested.

(d) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(e) Platform.

(i) Each Credit Party, each Lender and the Issuing Lender agrees that the Administrative Agent may, but shall not be obligated to, make the Borrower Materials available to the Issuing Lender and the other Lenders by posting the Borrower Materials on the Platform.

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the accuracy or completeness of the Borrower Materials or the adequacy of the Platform, and expressly disclaim liability for errors or omissions in the Borrower Materials. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Borrower Materials or the Platform. Although the Platform is secured pursuant to generally-applicable security procedures and policies implemented or modified by the Administrative Agent and its Related Parties, each of the Lenders, the Issuing Lender and the Borrower acknowledges and agrees that distribution of information through an electronic means is not necessarily secure in all respects, the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") are not responsible for approving or vetting the representatives, designees or contacts of any Lender or Issuing Lender that are provided access to the Platform and that there may be confidentiality and other risks associated with such form of distribution. Each of the Borrower, each Lender and the Issuing Lender party hereto understands and accepts such risks. In no event shall the Agent Parties have any liability to any Credit Party, any Lender or any other Person or entity for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Credit Party's or the Administrative Agent's transmission of communications through the Internet (including, without

limitation, the Platform), except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided that in no event shall any Agent Party have any liability to any Credit Party, any Lender, the Issuing Lender or any other Person for indirect, special, incidental, consequential or punitive damages, losses or expenses (as opposed to actual damages, losses or expenses).

(f) Private Side Designation. 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~~federal and state securities Applicable Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States ~~Federal~~federal or state securities Applicable Laws.

SECTION 12.2 Amendments, Waivers and Consents. Except as set forth below or as specifically provided in any Loan Document (including Section 5.8(c)), any term, covenant, agreement or condition of this Agreement or any of the other Loan Documents may be amended or waived by the Lenders, and any consent given by the Lenders, if, but only if, such amendment, waiver or consent is in writing and approved by the Required Lenders (or in the case of any amendment which directly affects only one Class under the Credit Facility, the Required Facility Lenders, and not the Required Lenders) (or by the Administrative Agent with the consent of the Required Lenders or the Required Facility Lenders, as applicable) and delivered to the Administrative Agent and, in the case of an amendment, signed by the Borrower; provided, that no amendment, waiver or consent shall:

(a) amend, modify or waive (i) Section 6.2 or any other provision of this Agreement if the effect of such amendment, modification or waiver is to require the Revolving Credit Lenders (pursuant to, in the case of any such amendment to a provision hereof other than Section 6.2, any substantially concurrent request by the Borrower for a borrowing of Revolving Credit Loans or issuance of Letters of Credit) to make Revolving Credit Loans when such Revolving Credit Lenders would not otherwise be required to do so, (ii) the amount of the Swingline Commitment or (iii) the amount of the L/C Sublimit, in each case without the written consent of the Required Revolving Credit Lenders;

(b) (i) subordinate any of the Obligations owed to the Revolving Credit Lenders in right of payment or otherwise adversely affect the priority of payment of any of such Obligations or (ii) subordinate any of the Liens, if any, securing the Obligations owed to the Revolving Credit Lenders, in each case without the consent of each of the Revolving Credit Lenders;

(c) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 10.2) or increase the amount of Loans of any Lender, in any case, without the written consent of such Lender;

(d) waive, extend or postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal (it being understood that a waiver of a mandatory prepayment under Section 4.4(b) shall only require the consent of the Required Term A-1 Loan Lenders and the Required Term A-2 Loan Lenders), interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby;



(e) reduce the principal of, or the rate of interest specified herein on, any Loan or Reimbursement Obligation, or (subject to clause (iv) of the proviso set forth in the paragraph below) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby; provided that (i) only the consent of the Required Facility Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the rate set forth in Section 5.1(b) during the continuance of an Event of Default with respect to the applicable Class and (ii) only the consent of the Required Lenders shall be necessary to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Obligation or to reduce any fee payable hereunder;

(f) change Section 5.6 or Section 10.4 (or amend any other term of the Loan Documents that would have the effect of changing Section 5.6 or Section 10.4) in a manner that would alter the pro rata sharing of payments or order of application required thereby without the written consent of each Lender directly and adversely affected thereby;

(g) consent to the assignment or transfer by any Credit Party of such Credit Party's rights and obligations under any Loan Document to which it is a party (except as permitted pursuant to Section 9.4), in each case, without the written consent of each Lender;

(h) (i) subordinate the Obligations in right of payment or (ii) release, or subordinate the obligations of, (A) all of the Subsidiary Guarantors or (B) Subsidiary Guarantors comprising substantially all of the credit support for the Guaranteed Obligations, in any case, from the Guaranty Agreement, without the written consent of each Lender;

(i) except as otherwise permitted by this Section 12.2, change any provision of this Section or reduce the percentages specified in the definitions of "Required Lenders," "Required Revolving Credit Lenders", "Required Facility Lenders", "Required Term A-1 Loan Lenders" or "Required Term A-2 Loan Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender directly affected thereby;

(j) impose any greater restriction on the ability of any Lender under any Class to assign any of its rights or obligations hereunder without the written consent of the Required Facility Lenders under such Class;

(k) consent to the assignment or transfer by any Credit Party of such Credit Party's rights and obligations under any Loan Document to which it is a party (except as permitted pursuant to Section 9.4), in each case, without the written consent of each Lender; or

(l) change Section 4.4(b)(iv) (or amend any other term of the Loan Documents that would have the effect of changing Section 4.4(b)(iv)) in a manner that would alter the order of application of amounts prepaid pursuant thereto without the written consent of each Lender directly and adversely affected thereby;

provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by each affected Issuing Lender in addition to the Lenders required above, affect the rights or duties of such Issuing Lender under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swingline Lender in addition to the Lenders required above, affect the rights or duties of the

Swingline Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document or modify Section 12.1(e), Section 12.20 or Article XI hereof; (iv) the Engagement Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, (v) each Letter of Credit Application may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto; provided that a copy of such amended Letter of Credit Application shall be promptly delivered to the Administrative Agent upon such amendment or waiver, (vi) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time, and (vii) the Administrative Agent and the Borrower shall be permitted to amend any provision of the Loan Documents (and such amendment shall become effective without any further action or consent of any other party to any Loan Document) if the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error, ambiguity, defect, inconsistency or omission of a technical or immaterial nature in any such provision and (viii) the Administrative Agent (and, if applicable, the Borrower) may, without the consent of any Lender, enter into amendments or modifications to this Agreement or any of the other Loan Documents or to enter into additional Loan Documents in order to implement any Benchmark Replacement or any ~~Benchmark Replacement~~ Conforming Changes or otherwise effectuate the terms of Section 5.8(c) in accordance with the terms of Section 5.8(c). Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Revolving Credit Commitment of such Lender may not be increased or extended without the consent of such Lender.

Notwithstanding anything in this Agreement to the contrary, each Lender hereby irrevocably authorizes the Administrative Agent on its behalf, and without further consent, to enter into amendments or modifications to this Agreement (including, without limitation, amendments to this Section 12.2) or any of the other Loan Documents or to enter into additional Loan Documents as the Administrative Agent reasonably deems appropriate in order to effectuate the terms of Section 5.15 (including as applicable, (1) to permit the Incremental Increases to share ratably in the benefits of this Agreement and the other Loan Documents, (2) to include an Incremental Increase, as applicable, in any determination of (i) Required Lenders, Required Revolving Credit Lenders, Required Term A-1 Loan Lenders or Required Term A-2 Loan Lenders, as applicable or (ii) similar required lender terms applicable thereto); provided that no amendment or modification shall result in any increase in the amount of any Lender's Commitment or any increase in any Lender's Commitment Percentage, in each case, without the written consent of such affected Lender and (3) to make amendments to any outstanding tranche of Term Loans to permit any Incremental Term Loan Commitments and Incremental Term Loans to be "fungible" (including for purposes of the Code) with such tranche of Term Loans, including increases in the Applicable Margin or any fees payable to such outstanding tranche of Term Loans or providing such outstanding tranche of Term Loans with the benefit of any call protection or covenants that are applicable to the proposed Incremental Term Loan Commitments or Incremental Term Loans; provided that any such amendments or modifications to such outstanding tranche of Term Loans shall not directly adversely affect the Lenders holding such tranche of Term Loans without their consent.

SECTION 12.3 Expenses; Indemnity.

(a) Costs and Expenses. The Borrower and any other Credit Party, jointly and severally, shall pay (i) all reasonable out of pocket expenses incurred by the Administrative Agent and its

Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the Credit Facility, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out of pocket expenses incurred by the Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out of pocket expenses incurred by the Administrative Agent, any Lender or the Issuing Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the Issuing Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Arranger, each Lender and the Issuing Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, and shall pay or reimburse any such Indemnitee for, any and all losses, claims (including, without limitation, any Environmental Claims), penalties, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Credit Party), arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby (including, without limitation, the Transactions), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Credit Party or any Subsidiary thereof, or any Environmental Claim related in any way to any Credit Party or any Subsidiary, (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Credit Party or any Subsidiary thereof, and regardless of whether any Indemnitee is a party thereto, or (v) any claim (including, without limitation, any Environmental Claims), investigation, litigation or other proceeding (whether or not the Administrative Agent or any Lender is a party thereto) and the prosecution and defense thereof, arising out of or in any way connected with the Loans, this Agreement, any other Loan Document, or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby, including without limitation, reasonable attorneys and consultant’s fees, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. This Section 12.3(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under clause (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any Arranger, the Issuing Lender, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the

Administrative Agent (or any such sub-agent), such Arranger, the Issuing Lender, the Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time, or if the Total Credit Exposure has been reduced to zero, then based on such Lender's share of the Total Credit Exposure immediately prior to such reduction) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that with respect to such unpaid amounts owed to the Issuing Lender or the Swingline Lender solely in its capacity as such, only the Revolving Credit Lenders shall be required to pay such unpaid amounts, such payment to be made severally among them based on such Revolving Credit Lenders' Revolving Credit Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought or, if the Revolving Credit Commitment has been reduced to zero as of such time, determined immediately prior to such reduction); provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such Arranger, the Issuing Lender or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such Arranger, the Issuing Lender or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this clause (c) are subject to the provisions of Section 5.7.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Law, the Borrower and each other Credit Party shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in clause (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable promptly after demand therefor.

(f) Survival. Each party's obligations under this Section shall survive the termination of the Loan Documents and payment of the obligations hereunder.

SECTION 12.4 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Lender, the Swingline Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such Issuing Lender, the Swingline Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of the Borrower or such Credit Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, such Issuing Lender or the Swingline Lender or any of their respective Affiliates, irrespective of whether or not such Lender, such Issuing Lender, the Swingline Lender or any such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Credit Party may be contingent or unmatured or are owed to a branch or office of such Lender, such Issuing Lender, the Swingline Lender or such Affiliate different from the branch, office or Affiliate holding such



deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender or any Affiliate thereof shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 10.4 and, pending such payment, shall be segregated by such Defaulting Lender or Affiliate of a Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lender, the Swingline Lender and the Lenders, and (y) the Defaulting Lender or its Affiliate shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender or any of its Affiliates as to which it exercised such right of setoff. The rights of each Lender, the Issuing Lender, the Swingline Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Lender, the Swingline Lender or their respective Affiliates may have. Each Lender, such Issuing Lender and the Swingline Lender agree to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 12.5 Governing Law; Jurisdiction, Etc.

(a) Governing Law. This Agreement and the other Loan Documents and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York (without giving effect to the choice of law principles thereof (other than Section 5-1401 of the General Obligations Law of the State of New York)).

(b) Submission to Jurisdiction. The Borrower and each other Credit Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Arranger, any Lender, the Issuing Lender, the Swingline Lender, or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Lender, the Issuing Lender or the Swingline Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any other Credit Party or its properties in the courts of any jurisdiction.

(c) Waiver of Venue. The Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.



(d) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 12.1. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Applicable Law.

SECTION 12.6 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 12.7 Reversal of Payments. To the extent any Credit Party makes a payment or payments to the Administrative Agent for the ratable benefit of the Lenders which payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any Debtor Relief Law, other Applicable Law or equitable cause, then, to the extent of such payment or proceeds repaid, the Guaranteed Obligations or part thereof intended to be satisfied shall be revived and continued in full force and effect as if such payment or proceeds had not been received by the Administrative Agent, and each Lender and the Issuing Lender severally agrees to pay to the Administrative Agent upon demand its (or its applicable Affiliate's) applicable ratable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent plus interest thereon at a per annum rate equal to the Overnight Rate from time to time in effect.

SECTION 12.8 Injunctive Relief. The Borrower recognizes that, in the event the Borrower fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, any remedy of law may prove to be inadequate relief to the Lenders. Therefore, the Borrower agrees that the Lenders, at the Lenders' option, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

SECTION 12.9 Successors and Assigns; Participations.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.



(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and the Loans at the time owing to it); provided that, in each case with respect to any Credit Facility, any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it (in each case with respect to any Credit Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Facility, or \$5,000,000, in the case of any assignment in respect of any Term Loan Facility, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided that the Borrower shall be deemed to have given its consent five (5) Business Days after the date written notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth (5th) Business Day;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment, (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund or (z) the assignment is made in connection with the primary syndication of the Credit Facility and during the period commencing on the Closing Date and ending on the date that is ninety (90) days following the Closing Date; provided, that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof; and provided, further, that the Borrower's consent shall not be required during the primary syndication of the Credit Facility;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) the Revolving Credit Facility or any unfunded Term Loan Commitments if such assignment is to a Person that is not a Lender with a Revolving Credit Commitment or a Term Loan Commitment, as applicable, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) any Term Loans to a Person who is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consents of the Issuing Lender and the Swingline Lender (such consents not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 for each assignment; provided that (A) only one such fee will be payable in connection with simultaneous assignments to two or more related Approved Funds by a Lender and (B) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of its Subsidiaries or Affiliates or (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person).

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested, but not funded by, the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Lender, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Credit Commitment Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such



Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 5.8, 5.9, 5.10, 5.11 and 12.3 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section (other than a purported assignment to a natural Person or the Borrower or any of the Borrower's Subsidiaries or Affiliates, which shall be null and void.)

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Charlotte, North Carolina, a copy of each Assignment and Assumption and each Incremental Amendment delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amounts of (and stated interest on) the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender (but only to the extent of entries in the Register that are applicable to such Lender), at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person, or the Borrower or any of the Borrower's Subsidiaries or Affiliates) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Lender, the Swingline Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 12.3(c) with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 12.2(b), (c), (d) or (e) that directly and adversely affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 5.9, 5.10 and 5.11 (subject to the requirements and limitations therein, including the requirements under Section 5.11(g) (it being understood that the documentation required under Section 5.11(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Section 5.12 as if it were an assignee under

paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 5.10 or 5.11, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.12(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.4 as though it were a Lender; provided that such Participant agrees to be subject to Section 5.6 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts of (and stated interest on) each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) or Proposed Section 1.163-5(b) of the United States Treasury Regulations (or, in each case, any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Lender.

SECTION 12.10 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Related Parties in connection with the Credit Facility, this Agreement, the transactions contemplated hereby or in connection with marketing of services by such Affiliate or Related Party to the Borrower or any of its Subsidiaries (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by, or required to be disclosed to, any regulatory or similar authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) as to the extent required by Applicable Laws or regulations or in any legal, judicial, administrative or other compulsory process, (d) to any other party hereto, (e) in connection with the exercise of any remedies under this Agreement, under any other Loan Document or under any Guaranteed Hedge

Agreement or Guaranteed Cash Management Agreement, or any action or proceeding relating to this Agreement, any other Loan Document or any Guaranteed Hedge Agreement or Guaranteed Cash Management Agreement, or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Credit Facility or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Credit Facility, (h) with the consent of the Borrower, (i) deal terms and other information customarily reported to Thomson Reuters, other bank market data collectors and similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of the Loan Documents, (j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates from a third party that is not, to such Person's knowledge, subject to confidentiality obligations to the Borrower, (k) to governmental regulatory authorities in connection with any regulatory examination of the Administrative Agent or any Lender or in accordance with the Administrative Agent's or any Lender's regulatory compliance policy if the Administrative Agent or such Lender deems necessary for the mitigation of claims by those authorities against the Administrative Agent or such Lender or any of its subsidiaries or affiliates, (l) to the extent that such information is independently developed by such Person, or (m) for purposes of establishing a "due diligence" defense. For purposes of this Section, "Information" means all information received from any Credit Party or any Subsidiary thereof relating to any Credit Party or any Subsidiary thereof or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by any Credit Party or any Subsidiary thereof; provided that, in the case of information received from a Credit Party or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 12.11 Performance of Duties. Each of the Credit Party's obligations under this Agreement and each of the other Loan Documents shall be performed by such Credit Party at its sole cost and expense.

SECTION 12.12 All Powers Coupled with Interest. All powers of attorney and other authorizations granted to the Lenders, the Administrative Agent and any Persons designated by the Administrative Agent or any Lender pursuant to any provisions of this Agreement or any of the other Loan Documents shall be deemed coupled with an interest and shall be irrevocable so long as any of the Obligations remain unpaid or unsatisfied, any of the Commitments remain in effect or the Credit Facility has not been terminated.

SECTION 12.13 Survival.

(a) All representations and warranties set forth in Article VII and all representations and warranties contained in any certificate, or any of the Loan Documents (including, but not limited to, any such representation or warranty made in or in connection with any amendment thereto) shall constitute representations and warranties made under this Agreement. All representations and warranties made under this Agreement shall be made or deemed to be made at and as of the Closing Date (except those

that are expressly made as of a specific date), shall survive the Closing Date and shall not be waived by the execution and delivery of this Agreement, any investigation made by or on behalf of the Lenders or any borrowing hereunder.

(b) Notwithstanding any termination of this Agreement, the indemnities to which the Administrative Agent and the Lenders are entitled under the provisions of this Article XII and any other provision of this Agreement and the other Loan Documents shall continue in full force and effect and shall protect the Administrative Agent and the Lenders against events arising after such termination as well as before.

SECTION 12.14 Titles and Captions. Titles and captions of Articles, Sections and subsections in, and the table of contents of, this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

SECTION 12.15 Severability of Provisions. Any provision of this Agreement or any other Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 12.16 Counterparts; Integration; Effectiveness; Electronic Execution.

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, the Issuing Lender, the Swingline Lender and/or any Arranger, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 6.1, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Electronic Execution. The words “execute,” “execution,” “signed,” “signature,” “delivery” and words of like import in or related to this Agreement, any other Loan Document or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Agreement or any other Loan Document or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Administrative Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into PDF

format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided that without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature from any party hereto, the Administrative Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the executing party without further verification and (b) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (i) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders and any of the Credit Parties, electronic images of this Agreement or any other Loan Document (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (ii) waives any argument, defense or right to contest the validity or enforceability of the Loan Documents based solely on the lack of paper original copies of any Loan Documents, including with respect to any signature pages thereto.

SECTION 12.17 Term of Agreement. This Agreement shall remain in effect from the Closing Date through and including the date upon which all Obligations (other than contingent indemnification obligations not then due) arising hereunder or under any other Loan Document shall have been indefeasibly and irrevocably paid and satisfied in full, all Letters of Credit have been terminated or expired (or been Cash Collateralized or otherwise satisfied in a manner acceptable to the Issuing Lender) and the Revolving Credit Commitment has been terminated. No termination of this Agreement shall affect the rights and obligations of the parties hereto arising prior to such termination or in respect of any provision of this Agreement which survives such termination.

SECTION 12.18 USA PATRIOT Act; Anti-Money Laundering Laws. The Administrative Agent and each Lender hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act or any other Anti-Money Laundering Laws, each of them is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the PATRIOT Act or such Anti-Money Laundering Laws.

SECTION 12.19 Independent Effect of Covenants. The Borrower expressly acknowledges and agrees that each covenant contained in Articles VIII or IX hereof shall be given independent effect. Accordingly, the Borrower shall not engage in any transaction or other act otherwise permitted under any covenant contained in Articles VIII or IX, before or after giving effect to such transaction or act, the Borrower shall or would be in breach of any other covenant contained in Articles VIII or IX.

SECTION 12.20 No Advisory or Fiduciary Responsibility.

(a) In connection with all aspects of each transaction contemplated hereby, each Credit Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that (i) the facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof), (ii) in connection with the process leading to such transaction,

each of the Administrative Agent, the Arrangers and the Lenders is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person, (iii) none of the Administrative Agent, the Arrangers or the Lenders has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any Arranger or Lender has advised or is currently advising the Borrower or any of its Affiliates on other matters) and none of the Administrative Agent, the Arrangers or the Lenders has any obligation to the Borrower or any of its Affiliates with respect to the financing transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents, (iv) the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from, and may conflict with, those of the Borrower and its Affiliates, and none of the Administrative Agent, the Arrangers or the Lenders has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship and (v) the Administrative Agent, the Arrangers and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate.

(b) Each Credit Party acknowledges and agrees that each Lender, each Arranger and each Affiliate thereof may lend money to, invest in, and generally engage in any kind of business with, any of the Borrower, any Affiliate thereof or any other person or entity that may do business with or own securities of any of the foregoing, all as if such Lender, such Arranger or such Affiliate thereof were not a Lender or an Arranger or an Affiliate thereof (or an agent or any other person with any similar role under the Credit Facilities) and without any duty to account therefor to any other Lender, the Arrangers, the Borrower or any Affiliate of the foregoing. Each Lender, each Arranger and each Affiliate thereof may accept fees and other consideration from the Borrower or any Affiliate thereof for services in connection with this Agreement, the Credit Facilities or otherwise without having to account for the same to any other Lender, any other Arranger, the Borrower or any Affiliate of the foregoing.

SECTION 12.21 Inconsistencies with Other Documents. In the event there is a conflict or inconsistency between this Agreement and any other Loan Document, the terms of this Agreement shall control.

SECTION 12.22 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(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 Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

SECTION 12.23 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise **for purposes of Title I of ERISA or Section 4975 of the Code**) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit or the Commitments **or this Agreement**;

(ii) the **prohibited** transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable **with respect so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code** such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants,



from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that none of the Administrative Agent, each Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 12.24 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and, each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 12.25, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following:

- (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).



“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

| [Signature pages ~~to follow~~intentionally omitted.]



ANNEX B

AMENDED EXHIBITS



EXHIBIT B
to
Credit Agreement
dated as of April 21, 2021
by and among
Tyler Technologies, Inc.,
as Borrower,
the lenders party thereto,
as Lenders,
and
Wells Fargo Bank, National Association,
as Administrative Agent

FORM OF NOTICE OF BORROWING



NOTICE OF BORROWING

Dated as of: _____

Wells Fargo Bank, National Association,
as Administrative Agent
2450 Colorado Avenue
Suite 3000W
Santa Monica, California 90404
Attn: Tyler Technologies Relationship Manager

Ladies and Gentlemen:

This irrevocable Notice of Borrowing is delivered to you pursuant to Section 2.3 of the Credit Agreement dated as of April 21, 2021 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), by and among TYLER TECHNOLOGIES, INC., a Delaware corporation (the “Borrower”), the Lenders party thereto and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

1. The Borrower hereby requests that the Lenders make [a Revolving Credit Loan] [a Swingline Loan] [a Term A-1 Loan] [a Term A-2 Loan] [an Incremental Term Loan] to the Borrower in the aggregate principal amount of \$_____. (Complete with an amount in accordance with Section 2.3, Section 4.2 or Section 5.15, as applicable, of the Credit Agreement.)

2. The Borrower hereby requests that such Loan(s) be made on the following Business Day: _____. (Complete with a Business Day in accordance with Section 2.3 of the Credit Agreement for Revolving Credit Loans or Swingline Loans, Section 4.2(a) of the Credit Agreement for the Term A-1 Loan or the Term A-2 Loan or Section 5.15 of the Credit Agreement for an Incremental Term Loan).

3. The Borrower hereby requests that such Loan(s) bear interest at the following interest rate, plus the Applicable Margin, as set forth below:

<u>Component of Loan</u> ¹	<u>Interest Rate</u>	<u>Interest Period (Adjusted Term SOFR only)</u>
	[Base Rate or Adjusted Term SOFR] ²	

4. The aggregate principal amount of all Loans and L/C Obligations outstanding as of the date hereof (including the Loan(s) requested herein) does not exceed the maximum amount permitted to be outstanding pursuant to the terms of the Credit Agreement.

¹ Complete with the Dollar amount of that portion of the overall Loan requested that is to bear interest at the selected interest rate and/or Interest Period (e.g., for a \$20,000,000 loan, \$5,000,000 may be requested at Base Rate, \$8,000,000 may be requested at Adjusted Term SOFR with an interest period of three months and \$7,000,000 may be requested at Adjusted Term SOFR with an interest period of one month).

² Complete with (i) the Base Rate or Adjusted Term SOFR for Revolving Credit Loans, the Term A-1 Loan, the Term A-2 Loan or any Incremental Term Loan or (ii) the Base Rate for Swingline Loans.



5. All of the conditions applicable to the Loan(s) requested herein as set forth in the Credit Agreement have been satisfied as of the date hereof and will remain satisfied to the date of such Loan.

[Remainder of page intentionally left blank; signature page follows]



IN WITNESS WHEREOF, the undersigned has executed this Notice of Borrowing as of the day and year first written above.

TYLER TECHNOLOGIES, INC.

By: _____
Name: _____
Title: _____



EXHIBIT D

to

Credit Agreement

dated as of April 21, 2021

by and among

Tyler Technologies, Inc.,

as Borrower,

the lenders party thereto,

as Lenders,

and

Wells Fargo Bank, National Association,

as Administrative Agent

FORM OF NOTICE OF PREPAYMENT



NOTICE OF PREPAYMENT

Dated as of: _____

Wells Fargo Bank, National Association,
as Administrative Agent
2450 Colorado Avenue
Suite 3000W
Santa Monica, California 90404
Attn: Tyler Technologies Relationship Manager

Ladies and Gentlemen:

This irrevocable Notice of Prepayment is delivered to you pursuant to Section [2.4(c)] [4.4(a)] of the Credit Agreement dated as of April 21, 2021 (as amended, restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among TYLER TECHNOLOGIES, INC., a Delaware corporation (the "Borrower"), the Lenders party thereto and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

1. The Borrower hereby provides notice to the Administrative Agent that it shall repay the following [Base Rate Loans] and/or [SOFR Loans]: _____. (Complete with an amount in accordance with Section 2.4 or Section 4.4(a) of the Credit Agreement.)

2. The Loan(s) to be prepaid consist of: [check each applicable box]

- a Swingline Loan
- a Revolving Credit Loan
- a Term A-1 Loan
- a Term A-2 Loan
- an Incremental Term Loan

3. The Borrower shall repay the above-referenced Loans on the following Business Day: _____. (Complete with a date no earlier than (i) the same Business Day as of the date of this Notice of Prepayment with respect to any Swingline Loan or Base Rate Loan and (ii) three (3) Business Days subsequent to date of this Notice of Prepayment with respect to any SOFR Loan.)

[Remainder of page intentionally left blank; signature page follows]



IN WITNESS WHEREOF, the undersigned has executed this Notice of Prepayment as of the day and year first written above.

TYLER TECHNOLOGIES, INC.

By: _____
Name: _____
Title: _____



EXHIBIT E
to
Credit Agreement
dated as of April 21, 2021
by and among
Tyler Technologies, Inc.,
as Borrower,
the lenders party thereto,
as Lenders,
and
Wells Fargo Bank, National Association,
as Administrative Agent

FORM OF NOTICE OF CONVERSION/CONTINUATION



NOTICE OF CONVERSION/CONTINUATION

Dated as of: _____

Wells Fargo Bank, National Association,
as Administrative Agent
2450 Colorado Avenue
Suite 3000W
Santa Monica, California 90404
Attn: Tyler Technologies Relationship Manager

Ladies and Gentlemen:

This irrevocable Notice of Conversion/Continuation (this “Notice”) is delivered to you pursuant to Section 5.2 of the Credit Agreement dated as of April 21, 2021 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), by and among TYLER TECHNOLOGIES, INC., a Delaware corporation (the “Borrower”), the Lenders party thereto and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

1. The Loan to which this Notice relates is [a Revolving Credit Loan] [the Term A-1 Loan] [the Term A-2 Loan] [an Incremental Term Loan]. (Delete as applicable.)

2. This Notice is submitted for the purpose of: (Check one and complete applicable information in accordance with the Credit Agreement.)

Converting all or a portion of a Base Rate Loan into a SOFR Loan

Outstanding principal balance: \$ _____

Principal amount to be converted: \$ _____

Requested effective date of conversion: _____

Requested new Interest Period: _____

Converting all or a portion of a SOFR Loan into a Base Rate Loan

Outstanding principal balance: \$ _____

Principal amount to be converted: \$ _____

Last day of the current Interest Period: _____

Requested effective date of conversion: _____



Continuing all or a portion of a SOFR Loan as a SOFR Loan

Outstanding principal balance: \$ _____

Principal amount to be continued: \$ _____

Last day of the current Interest Period: _____

Requested effective date of continuation: _____

Requested new Interest Period: _____

3. The aggregate principal amount of all Loans and L/C Obligations outstanding as of the date hereof does not exceed the maximum amount permitted to be outstanding pursuant to the terms of the Credit Agreement.

4. All of the conditions set forth in the Credit Agreement have been satisfied or waived as of the date hereof and will remain satisfied or waived to the date of such conversion or continuation.

[Remainder of page intentionally left blank; signature page follows]



IN WITNESS WHEREOF, the undersigned has executed this Notice of Conversion/Continuation as of the day and year first written above.

TYLER TECHNOLOGIES, INC.

By: _____
Name: _____
Title: _____



EXHIBIT F
to
Credit Agreement
dated as of April 21, 2021
by and among
Tyler Technologies, Inc.,
as Borrower,
the lenders party thereto,
as Lenders,
and
Wells Fargo Bank, National Association,
as Administrative Agent

FORM OF OFFICER'S COMPLIANCE CERTIFICATE



OFFICER'S COMPLIANCE CERTIFICATE

Dated as of: _____

The undersigned, on behalf of TYLER TECHNOLOGIES, INC., a Delaware corporation (the "Borrower"), hereby certifies to the Administrative Agent and the Lenders, each as defined in the Credit Agreement referred to below, as follows:

1. This certificate is delivered to you pursuant to Section 8.2 of the Credit Agreement dated as of April 21, 2021 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"), by and among the Borrower, the Lenders party thereto and Wells Fargo Bank, National Association, as Administrative Agent. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

2. I have reviewed the financial statements of the Borrower and its Subsidiaries dated as of _____ and for the _____ period[s] then ended and such statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries on a Consolidated and consolidating basis as of the dates indicated and the results of their operations and cash flows for the period[s] indicated, subject, in the case of interim financial statements, to normal year-end adjustments and the absence of footnotes.

3. I have reviewed the terms of the Credit Agreement, and the related Loan Documents and have made, or caused to be made under my supervision, a review in reasonable detail of the transactions and the condition of the Borrower and its Subsidiaries during the accounting period covered by the financial statements referred to in Paragraph 2 above. Such review has not disclosed the existence during or at the end of such accounting period of any condition or event that constitutes a Default or an Event of Default, nor do I have any knowledge of the existence of any such condition or event as at the date of this certificate ***[except, if such condition or event existed or exists, describe the nature and period of existence thereof and what action the Borrower has taken, is taking and proposes to take with respect thereto]***.

4. As of the date of this certificate, the Borrower and its Subsidiaries are in compliance with the financial covenants contained in Section 9.13 of the Credit Agreement as shown on such Schedule 1(a), the Applicable Margin and calculations determining such figures are set forth on the attached Schedule 1(b), and the Borrower and its Subsidiaries are in compliance with the other covenants and restrictions contained in the Credit Agreement.

5. [The attached Schedule 2 sets forth (a) the names of each Immaterial Subsidiary as of the date of this certificate and (b) calculations demonstrating that (i) each Immaterial Subsidiary (together with its Subsidiaries) (A) contributed less than seven and one-half percent (7.5%) of the Consolidated revenue of the Borrower and its Subsidiaries, taken as a whole, during the most recently-ended four fiscal quarter period (taken as a single period) and (B) as of the last day of the fiscal quarter set forth in Paragraph 2 above, has assets that constitute less than seven and one-half percent (7.5%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries, taken as a whole (each of which calculations, for any Immaterial Subsidiary organized or acquired since the end of such period or such date, as the case may be, shall be determined on a pro forma basis as if such Subsidiary were in existence or acquired on such date) and (ii) that Immaterial Subsidiaries do not account for, in the aggregate, more than (A) fifteen percent

(15%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries or (B) twenty percent (20%) of the Consolidated revenue of the Borrower and its Subsidiaries.][¹]

[Remainder of page intentionally left blank; signature page follows]

¹ Such Immaterial Subsidiary calculations to be provided at each time financial statements are delivered pursuant to Sections 8.1(a) or (b) of the Credit Agreement.



IN WITNESS WHEREOF, the undersigned has executed this Officer's Compliance Certificate as of the day and year first written above.

TYLER TECHNOLOGIES, INC.

By: _____
Name: _____
Title: _____



Schedule 1(a)
to
Officer's Compliance Certificate

For the Quarter/Year ended _____ (the "Statement Date")

I. **Consolidated EBITDA.**

- A. Consolidated Net Income:[¹] \$ _____
- B. The sum of the following, without duplication, to the extent deducted in determining Consolidated Net Income for such period:
- (i) income and franchise taxes: \$ _____
 - (ii) Consolidated Interest Expense: \$ _____
 - (iii) amortization, depreciation and other non-cash charges (except to the extent that such non-cash charges are reserved for cash charges to be taken in the future): \$ _____
 - (iv) extraordinary losses (excluding extraordinary losses from discontinued operations): \$ _____
 - (v) non-cash stock compensation expense: \$ _____
 - (vi) Transactions Costs in an aggregate amount not to exceed twenty percent (20%) of Consolidated EBITDA during any period of determination (determined without giving effect to this clause (vi) and clause (vii) below): \$ _____
 - (vii) (A) unusual and non-recurring cash expenses and charges, (B) one-time non-recurring severance charges incurred within 12 months of any Permitted Acquisition, any Specified Disposition and/or any other restructuring or other similar initiative taken after the Closing Date that have been consummated during the applicable period, (C) lease termination payments made within 12 months of any Permitted Acquisition, any Specified Disposition and/or any other restructuring or other similar initiative taken after the Closing Date that have been consummated during the applicable period and (D) the "run-rate" amount of the synergies, operating expense reductions and other cost savings and integration costs, in each case projected by the Borrower in connection with any Permitted Acquisition, any Specified Disposition and/or any other restructuring or other similar action taken after the Closing Date that have been consummated during the applicable period (calculated on a pro forma basis as though such synergies, operating expense reductions and other cost savings and integration costs had been realized on the first day of such period), net the amount of actual benefits realized during such

¹ Excluding the effects of adjustments pursuant to GAAP resulting from the application of purchase accounting in relation to any Permitted Acquisition, net of taxes.



period from such actions; provided that, with respect to this clause (D), (1) such synergies, operating expense reductions and cost savings and integration costs are reasonably identifiable, factually supportable, expected to have a continuing impact on the operations of the Borrower and its Subsidiaries and have been determined by the Borrower in good faith to be reasonably anticipated to be realizable within 12 months following any such action as set forth in reasonable detail in a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent and (2) no such amounts shall be added pursuant to this clause to the extent duplicative of any expenses or charges otherwise added to Consolidated EBITDA (whether through pro forma adjustment or otherwise); provided that the aggregate amount added to Consolidated EBITDA pursuant to this clause (vii) during any period of determination shall not exceed twenty (20%) of Consolidated EBITDA for such period (determined without giving effect to clause (vi) above and this clause (vii)):

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| | \$ _____ |
| C. Sum of Line I.B.(i) through Line I.B.(vii): | \$ _____ |
| D. The sum of the following, without duplication, to the extent included in determining Consolidated Net Income for such period: | |
| (i) interest income: | \$ _____ |
| (ii) any extraordinary gains: | \$ _____ |
| (iii) non-cash gains or non-cash items increasing Consolidated Net Income: | \$ _____ |
| E. Sum of Line I.D.(i) through Line I.D.(iii): | \$ _____ |
| F. Consolidated EBITDA for the period of four (4) consecutive quarters ending on the Statement Date (Line I.A <u>plus</u> Line I.C <u>minus</u> Line I.E.): | \$ _____ |

II. **Consolidated Total Net Leverage Ratio.**

- | | |
|------------------------------------------------------------------------------------------------------------------------------|----------|
| A. (i) Consolidated Funded Indebtedness of the Borrower and its Subsidiaries: | \$ _____ |
| (ii) Qualified Cash and Cash Equivalents of the Borrower and its Subsidiaries then on hand: | \$ _____ |
| (iii) Consolidated Total Net Indebtedness as of the Statement Date (Line II.A.(i) – Line II.A.(ii)): | \$ _____ |
| B. Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ending on the Statement Date (Line I.F above): | \$ _____ |



- C. Consolidated Total Net Leverage Ratio (Line II.A.(iii) ÷ Line II.B): ____ to 1.00
- D. Maximum permitted Consolidated Total Net Leverage Ratio as set forth in Section 9.13(a) of the Credit Agreement: ____ to 1.00
- E. In Compliance? Yes/No



III. **Consolidated Interest Coverage Ratio.**

- A. Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ending on the Statement Date (Line I.F above): \$_____
- B. Consolidated Interest Expense for the period of four (4) consecutive fiscal quarters ending on the Statement Date: \$_____
- C. Consolidated Interest Coverage Ratio (Line III.A ÷ Line III.B): _____ to 1.00
- D. Minimum required Consolidated Interest Coverage Ratio as set forth in Section 9.13(b) of the Credit Agreement: 3.00 to 1.00
- E. In Compliance? Yes/No



Schedule 1(b)
to
Officer's Compliance Certificate

Pricing Level	Consolidated Total Net Leverage Ratio	Commitment Fee	Revolving Credit Loans and Term A-1 Loans		Term A-2 Loans	
			Adjusted Term SOFR +	Base Rate +	Adjusted Term SOFR +	Base Rate +
I	Less than to 1.00 to 1.00	0.15%	1.125%	0.125%	0.875%	0.00%
II	Greater than or equal to 1.00 to 1.00, but less than 1.50 to 1.00	0.20%	1.25%	0.25%	1.00%	0.00%
III	Greater than or equal to 1.50 to 1.00, but less than 3.25 to 1.00	0.25%	1.50%	0.50%	1.25%	0.25%
IV	Greater than or equal to 3.25 to 1.00	0.30%	1.75%	0.75%	1.50%	0.50%



Schedule 2
to
Officer's Compliance Certificate^[1]

1. Names of each Immaterial Subsidiary:

2. [Attach calculations demonstrating that (i) each Immaterial Subsidiary (together with its Subsidiaries) (A) contributed less than seven and one-half percent (7.5%) of the Consolidated revenue of the Borrower and its Subsidiaries, taken as a whole, during the most recently-ended four fiscal quarter period (taken as a single period) and (B) as of the last day of the fiscal quarter set forth in Paragraph 2 of the Officer's Compliance Certificate, has assets that constitute less than seven and one-half percent (7.5%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries, taken as a whole (each of which calculations, for any Immaterial Subsidiary organized or acquired since the end of such period or such date, as the case may be, shall be determined on a pro forma basis as if such Subsidiary were in existence or acquired on such date) and (ii) that Immaterial Subsidiaries do not account for, in the aggregate, more than (A) fifteen percent (15%) of the aggregate net book value of the assets of the Borrower and its Subsidiaries or (B) twenty percent (20%) of the Consolidated revenue of the Borrower and its Subsidiaries.]

¹ Such Immaterial Subsidiary calculations to be provided at each time financial statements are delivered pursuant to Sections 8.1(a) or (b) of the Credit Agreement.



SUBSIDIARIES OF TYLER TECHNOLOGIES, INC.

As of February 22, 2023

All corporations are subsidiaries of Tyler Technologies and, if indented, subsidiaries of the company under which they are listed.

Subsidiaries	Organized Under the Laws of:
Tyler Technologies A&T Services, LLC	Delaware
Tyler Appraisal & Tax Services, ULC	Canada
Tyler Technologies Australia PTY LTD	Australia
Cavu Corporation	North Carolina
Tyler Federal, LLC	Virginia
Harris Custom Programming, LLC	Georgia
MicroPact Philippines, Inc.	Philippines
NIC Inc.	Delaware
National Online Registries, LLC	Colorado
NIC Federal, LLC	Kansas
NIC Services, LLC	Colorado
NIC Solutions, LLC	Colorado
NICUSA, Inc.	Kansas
Alabama Interactive, LLC	Alabama
Arkansas Information Consortium, LLC	Arkansas
Colorado Interactive, LLC	Colorado
Connecticut Interactive, LLC	Connecticut
Hawaii Information Consortium, LLC	Hawaii
Idaho Information Consortium, LLC	Idaho
Illinois Interactive, LLC	Illinois
Indiana Interactive, LLC	Indiana
Kansas Information Consortium, LLC	Kansas
Kentucky Interactive, LLC	Kentucky
Local Government Online Indiana, LLC	Indiana
Louisiana Interactive, LLC	Louisiana
Maine Information Network, LLC	Maine
Maryland Interactive, LLC	Maryland
Michigan Interactive, LLC	Michigan
Mississippi Interactive, LLC	Mississippi
Montana Interactive, LLC	Montana
Nebraska Interactive, LLC	Nebraska
New Jersey Interactive, LLC	New Jersey
New Mexico Interactive, LLC	New Mexico
NIC Healthcare Solutions, LLC	Kansas
NIC Iowa, LLC (fka Iowa Interactive, LLC)	Iowa
NIC Licensing Solutions, LLC	Colorado
Oklahoma Interactive, LLC	Oklahoma
Oregon Information Consortium, LLC	Oregon
Pennsylvania Interactive, LLC	Pennsylvania
Rhode Island Interactive, LLC	Rhode Island

South Carolina Interactive, LLC	South Carolina
South Dakota Interactive, LLC	South Dakota
Texas NICUSA, LLC	Texas
Utah Interactive, LLC	Utah
Construction Registry Services, LLC	Utah
Vermont Information Consortium, LLC	Vermont
Virginia Interactive, LLC	Virginia
West Virginia Interactive, LLC	West Virginia
Wisconsin Interactive Network, LLC	Wisconsin
Delaware Interactive, LLC	Delaware
Florida Interactive, LLC	Florida
New York Information Consortium, LLC	New York
North Carolina Interactive, LLC	North Carolina
Tennessee Information Consortium, LLC	Tennessee
Washington Interactive, LLC	Washington
Rapid Financial Solutions, LLC	Utah
Software Exchange, LLC	Kansas
Tsunami Surf Riders, LLC	Kansas
US eDirect Inc.	New York
US eDirect Canada Inc.	Canada
US eDirect Australia PTY LTD	Australia
VendEngine Inc.	Tennessee

The names of certain subsidiaries are omitted, as such subsidiaries in the aggregate would not constitute a significant subsidiary.

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-8 No. 333-225011) pertaining to the Tyler Technologies, Inc. 2018 Stock Option Plan,
- (2) Registration Statement (Form S-8 No. 333-182318) pertaining to the Tyler Technologies, Inc. Employee Stock Purchase Plan;

of our reports dated February 22, 2023, with respect to the consolidated financial statements of Tyler Technologies, Inc., and the effectiveness of internal control over financial reporting of Tyler Technologies, Inc., included in this Annual Report (Form 10-K) of Tyler Technologies, Inc. for the year ended December 31, 2022.

/s/ ERNST & YOUNG LLP

Dallas, Texas
February 22, 2023

CERTIFICATIONS

I, H. Lynn Moore, Jr., certify that:

1. I have reviewed this annual report on Form 10-K of Tyler Technologies, 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 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 our financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for Tyler 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 divisions, 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 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 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 function):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal controls 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 controls over financial reporting.

Date: February 22, 2023

By: /s/ H. Lynn Moore, Jr.
H. Lynn Moore, Jr.
President and Chief Executive Officer

CERTIFICATIONS

I, Brian K. Miller, certify that:

1. I have reviewed this annual report on Form 10-K of Tyler Technologies, 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 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 our financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for Tyler 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 divisions, 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 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 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 function):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal controls 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 controls over financial reporting.

Date: February 22, 2023

By: /s/ Brian K. Miller

Brian K. Miller
Executive Vice President and Chief Financial Officer

CERTIFICATION PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

H. Lynn Moore, Jr., President and Chief Executive Officer of Tyler Technologies, Inc., (the "Company") and Brian K. Miller, Executive Vice President and Chief Financial Officer of the Company, each certify pursuant to section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

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 Corporation.

Date: February 22, 2023

By: /s/ H. Lynn Moore, Jr.
H. Lynn Moore, Jr.
President and Chief Executive Officer

By: /s/ Brian K. Miller
Brian K. Miller
Executive Vice President and Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to Tyler Technologies, Inc. and will be retained by Tyler Technologies, Inc. and furnished to the Securities and Exchange Commission upon request.