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

FORM 10-Q

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

For the quarterly period ended June 30, 2022

or

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

For the transition period from to

Commission file number: 001-39735

The Beachbody Company, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**85-3222090**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
400 Continental Blvd, Suite 400 El Segundo, California	**90245**
(Address of principal executive offices)	**(Zip Code)**

(310) 883-9000
Registrant's telephone number, including area code

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, par value $0.0001 per share	**BODY**	**The New York Stock Exchange**
Redeemable warrants, each whole warrant exercisable for one Class A common stock at an exercise price of $11.50	**BODY WS**	**The New York Stock Exchange**

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

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

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

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

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

There were 170,263,772 shares of the registrant's Class A Common Stock, par value $0.0001 per share, and 141,250,310 shares of the registrant's Class X Common Stock, par value $0.0001 per share, outstanding as of August 04, 2022.

Table of Contents

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements.

The Beachbody Company, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)

	June 30, 2022	December 31, 2021
	(unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	$ 57,060	$ 104,054
Restricted cash	-	3,000
Inventory, net	72,271	132,730
Prepaid expenses	10,317	15,861
Other current assets	44,828	43,727
Total current assets	184,476	299,372
Property and equipment, net	92,301	113,098
Content assets, net	38,098	39,347
Goodwill and intangible assets, net	162,361	171,533
Other assets	12,803	14,262
Total assets	$ 490,039	$ 637,612
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 22,676	$ 48,379
Accrued expenses	62,349	74,525
Deferred revenue	107,282	107,095
Other current liabilities	4,564	6,233
Total current liabilities	196,871	236,232
Deferred tax liabilities	2,031	3,165
Other liabilities	10,981	12,830
Total liabilities	209,883	252,227
Commitments and contingencies (Note 8)		
Stockholders' equity:		
Preferred stock, $0.0001 par value; 100,000,000 shares authorized, none issued and outstanding at June 30, 2022 and December 31, 2021	—	—
Common stock, $0.0001 par value, 1,900,000,000 shares authorized (1,600,000,000 Class A, 200,000,000 Class X and 100,000,000 Class C);		
Class A: 170,263,772 and 168,333,463 shares issued and outstanding at June 30, 2022 and December 31, 2021, respectively;	17	17
Class X: 141,250,310 shares issued and outstanding at June 30, 2022 and December 31, 2021, respectively;	14	14
Class C: no shares issued and outstanding at June 30, 2022 and December 31, 2021	—	—
Additional paid-in capital	620,643	610,418
Accumulated other comprehensive loss	(75)	(21)
Accumulated deficit	(340,443)	(225,043)
Total stockholders' equity	280,156	385,385
Total liabilities and stockholders' equity	$ 490,039	$ 637,612

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

The Beachbody Company, Inc.
Unaudited Condensed Consolidated Statements of Operations
(in thousands, except per share data)

	Three months ended June 30,		Six months ended June 30,	
	2022	**2021**	**2022**	**2021**
Revenue:				
Digital	$ 78,015	$ 94,325	$ 159,760	$ 189,475
Connected fitness	10,605	10	30,118	10
Nutrition and other	90,516	128,773	188,180	259,842
Total revenue	179,136	223,108	378,058	449,327
Cost of revenue:				
Digital	18,406	11,612	34,831	22,734
Connected fitness	31,459	156	76,165	156
Nutrition and other	42,002	57,002	86,776	113,997
Total cost of revenue	91,867	68,770	197,772	136,887
Gross profit	87,269	154,338	180,286	312,440
Operating expenses:				
Selling and marketing	86,624	140,194	193,068	284,890
Enterprise technology and development	24,133	26,949	57,830	54,038
General and administrative	19,584	17,231	39,657	35,177
Restructuring	1,332	—	8,555	—
Total operating expenses	131,673	184,374	299,110	374,105
Operating loss	(44,404)	(30,036)	(118,824)	(61,665)
Other income (expense):				
Change in fair value of warrant liabilities	2,070	5,390	2,334	5,390
Interest expense	(3)	(305)	(22)	(428)
Other income, net	189	1,654	125	2,953
Loss before income taxes	(42,148)	(23,297)	(116,387)	(53,750)
Income tax benefit	281	10,857	987	11,252
Net loss	$ (41,867)	$ (12,440)	$ (115,400)	$ (42,498)
Net loss per common share, basic and diluted	$ (0.14)	$ (0.05)	$ (0.38)	$ (0.17)
Weighted-average common shares outstanding, basic and diluted	307,205	247,062	306,786	245,049

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

The Beachbody Company, Inc.
Unaudited Condensed Consolidated Statements of Comprehensive Loss
(in thousands)

	Three months ended June 30,		Six months ended June 30,	
	2022	**2021**	**2022**	**2021**
Net loss	$ (41,867)	$ (12,440)	$ (115,400)	$ (42,498)
Other comprehensive loss:				
Change in fair value of derivative financial instruments, net of tax	35	(99)	(150)	(208)
Reclassification of losses on derivative financial instruments included in net loss	74	172	143	339
Foreign currency translation adjustment	(51)	12	(47)	54
Total other comprehensive income (loss)	58	85	(54)	185
Total comprehensive loss	$ (41,809)	$ (12,355)	$ (115,454)	$ (42,313)

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

The Beachbody Company, Inc.
Unaudited Condensed Consolidated Statements of Stockholders' Equity
(in thousands)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Retained Earnings (Accumulated) (Deficit)	Total Stockholders' Equity
	Shares	Amount				
Balances at December 31, 2020	243,013	$ 24	$ 96,097	$ (202)	$ 3,339	$ 99,258
Net loss	—	—	—	—	(30,058)	(30,058)
Other comprehensive income	—	—	—	100	—	100
Equity-based compensation	—	—	2,573	—	—	2,573
Balances at March 31, 2021	243,013	$ 24	$ 98,670	$ (102)	$ (26,719)	$ 71,873
Net loss	—	—	—	—	(12,440)	(12,440)
Other comprehensive income	—	—	—	85	—	85
Equity-based compensation	—	—	2,522	—	—	2,522
Business Combination, net of redemptions and equity issuance costs of $47.0 million	51,617	5	333,850	—	—	333,855
Common shares issued in connection with acquisition	13,546	2	162,556	—	—	162,558
Balances at June 30, 2021	308,176	$ 31	$ 597,598	$ (17)	$ (39,159)	$ 558,453

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
Balances at December 31, 2021	309,584	$ 31	$ 610,418	$ (21)	$ (225,043)	$ 385,385
Net loss	—	—	—	—	(73,533)	(73,533)
Other comprehensive loss	—	—	—	(112)	—	(112)
Equity-based compensation	—	—	4,564	—	—	4,564
Options exercised, net of tax withholdings	1,132	—	1,923	—	—	1,923
Balances at March 31, 2022	310,716	$ 31	$ 616,905	$ (133)	$ (298,576)	$ 318,227
Net loss	—	—	—	—	(41,867)	(41,867)
Other comprehensive income	—	—	—	58	—	58
Equity-based compensation	210	—	3,001	—	—	3,001
Options exercised, net of tax withholdings	588	—	737	—	—	737
Balances at June 30, 2022	311,514	$ 31	$ 620,643	$ (75)	$ (340,443)	$ 280,156

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

The Beachbody Company, Inc.
Unaudited Condensed Consolidated Statements of Cash Flows
(in thousands)

	Six months ended June 30,	
	2022	**2021**
Cash flows from operating activities:		
Net loss	$ (115,400)	$ (42,498)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	41,552	25,941
Amortization of content assets	13,180	6,119
Provision for inventory and net realizable value adjustment	32,019	2,791
Realized losses on hedging derivative financial instruments	143	339
Gain on investment in convertible instrument	—	(3,114)
Change in fair value of warrant liabilities	(2,334)	(5,390)
Equity-based compensation	7,565	5,095
Deferred income taxes	(1,143)	(11,349)
Other non-cash items	311	—
Changes in operating assets and liabilities:		
Inventory	28,400	(194)
Content assets	(11,940)	(14,237)
Prepaid expenses	5,545	(1,789)
Other assets	167	(5,774)
Accounts payable	(22,753)	6,656
Accrued expenses	(7,739)	(461)
Deferred revenue	1,000	16,547
Other liabilities	(1,829)	(4,169)
Net cash used in operating activities	(33,256)	(25,487)
Cash flows from investing activities:		
Purchase of property and equipment	(19,222)	(27,200)
Investment in convertible instrument	—	(5,000)
Other investment	—	(5,000)
Cash paid for acquisition, net of cash acquired	—	(37,280)
Net cash used in investing activities	(19,222)	(74,480)
Cash flows from financing activities:		
Proceeds from exercise of stock options	2,968	—
Remittance of taxes withheld from employee stock awards	(308)	—
Borrowings under Credit Facility	—	42,000
Repayments under Credit Facility	—	(42,000)
Business combination, net of issuance costs paid	—	389,775
Net cash provided by financing activities	2,660	389,775
Effect of exchange rates on cash	(176)	594
Net (decrease) increase in cash and cash equivalents	(49,994)	290,402
Cash, cash equivalents and restricted cash, beginning of period	107,054	56,827
Cash and cash equivalents, end of period	$ 57,060	$ 347,229
Supplemental disclosure of cash flow information:		
Cash paid during the year for interest	$ 17	$ 283
Cash paid during the year for income taxes, net	310	198
Supplemental disclosure of noncash investing activities:		
Property and equipment acquired but not yet paid for	$ 2,330	$ 15,322
Class A Common Stock issued in connection with acquisition	—	162,558
Fair value of Myx instrument and promissory note held by Old Beachbody	—	22,618
Supplemental disclosure of noncash financing activities:		
Business Combination transaction costs, accrued but not paid	—	650
Net assets assumed in the Business Combination	—	293

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

1. Description of Business and Summary of Significant Accounting Policies

Business

The Beachbody Company, Inc. ("Beachbody" or the "Company") is a leading subscription health and wellness company and the creator of some of the world's most popular fitness programs. The Company's fitness programs are available for streaming through subscription to the Beachbody On Demand ("BOD") or Openfit digital platform, and, together with the Company's live fitness and comprehensive nutrition programs, through subscription to Beachbody On Demand Interactive ("BODi"). Beachbody offers nutritional products such as Shakeology nutrition shakes, BEACHBAR snack bars, and Ladder premium supplements, which have been designed and clinically tested to help customers achieve their goals. Beachbody also offers a professional-grade stationary cycle with a 360-degree touch screen tablet and connected fitness software. The Company's revenue has historically been generated primarily through a network of micro-influencers ("Coaches"), social media marketing channels, and direct response advertising. During the six months ended June 30, 2022, the Company commenced a process of consolidating its Openfit streaming fitness offering onto a single Beachbody digital platform. See Note 13, *Strategic Realignment*, for additional information regarding our strategic realignment initiative.

Basis of Presentation and Principles of Consolidation

The Company prepares its consolidated financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") as determined by the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") and pursuant to the regulations of the U.S. Securities and Exchange Commission ("SEC").

The preparation of unaudited condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that impact the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes. Significant estimates include, but are not limited to, the useful life and recoverability of long-lived assets, the recognition and measurement of income tax assets and liabilities, the valuation of intangible assets, impairment of goodwill, and the net realizable value of inventory. The Company bases these estimates on historical experience and on various other assumptions that it believes are reasonable under the circumstances, the results of which form the basis for making judgements about the carrying amounts of assets and liabilities. Actual results could differ from those estimates.

The unaudited interim condensed consolidated financial statements have been prepared on the same basis as the audited annual consolidated financial statements and, in the opinion of management, include all normal recurring adjustments necessary for the fair statement of the Company's financial position, results of operations, and cash flows. The financial data and other financial information disclosed in the notes to these unaudited condensed consolidated financial statements are also unaudited. These unaudited interim condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the related notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021. Interim results are not necessarily indicative of the results expected for the full fiscal year or any other period.

Summary of Changes in Significant Accounting Estimates

Goodwill and Intangible Assets, Net

Interim Impairment Test

Goodwill represents the excess of the fair value of the consideration transferred in a business combination over the fair value of the underlying identifiable assets and liabilities acquired. Goodwill and intangible assets deemed to have an indefinite life are not amortized, but instead are assessed for impairment annually as of October 1 and between annual tests if an event or change in circumstances occurs that would more likely than not reduce the fair value of a reporting unit below its carrying value or indicate that it is more likely than not that the indefinite-lived asset is impaired.

Due to the sustained decline in the Company's market capitalization and macro-economic conditions observed in the three months ended June 30, 2022, the Company performed an interim test for impairment of its goodwill as of June 30, 2022. In performing the interim impairment test for goodwill, the Company elected to bypass the optional qualitative test and proceeded to perform quantitative tests by comparing the carrying value of each reporting unit to its estimated fair value. The Company previously tested its reporting units for impairment as of December 31, 2021 which resulted in an impairment and write-off of all goodwill in the Company's Other reporting unit. The results of the Company's interim test for impairment at June 30, 2022 concluded that the fair value of its Beachbody reporting unit exceeded its carrying value, resulting in no impairment.

Indefinite-lived Intangible Assets

During the three months ended March 31, 2022, the Company determined that one of its acquired trade names no longer has an indefinite life. The Company tested the trade name for impairment before changing the useful life and determined there was no impairment based on its assessment of fair value. The Company will prospectively amortize the trade name over its remaining estimated useful life of two years beginning January 1, 2022. The Company recorded $1.9 million, or $0.01 per share, and $3.8 million, or $0.01 per share, of amortization expense as a component of selling and marketing expenses for this trade name during the three and six months ended June 30, 2022, respectively.

Long-Lived Assets

Management reviews long-lived assets (including property and equipment, content assets, and definite-lived intangible assets) for impairment whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. Recoverability of assets is determined by comparing their carrying value to the forecasted undiscounted cash flows associated with the assets. If the evaluation of the forecasted cash flows indicates that the carrying value of the assets is not recoverable, the assets are written down to their fair value. The Company performed a test for recoverability at June 30, 2022 and concluded that the carrying value of its long-lived assets is recoverable.

Recently Adopted Accounting Pronouncements

In August 2020, the FASB issued ASU 2020-06, *Debt – Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging – Contracts in Entity's Own Equity (Subtopic 815-40)*, to simplify the accounting for certain financial instruments with characteristics of liabilities and equity. The FASB reduced the number of accounting models for convertible debt and convertible preferred stock instruments and made certain disclosure amendments to improve the information provided to users. In addition, the FASB amended the derivative guidance for the "own stock" scope exception and certain aspects of the EPS guidance. The Company adopted this new accounting guidance on a prospective basis on January 1, 2022, and the adoption did not have a material effect on its unaudited condensed consolidated financial statements.

Accounting Pronouncements Not Yet Adopted

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires an acquirer to apply ASC 606 to recognize and measure contract assets and liabilities from contracts with customers acquired in a business combination on the acquisition date rather than the general guidance in ASC 805. The guidance in this update will be effective for public companies for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years with early adoption permitted. The Company is evaluating the potential impact of adopting this guidance on its consolidated financial statements.

2. Revenue

The Company's revenue disaggregated by revenue type and geographic region is as follows (in thousands):

	Segment		
	Beachbody	Other	Total
Three months ended June 30, 2022			
Revenue Type:			
Digital	$ 71,355	$ 6,660	$ 78,015
Connected fitness	9,451	1,154	10,605
Nutrition and other	89,416	1,100	90,516
Total revenue	$ 170,222	$ 8,914	$ 179,136
Geographic region:			
United States	$ 151,107	$ 8,914	$ 160,021
Rest of world[1]	19,115	—	19,115
Total revenue	$ 170,222	$ 8,914	$ 179,136

	Segment		
	Beachbody	Other	Total
Three months ended June 30, 2021			
Revenue Type:			
Digital	$ 90,488	$ 3,837	$ 94,325
Connected fitness	—	10	10
Nutrition and other	128,119	654	128,773
Total revenue	$ 218,607	$ 4,501	$ 223,108
Geographic region:			
United States	$ 194,028	$ 4,501	$ 198,529
Rest of world[1]	24,579	—	24,579
Total revenue	$ 218,607	$ 4,501	$ 223,108

	Segment		
	Beachbody	Other	Total
Six months ended June 30, 2022			
Revenue Type:			
Digital	$ 145,997	$ 13,763	$ 159,760
Connected fitness	23,940	6,178	30,118
Nutrition and other	186,392	1,788	188,180
Total revenue	$ 356,329	$ 21,729	$ 378,058
Geographic region:			
United States	$ 316,899	$ 21,729	$ 338,628
Rest of world[1]	39,430	—	39,430
Total revenue	$ 356,329	$ 21,729	$ 378,058

	Segment		
	Beachbody	Other	Total
Six months ended June 30, 2021			
Revenue Type:			
Digital	$ 181,933	$ 7,542	$ 189,475
Connected fitness	—	10	10
Nutrition and other	258,424	1,418	259,842
Total revenue	$ 440,357	$ 8,970	$ 449,327
Geographic region:			
United States	$ 392,275	$ 8,970	$ 401,245
Rest of world[1]	48,082	—	48,082
Total revenue	$ 440,357	$ 8,970	$ 449,327

(1) Consists of Canada, United Kingdom, and France. No single country accounted for more than 10% of total revenue during the three and six months ended June 30, 2022 and 2021.

Deferred Revenue

Deferred revenue is recorded for nonrefundable cash payments received for the Company's performance obligation to transfer, or stand ready to transfer, goods or services in the future. Deferred revenue consists of subscription fees billed that have not been recognized and physical products sold that have not yet been delivered. During the three and six months ended June 30, 2022, the Company recognized $25.6 million and $88.1 million of revenue that was included in the deferred revenue balance as of December 31, 2021. During the three and six months ended June 30, 2021, the Company recognized $23.6 million and $79.2 million of revenue that was included in the deferred revenue balance as of December 31, 2020.

3. Fair Value Measurements

The Company's financial assets and liabilities subject to fair value measurements on a recurring basis and the level of inputs used for such measurements were as follows (in thousands):

	June 30, 2022		
	Level 1	Level 2	Level 3
Assets			
Derivative assets	$ —	$ 337	$ —
Total assets	$ —	$ 337	$ —
Liabilities			
Public warrants	$ 1,700	$ —	$ —
Private placement warrants	—	—	800
Total liabilities	$ 1,700	$ —	$ 800

	December 31, 2021		
	Level 1	Level 2	Level 3
Assets			
Derivative assets	$ —	$ 314	$ —
Total assets	$ —	$ 314	$ —
Liabilities			
Public warrants	$ 2,701	$ —	$ —
Private placement warrants	—	—	2,133
Total liabilities	$ 2,701	$ —	$ 2,133

Fair values of cash and cash equivalents, accounts receivable, accounts payable, and accrued expenses approximate the recorded value due to the short period of time to maturity. The fair value of the public warrants, which trade in active markets, is based on quoted market prices. The fair value of derivative instruments is based on Level 2 inputs such as observable forward rates, spot rates, and foreign currency exchange rates. The Company's private placement warrants are classified within Level 3 of the fair value hierarchy because their fair values are based on significant inputs that are unobservable in the market.

Private Placement Warrants

The Company determined the fair value of the private placement warrants using a Black-Scholes option-pricing model and the quoted price of the Company's Class A Common Stock. Volatility was based on the implied volatility derived primarily from the average of the actual market activity of the Company's peer group. The expected life was based on the remaining contractual term of the private placement warrants, and the risk-free interest rate was based on the implied yield available on U.S. treasury securities with a maturity equivalent to the warrants' expected life. The significant unobservable input used in the fair value measurement of the private placement warrants is the implied volatility. Significant changes in the implied volatility would result in a significantly higher or lower fair value measurement, respectively.

The following table presents significant assumptions utilized in the valuation of the private placement warrants on June 30, 2022 and December 31, 2021:

	June 30, 2022	December 31, 2021
Risk-free rate	3.0%	1.2%
Dividend yield rate	—	—
Volatility	75.0%	65.0%
Contractual term (in years)	3.99	4.49
Exercise price	$ 11.50	$ 11.50

The following table presents changes in the fair value of the private placement warrants for the three and six months ended June 30, 2022 and 2021:

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Balance, beginning of period	$ 1,920	$ —	$ 2,133	$ —
Assumed in Business Combination	—	26,400	—	26,400
Change in fair value	(1,120)	(6,027)	(1,333)	(6,027)
Balance, end of period	$ 800	$ 20,373	$ 800	$ 20,373

For the three and six months ended June 30, 2022 and 2021, the change in the fair value of private placement warrants resulted from the change in price of the Company's Class A Common Stock, remaining contractual term, and risk-free rate. The changes in fair value are included in the unaudited condensed consolidated statements of operations as a component of change in fair value of warrant liabilities and in the unaudited condensed consolidated balance sheets as other liabilities.

4. Inventory, Net

Inventory, net consists of the following (in thousands):

	June 30, 2022	December 31, 2021
Raw materials and work in process	$ 19,039	$ 24,436
Finished goods	53,232	108,294
Total inventory, net	$ 72,271	$ 132,730

Adjustments to the carrying value of excess inventory and inventory on hand to net realizable value were $15.1 million and $32.0 million during the three and six months ended June 30, 2022, respectively, and $0.8 million and $2.8 million during the three and six months ended June 30, 2021, respectively. These adjustments are included in the unaudited condensed consolidated statements of operations as a component of connected fitness cost of revenue and nutrition and other cost of revenue.

5. Other Current Assets

Other current assets consist of the following (in thousands):

	June 30, 2022	December 31, 2021
Deferred coach costs	$ 33,633	$ 30,928
Deposits	7,070	8,915
Accounts receivable, net	1,382	1,225
Other	2,743	2,659
Total other current assets	$ 44,828	$ 43,727

6. Property and Equipment, Net

Property and equipment, net consists of the following (in thousands):

	June 30, 2022	December 31, 2021
Computer software and web development	$ 253,296	$ 231,943
Computer equipment	23,449	23,691
Buildings	5,158	5,158
Leasehold improvements	4,600	5,157
Furniture, fixtures and equipment	1,874	2,442
Computer software and web development projects in-process	12,876	26,490
Property and equipment, gross	301,253	294,881
Less: Accumulated depreciation	(208,952)	(181,783)
Total property and equipment, net	$ 92,301	$ 113,098

All of the Company's property and equipment is located in the U.S. The Company recorded depreciation expense related to property and equipment in the following expense categories of its unaudited condensed consolidated statements of operations as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Cost of revenue	$ 7,743	$ 4,146	$ 16,824	$ 7,884
Selling and marketing	102	389	381	840
Enterprise technology and development	7,486	5,340	14,935	12,651
General and administrative	49	617	241	1,263
Total depreciation	$ 15,380	$ 10,492	$ 32,381	$ 22,638

7. Accrued Expenses

Accrued expenses consist of the followings (in thousands):

	June 30, 2022	December 31, 2021
Employee compensation and benefits	$ 19,372	$ 8,996
Coach costs	13,626	19,168
Inventory, shipping and fulfillment	13,927	14,360
Sales and other taxes	4,049	5,097
Information technology	2,222	10,150
Advertising	1,128	4,033
Customer service expenses	643	1,773
Other accrued expenses	7,382	10,948
Total accrued expenses	$ 62,349	$ 74,525

8. Commitments and Contingencies

Inventory Purchase and Service Agreements

The Company has noncancelable inventory purchase and service agreements with multiple service providers which expire at varying dates through 2028. During the three and six months ended June 30, 2022, the Company recorded losses on inventory purchase commitments related to connected fitness hardware of $1.8 million and $2.4 million, respectively. These losses are included in accrued expenses in the unaudited condensed consolidated balance sheets and connected fitness cost of revenue in the unaudited condensed consolidated statements of operations. Service agreement obligations include amounts related to fitness and nutrition trainers, future events, information systems support, and other technology projects.

Future minimum payments under noncancelable service and inventory purchase agreements for the periods succeeding June 30, 2022 are as follows (in thousands):

Six months ending December 31, 2022	$ 30,887
Year ending December 31, 2023	4,019
Year ending December 31, 2024	1,410
Year ending December 31, 2025	1,385
Year ending December 31, 2026	100
Thereafter	150
	$ 37,951

The preceding table excludes royalty payments to fitness trainers, talent, and others that are based on future sales as such amounts cannot be reasonably estimated.

Lease Commitments

The Company leases facilities under noncancelable operating leases expiring through 2027 and certain equipment under a finance lease expiring in 2024. These lease obligations, of which $6.1 million is included in other current liabilities and other liabilities in the unaudited condensed consolidated balance sheets, will require payments of approximately $1.3 million during the six months ending December 31, 2022 and $6.0 million in 2023 and thereafter.

Contingencies

The Company is subject to litigation from time to time in the ordinary course of business. Such claims typically involve its products, intellectual property, and relationships with suppliers, customers, distributors, employees, and others. Contingent liabilities are recorded when it is both probable that a loss has occurred and the amount of the loss can be reasonable estimated. Although it is not possible to predict how litigation and other claims will be resolved, the Company does not believe that any currently identified claims or litigation matters will have a material adverse effect on its consolidated financial position or results of operations.

9. Acquisition

On June 25, 2021, the Company acquired 100% of the equity of Myx pursuant to the Business Combination Agreement. The Company recognized the acquired assets and assumed liabilities of Myx based on estimates of their acquisition date fair values. There were no adjustments to the purchase price allocations during the three and six months ended June 30, 2022.

The following unaudited pro forma financial information presents the combined results of operations of the Company and Myx as if the companies had been combined as of January 1, 2021. The unaudited pro forma financial information includes the accounting effects of the business combination, including amortization of intangible assets. The unaudited pro forma financial information is presented for information purposes only and is not indicative of the results of operations that would have been achieved if the acquisition had taken place at the beginning of the period presented, nor should it be taken as indication of the Company's future consolidated results of operations.

(in thousands)	**Three Months Ended June 30, 2021**	**Six Months Ended June 30, 2021**
Pro forma combined:		
Revenue	$237,286	$480,543
Net loss	(25,362)	(67,747)

10. Stockholders' Equity

As of June 30, 2022, 2,000,000,000 shares, $0.0001 par value per share are authorized, of which, 1,600,000,000 shares are designated as Class A Common Stock, 200,000,000 shares are designated as Class X Common Stock, 100,000,000 shares are designated as Class C Common Stock and 100,000,000 shares are designated as Preferred Stock.

Accumulated Other Comprehensive Loss

The following tables summarize changes in accumulated other comprehensive loss by component during the three months ended June 30, 2022 and 2021 (in thousands):

	Unrealized Gain (Loss) on Derivatives	Foreign Currency Translation Adjustment	Total
Balances at March 31, 2021	$ (188)	$ 86	$ (102)
Other comprehensive loss before reclassifications	(78)	12	(66)
Amounts reclassified from accumulated other comprehensive income (loss)	172	—	172
Tax effect	(21)	—	(21)
Balances at June 30, 2021	$ (115)	$ 98	$ (17)
Balances at March 31, 2022	$ (148)	$ 15	$ (133)
Other comprehensive loss before reclassifications	13	(51)	(38)
Amounts reclassified from accumulated other comprehensive income (loss)	74	—	74
Tax effect	22	—	22
Balances at June 30, 2022	$ (39)	$ (36)	$ (75)

The following tables summarize changes in accumulated other comprehensive loss by component during the six months ended June 30, 2022 and 2021 (in thousands):

	Unrealized Gain (Loss) on Derivatives	Foreign Currency Translation Adjustment	Total
Balances at December 31, 2020	$ (246)	$ 44	$ (202)
Other comprehensive loss before reclassifications	(170)	54	(116)
Amounts reclassified from accumulated other comprehensive income (loss)	339	—	339
Tax effect	(38)	—	(38)
Balances at June 30, 2021	$ (115)	$ 98	$ (17)
Balances at December 31, 2021	$ (32)	$ 11	$ (21)
Other comprehensive loss before reclassifications	(149)	(47)	(196)
Amounts reclassified from accumulated other comprehensive income (loss)	143	—	143
Tax effect	(1)	—	(1)
Balances at June 30, 2022	$ (39)	$ (36)	$ (75)

11. Equity-Based Compensation

Equity Compensation Plans

A summary of the option activity under the Company's equity compensation plans is as follows:

	Options Outstanding			
	Number of Options	Weighted-Average Exercise Price (per option)	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2021	41,753,042	$ 3.86	5.92	$ 11,379
Granted	15,509,878	1.21		
Exercised	(1,720,163)	1.55		
Forfeited	(6,075,160)	2.17		
Expired	(167,868)	1.22		
Outstanding at June 30, 2022	49,299,729	$ 2.98	6.06	$ 1,425
Exercisable at June 30, 2022	24,065,850	$ 2.30	2.91	$ —

The intrinsic value of options exercised was $0.8 million for the six months ended June 30, 2022.

A summary of RSU activity is as follows:

	RSUs Outstanding	
	Number of RSUs	Weighted-Average Fair Value (per RSU)
Outstanding at December 31, 2021	573,678	$ 5.97
Granted	2,606,735	1.23
Vested	(210,146)	6.68
Forfeited	(251,082)	4.62
Outstanding at June 30, 2022	2,719,185	$ 1.49

On January 1, 2022, the number of shares available for issuance under the 2021 Incentive Award Plan (the "2021 Plan") increased by 15,479,188 pursuant to the terms of the 2021 Plan. As of June 30, 2022, 20,319,069 shares of Class A Common Stock were available for issuance under the 2021 Plan.

Equity-Based Compensation Expense

The fair value of each award as of the date of grant is estimated using a Black-Scholes option-pricing model. The following table summarizes the weighted-average assumptions used to determine the fair value of option grants:

	Six months ended June 30,	
	2022	2021
Risk-free rate	2.8%	0.7%
Dividend yield rate	—	—
Volatility	52.6%	53.9%
Expected term (in years)	6.25	6.23
Weighted-average grant date fair value	$ 0.64	$ 4.91

Equity-based compensation expense for the three and six months ended June 30, 2022 and 2021 was as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Cost of revenue	$ 382	$ 91	$ 717	$ 182
Selling and marketing	1,018	1,616	2,657	3,333
Enterprise technology and development	(17)	357	910	663
General and administrative	1,618	458	3,281	917
Total equity-based compensation	$ 3,001	$ 2,522	$ 7,565	$ 5,095

As of June 30, 2022, the total unrecognized equity-based compensation expense was $52.5 million, which will be recognized over a weighted-average remaining period of 2.95 years.

12. Derivative Financial Instruments

As of June 30, 2022 and December 31, 2021, the notional amount of the Company's outstanding foreign exchange options was $26.5 million and $30.4 million, respectively. There were no outstanding forward contracts as of June 30, 2022 and December 31, 2021.

The following table shows the pre-tax effects of the Company's derivative instruments on its unaudited condensed consolidated statements of operations (in thousands):

		Three months ended June 30,		Six months ended June 30,	
	Financial Statement Line Item	2022	2021	2022	2021
Unrealized gains (losses)	Other comprehensive income (loss)	$ 13	$ (78)	$ (149)	$ (170)
Losses reclassified from accumulated other comprehensive loss into net loss	Cost of revenue	$ (32)	$ (65)	$ (62)	$ (138)
	General and administrative	(42)	(107)	(81)	(201)
Total amounts reclassified		$ (74)	$ (172)	$ (143)	$ (339)
Gains (losses) recognized on derivatives not designated as hedging instruments	Cost of revenue	$ 6	$ (20)	$ (45)	$ (41)

13. Strategic Realignment

In January 2022, the Company commenced a strategic alignment initiative to consolidate its streaming fitness offerings into a single Beachbody platform. The Company recognized restructuring costs of $1.3 million and $8.5 million during the three and six months ended June 30, 2022, respectively, comprised primarily of termination benefits related to headcount reductions, of which $1.3 million is included in accrued expenses in the unaudited condensed consolidated balance sheets. In accordance with GAAP, employee termination benefits were recognized at the date employees were notified and post-employment benefits were accrued as the obligation was probable and estimable. Benefits for employees who provide future service greater than 60 days from the date of notification will be recognized ratably over the future service period.

The following table summarizes activity in the Company's restructuring-related liability during the three months ended June 30, 2022 (in thousands):

	Balance at March 31, 2022	Restructuring Charges	Payments / Utilizations	Liability at June 30, 2022
Employee-related costs	$ 4,618	$ 1,332	$ (4,630)	$ 1,320
Total costs	$ 4,618	$ 1,332	$ (4,630)	$ 1,320

The following table summarizes the Company's restructuring costs activity during the six months ended June 30, 2022 (in thousands):

	Balance at December 31, 2021	Restructuring Charges	Payments / Utilizations	Liability at June 30, 2022
Employee-related costs	$ —	$ 8,555	$ (7,235)	$ 1,320
Total costs	$ —	$ 8,555	$ (7,235)	$ 1,320

During the six months ended June 30, 2022, the Company determined that the useful life of certain computer software and web development assets and content assets would end upon the completion of its platform consolidation. The Company accelerated depreciation of these computer software and web development assets and recorded $1.2 million, or $0.00 per share, and $3.4 million, or $0.01 per share, of additional depreciation expense as a component of digital cost of revenue, and nutrition and other cost of revenue during three and six months ended June 30, 2022, respectively. The Company also accelerated amortization of these content assets and recorded $1.5 million, or $0.00 per share, and $2.6 million, or $0.01 per share, of additional amortization as a component of digital cost of revenue during three and six months ended June 30, 2022, respectively.

14. Income Taxes

The Company recorded a benefit for income taxes of $0.3 million and $1.0 million for the three and six months ended June 30, 2022, respectively, and a benefit for income taxes of $10.9 million and $11.3 million for the three and six months ended June 30, 2021, respectively. The effective benefit tax rate was 0.7% and 0.8% for the three and six months ended June 30, 2022, respectively, and 46.6% and 20.9% for the three and six months ended June 30, 2021, respectively.

The tax provision for interim periods is determined using an estimate of the Company's annual effective tax rate, adjusted for discrete items arising in that quarter. The Company's effective tax rate differs from the U.S. statutory tax rate in the three and six months ended June 30, 2022 primarily due to changes in valuation allowances on deferred tax assets as it is more likely than not that some or all of the Company's deferred tax assets will not be realized.

The Company evaluates its tax positions on a quarterly basis and revises its estimate accordingly. There were no material changes to the Company's uncertain tax positions, interest, or penalties during the three and six months ended June 30, 2022.

15. Earnings (Loss) per Share

The computation of loss per share of Class A and Class X Common Stock is as follows (in thousands, except share and per share information):

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Numerator:				
Net loss	$ (41,867)	$ (12,440)	$ (115,400)	$ (42,498)
Denominator:				
Weighted-average common shares outstanding, basic and diluted	307,204,999	247,062,134	306,786,192	245,048,715
Net loss per common share, basic and diluted	$ (0.14)	$ (0.05)	$ (0.38)	$ (0.17)

Basic net loss per common share is the same as dilutive net loss per common share for each of the three and six months ended June 30, 2022 and each of the three and six months ended June 30, 2021 as the inclusion of all potential common shares would have been antidilutive.

The following table presents the common shares that are excluded from the computation of diluted net loss per common share as of the periods presented because including them would have been antidilutive:

	June 30,	
	2022	2021
Options	49,299,729	34,588,520
RSUs	2,719,185	—
Compensation warrants	3,980,656	3,980,656
Public and private placement warrants	15,333,333	15,333,333
Earn-out shares	3,750,000	3,750,000
	75,082,903	57,652,509

16. Segment Information

The Company applies ASC 280, *Segment Reporting*, in determining reportable segments for financial statement disclosure. Segment information is presented based on the financial information the Company uses to manage the business which is organized around the Company's digital platforms. The Company has two operating segments, Beachbody and Other, and one reportable segment, Beachbody. The Beachbody segment primarily derives revenue from BOD and BODi digital subscriptions, nutritional products, connected fitness equipment (bikes and accessories), and other fitness-related products. Other derives revenue primarily from Openfit digital subscriptions, nutritional products, and connected fitness equipment. The Company uses contribution as a measure of profit or loss, defined as revenue less directly attributable cost of revenue and certain selling and marketing expenses including media, Coach and social influencer compensation, royalties, and third-party sales commissions. Contribution does not include allocated costs as described below as the CODM does not include these costs in assessing performance. There are no inter-segment transactions. The Company manages its assets on a consolidated basis, and, as such, does not report asset information by segment.

Summary information by segment is as follows (in thousands):

	Segment		
	Beachbody	Other	Consolidated
Three months ended June 30, 2022			
Revenue	$ 170,222	$ 8,914	$ 179,136
Contribution	37,607	(451)	37,156
Three months ended June 30, 2021			
Revenue	$ 218,607	$ 4,501	$ 223,108
Contribution	49,545	(6,411)	43,134
Six months ended June 30, 2022			
Revenue	$ 356,329	$ 21,729	$ 378,058
Contribution	65,698	(1,827)	63,871
Six months ended June 30, 2021			
Revenue	$ 440,357	$ 8,970	$ 449,327
Contribution	96,020	(11,547)	84,473

Reconciliation of consolidated contribution to loss before income taxes (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Consolidated contribution	$ 37,156	$ 43,134	$ 63,871	$ 84,473
Amounts not directly related to segments:				
Cost of revenue (1)	14,749	8,118	28,572	15,960
Selling and marketing (2)	21,762	20,872	48,081	40,963
Enterprise technology and development	24,133	26,949	57,830	54,038
General and administrative	19,584	17,231	39,657	35,177
Restructuring	1,332	—	8,555	—
Change in fair value of warrant liabilities	(2,070)	(5,390)	(2,334)	(5,390)
Interest expense	3	305	22	428
Other expense (income), net	(189)	(1,654)	(125)	(2,953)
Loss before income taxes	$ (42,148)	$ (23,297)	$ (116,387)	$ (53,750)

(1) Cost of revenue not directly related to segments includes certain allocated costs related to management, facilities, and personnel-related expenses associated with quality assurance and supply chain. Depreciation of certain software and production equipment and amortization of formulae and technology-based intangible assets are also included in this line.

(2) Selling and marketing not directly related to segments includes indirect selling and marketing expenses and certain allocated personnel-related expenses for employees and consultants. Depreciation of certain software and amortization of contract-based intangible assets and an acquired trade name are also included in this line.

17. Subsequent Events

On August 8, 2022 (the "Closing"), the Company entered into an agreement with a third-party lender for a $50.0 million senior secured term loan (the "Term Loan") with a four-year maturity. The Term Loan includes an incremental facility of up to an additional $25.0 million subject to certain terms and conditions. The Term Loan was funded at Closing and bears interest at the Company's option of either (i) the Secured Overnight Financing Rate based upon an interest period of three months plus 7.15%, or (ii) a reference rate as defined in the agreement, plus 6.15%. In addition, borrowings will bear interest at 3.00%, which will be paid in kind by capitalizing such interest and adding it to the outstanding principal, annually. The Company paid an upfront fee of $1.5 million at Closing and is required to pay an annual fee of $0.25 million. The Term Loan requires annual amortization of 2.50% in the first two years and 5.00% in the final two years, paid quarterly, and certain mandatory repayments as defined in the agreement. The Term Loan provides customary restrictions, including prepayment premiums, and requires compliance with certain financial and other covenants. The Company expects to use the proceeds for general corporate purposes and to pay transaction fees and expenses related to the Term Loan.

In connection with the Term Loan, the Company issued warrants for the purchase of 4,716,756 million shares of the Company's Class A Common Stock at an exercise price of $1.85 per share. The warrants vest on a monthly basis over four years, with 30%, 30%, 20% and 20% vesting in the first, second, third and fourth years, respectively. The warrants have a seven-year term from the date of Closing.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis should be read in conjunction with our financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q (this "Report") and the section entitled "Risk Factors." Unless otherwise indicated, the terms "Beachbody," "we," "us," or "our" refer to The Beachbody Company, Inc., a Delaware corporation, together with its consolidated subsidiaries.

Forward-Looking Statements

This Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended ("Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended ("Exchange Act"), including statements about and the financial condition, results of operations, earnings outlook and prospects of the Company. Forward-looking statements are typically identified by words such as "plan," "believe," "expect," "anticipate," "intend," "outlook," "estimate," "forecast," "project," "continue," "could," "may," "might," "possible," "potential," "predict," "should," "would" and other similar words and expressions, but the absence of these words does not mean that a statement is not forward-looking.

The forward-looking statements are based on our current expectations as applicable and are inherently subject to uncertainties and changes in circumstances and their potential effects and speak only as of the date of such statement. There can be no assurance that future developments will be those that have been anticipated. These forward-looking statements involve a number of risks, uncertainties or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to the following:

- our future financial performance, including our expectations regarding our revenue, cost of revenue, gross profit, operating expenses including changes in selling and marketing, general and administrative, and enterprise technology and development expenses (including any components of the foregoing), Adjusted EBITDA (as defined below) and our ability to achieve and maintain future profitability;
- our anticipated growth rate and market opportunity;
- our liquidity and ability to raise financing;
- our success in retaining or recruiting, or changes required in, officers, key employees or directors;
- our warrants are accounted for as liabilities and changes in the value of such warrants could have a material effect on our financial results;
- our ability to effectively compete in the fitness and nutrition industries;
- our ability to successfully acquire and integrate new operations;
- our reliance on a few key products;
- market conditions and global and economic factors beyond our control;
- intense competition and competitive pressures from other companies worldwide in the industries in which we will operate;
- litigation and the ability to adequately protect our intellectual property rights;
- other risk and uncertainties set forth in this Report under the heading "*Risk Factors.*"

Should one or more of these risks or uncertainties materialize or should any of the assumptions made by management prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements.

Except to the extent required by applicable law or regulation, we undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this Report or to reflect the occurrence of unanticipated events.

Overview

Beachbody is a leading subscription health and wellness company. We focus primarily on digital content, supplements, connected fitness, and consumer health and wellness. Our goal is to continue to provide holistic health and wellness content and subscription-based solutions. We are the creator of some of the world's most popular fitness programs, including P90X, Insanity, and 21 Day Fix, which transformed the at-home fitness market and disrupted the global fitness industry by making it accessible for people to get results—anytime, anywhere. Our comprehensive nutrition-first programs, Portion Fix and 2B Mindset, teach healthy eating habits and promote healthy, sustainable weight loss. These fitness and nutrition programs are available through our Beachbody On Demand and Beachbody On Demand Interactive streaming services, and in January 2022, we began the process of consolidating our Openfit streaming fitness offerings onto a single Beachbody platform.

We offer nutritional products such as Shakeology nutrition shakes, BEACHBAR snack bars, and Ladder premium supplements as well a professional-grade stationary cycle with a 360-degree touch screen tablet and connected fitness software. Leveraging our history of fitness content creation, nutrition innovation, and our network of micro-influencers, whom we call Coaches, we plan to continue market penetration into connected fitness to reach a wider health, wellness and fitness audience.

Historically, our revenue has been generated primarily through our network of micro-influencers, social media marketing channels, and direct response advertising. Components of revenue include recurring digital subscription revenue, connected fitness revenue, and revenue from the sale of nutritional and other products. In addition to selling individual products on a one-time basis, we bundle digital and nutritional products together at discounted prices.

For the three months ended June 30, 2022, as compared to the three months ended June 30, 2021:

- Total revenue was $179.1 million, a 20% decrease;
- Digital revenue was $78.0 million, a 17% decrease;
- Connected fitness revenue was $10.6 million;
- Nutrition and other revenue was $90.5 million, a 30% decrease;
- Net loss was $41.9 million, compared to net loss of $12.4 million; and
- Adjusted EBITDA was ($1.5) million, compared to ($4.4) million.

For the six months ended June 30, 2022, as compared to the six months ended June 30, 2021:

- Total revenue was $378.1 million a 16% decrease;
- Digital revenue was $159.8 million, a 16% decrease;
- Connected fitness revenue was $30.1 million;
- Nutrition and other revenue was $188.2 million, a 28% decrease;
- Net loss was $115.4 million, compared to net loss of $42.5 million; and
- Adjusted EBITDA was ($20.6) million, compared to ($16.1) million.

See "Non-GAAP Information" below for information regarding our use of Adjusted EBITDA and a reconciliation of net loss to Adjusted EBITDA.

Recent Developments

We believe post-pandemic consumer behavior, the general slowdown of the global economy, and rising prices for consumer products and services have adversely impacted demand for at-home fitness solutions. These adverse conditions combined with unprecedented supply chain surcharges and disruptions have contributed to declines in our gross margins. Given the uncertainty for how long these macroeconomic factors will continue, we currently anticipate the negative impact to our gross margins to continue through the remainder of fiscal year 2022. We plan to mitigate the challenging macroeconomic factor with strategies that we expect will drive our future success and growth.

Digital Gross Margin

We believe our "One Brand" strategy, which will consolidate our streaming content into a single Beachbody platform and which we expect to be fully implemented by the middle of the third quarter of 2022, will simplify our product offerings for customers and lead to an increase in customer acquisition. We believe that strengthening our Coach network will generate additional digital revenue from our Coach business management online platform as well as drive growth in digital and nutritional subscriptions. During the second quarter and for the remainder of 2022, we began testing new incentives and training programs for our Coach network to improve Coach recruitment and retention and their ability to reach more customers.

Nutrition and Other Gross Margin

Our nutritional products are often bundled with digital content offerings, and we are in the process of developing enhancements to our upsell and cross-sell capabilities. We are also currently reviewing our nutritional product portfolio and may reduce our offerings to only those nutritional products that meet our profitability requirements and/or reflect market demand. This rationalization strategy could result in future one-time charges to write down the carrying value of certain nutritional inventory. We also intend to test price increases to counteract rising supply chain costs.

Connected Fitness Gross Margin

We anticipate that our connected fitness gross margin will remain negative until we sell through our current inventory on hand. As a result of supply chain constraints, the costs to manufacture, transport, fulfill, and ship a Beachbody Bike have led to an unprofitable margin. As the connected fitness market is highly competitive, we have been limited in our ability to sufficiently increase pricing to mitigate costs. For the remainder of 2022, we will explore different strategies such as pricing and bundling to accelerate demand for our current inventory. Consumer response to these strategies is uncertain, and we may be required to continue to reduce the carrying value of connected fitness inventory through the remainder of the year. See "*Risk Factors - Risks Related to Our Business and Industry - Our operating results could be adversely affected if we are unable to accurately forecast consumer demand for our products and services and adequately manage our inventory*" in our Annual Report on Form 10-K.

Key Operational and Business Metrics

We use the following key operational and business metrics to evaluate our business, measure our performance, develop financial forecasts, and make strategic decisions.

	As of June 30,	
	2022	**2021**
Digital subscriptions (millions)	2.28	2.72
Nutritional subscriptions (millions)	0.28	0.42

	Three months ended June 30,		Six months ended June 30,	
	2022	**2021**	**2022**	**2021**
Average digital retention	95.6%	94.9%	95.6%	95.4%
Total streams (millions)	31.0	44.5	69.2	100.4
DAU/MAU	30.0%	31.9%	31.6%	33.5%
Revenue (millions)	$ 179.1	$ 223.1	$ 378.1	$ 449.3
Gross profit (millions)	$ 87.3	$ 154.3	$ 180.3	$ 312.4
Gross margin	49%	69%	48%	70%
Net loss (millions)	$ (41.9)	$ (12.4)	$ (115.4)	$ (42.5)
Adjusted EBITDA (millions)	$ (1.5)	$ (4.4)	$ (20.6)	$ (16.1)

Please see "Non-GAAP Information" below for a reconciliation of net loss to Adjusted EBITDA and an explanation for why we consider Adjusted EBITDA to be a helpful metric for investors.

Digital Subscriptions

Our ability to expand the number of digital subscriptions is an indicator of our market penetration and growth. Digital subscriptions include BOD, BODi, and Openfit subscriptions. Digital subscriptions include paid and free-to-pay subscriptions, with free-to-pay subscriptions representing approximately 1% of total digital subscriptions on average. Digital subscriptions are inclusive of all billing plans, currently for annual, semi-annual, quarterly and monthly billing intervals.

Nutritional Subscriptions

Nutritional subscriptions include monthly subscriptions for nutritional products such as Shakeology, Beachbody Performance, BEACHBAR, Bevvy and Ladder Supplements. We also package and bundle the content experience of digital subscriptions with nutritional subscriptions to optimize customer results.

Average Digital Retention

We use month-over-month digital subscription retention, which we define as the average rate at which a subscription renews for a new billing cycle, to measure customer retention.

Total Streams

We use total streams to quantify the number of fitness or nutrition programs viewed per subscription, which is a leading indicator of customer engagement and retention. While the measure of a digital stream may vary across companies, to qualify as a stream on any of our digital platforms, a program must be viewed for a minimum of 25% of the total running time.

Daily Active Users to Monthly Active Users (DAU/MAU)

We use the ratio of daily active users to monthly active users to measure how frequently digital subscribers are utilizing our service in a given month. We define a daily active user as a unique user streaming content on our platform in a given day. We define a monthly active user as a unique user streaming content on our platform in that same month.

Non-GAAP Information

We use Adjusted EBITDA, which is a non-GAAP performance measure, to supplement our results presented in accordance with GAAP. We believe Adjusted EBITDA is useful in evaluating our operating performance, as it is similar to measures reported by our public competitors and is regularly used by security analysts, institutional investors, and other interested parties in analyzing operating performance and prospects. Adjusted EBITDA is not intended to be a substitute for any GAAP financial measure and, as calculated, may not be comparable to other similarly titled measures of performance of other companies in other industries or within the same industry.

We define and calculate Adjusted EBITDA as net income (loss) adjusted for depreciation and amortization, amortization of capitalized cloud computing implementation costs, amortization of content assets, interest expense, income tax provision (benefit), equity-based compensation, inventory net realizable value adjustment, and other items that are not normal, recurring, operating expenses necessary to operate the Company's business as described in the reconciliation below.

We include this non-GAAP financial measure because it is used by management to evaluate Beachbody's core operating performance and trends and to make strategic decisions regarding the allocation of capital and new investments. Adjusted EBITDA excludes certain expenses that are required in accordance with GAAP because they are non-cash (for example, in the case of depreciation and amortization, equity-based compensation, and net realizable value adjustment) or are not related to our underlying business performance (for example, in the case of interest income and expense).

The table below presents our Adjusted EBITDA reconciled to our net loss, the closest GAAP measure, for the periods indicated:

(in thousands)	Three months ended June 30,		Six months ended June 30,	
	2022	**2021**	**2022**	**2021**
Net loss	$ (41,867)	$ (12,440)	$ (115,400)	$ (42,498)
Adjusted for:				
Depreciation and amortization	19,965	12,215	41,552	25,941
Amortization of capitalized cloud computing implementation costs	168	168	336	336
Amortization of content assets	7,016	3,302	13,180	6,119
Interest expense	3	305	22	428
Income tax benefit	(281)	(10,857)	(987)	(11,252)
Equity-based compensation	3,001	2,522	7,565	5,095
Inventory net realizable value adjustment (1)	10,502	—	25,436	—
Transaction costs	—	1,509	2	2,142
Restructuring and platform consolidation costs (2)	2,086	—	9,973	—
Change in fair value of warrant liabilities	(2,070)	(5,390)	(2,334)	(5,390)
Other adjustment items (3)	—	6,038	—	6,038
Non-operating (4)	5	(1,757)	76	(3,088)
Adjusted EBITDA	$ (1,472)	$ (4,385)	$ (20,579)	$ (16,129)

(1) Represents a non-cash expense to reduce the carrying value of our connected fitness inventory and related future commitments. This adjustment is included because of its unusual magnitude due to disruptions in the connected fitness market.

(2) Includes restructuring expense and non-recurring personnel costs associated with the consolidation of our digital platforms.

(3) Incremental costs associated with COVID-19.

(4) Includes interest income, and during the three and six months ended June 30, 2021, also includes the gain on investment on the Myx convertible instrument.

Results of Operations

We operate and manage our business in two operating segments, Beachbody and Other. For financial reporting purposes, we have one reportable segment, Beachbody. We identified the reportable segment based on the information used by management to monitor performance and make operating decisions. See Note 16, *Segment Information*, to our unaudited condensed consolidated financial statements included elsewhere in this Report for additional information regarding our reportable segment. The following discussion of our results and operations is on a consolidated basis as the Other non-reportable operating segment is not material to the understanding of our business taken as a whole.

(in thousands)	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
Revenue:				
Digital	$ 78,015	$ 94,325	$ 159,760	$ 189,475
Connected fitness	10,605	10	30,118	10
Nutrition and other	90,516	128,773	188,180	259,842
Total revenue	179,136	223,108	378,058	449,327
Cost of revenue:				
Digital	18,406	11,612	34,831	22,734
Connected fitness	31,459	156	76,165	156
Nutrition and other	42,002	57,002	86,776	113,997
Total cost of revenue	91,867	68,770	197,772	136,887
Gross profit	87,269	154,338	180,286	312,440
Operating expenses:				
Selling and marketing	86,624	140,194	193,068	284,890
Enterprise technology and development	24,133	26,949	57,830	54,038
General and administrative	19,584	17,231	39,657	35,177
Restructuring	1,332	—	8,555	—
Total operating expenses	131,673	184,374	299,110	374,105
Operating loss	(44,404)	(30,036)	(118,824)	(61,665)
Other income (expense)				
Change in fair value of warrant liabilities	2,070	5,390	2,334	5,390
Interest expense	(3)	(305)	(22)	(428)
Other income, net	189	1,654	125	2,953
Loss before income taxes	(42,148)	(23,297)	(116,387)	(53,750)
Income tax benefit	281	10,857	987	11,252
Net loss	$ (41,867)	$ (12,440)	$ (115,400)	$ (42,498)

Revenue

Revenue includes digital subscriptions, nutritional supplement subscriptions, one-time nutritional sales, connected fitness products, access to our online Coach business management platform, preferred customer program memberships, and other fitness-related products. Digital subscription revenue is recognized ratably over the subscription period of up to 12 months. We often sell bundled products that combine digital subscriptions, nutritional products, and/or other fitness products. We consider these sales to be revenue arrangements with multiple performance obligations and allocate the transaction price to each performance obligation based on its relative stand-alone selling price. We defer revenue when we receive payments in advance of delivery of products or the performance of services.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Revenue				
Digital	$ 78,015	$ 94,325	$ (16,310)	(17%)
Connected fitness	10,605	10	10,595	NM
Nutrition and other	90,516	128,773	(38,257)	(30%)
Total revenue	$ 179,136	$ 223,108	$ (43,972)	(20%)

NM = not meaningful

The decrease in digital revenue for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $12.6 million decrease in revenue generated from our online Coach business management platform as a result of fewer Coaches. The decrease in Coaches was primarily attributable to our preferred customer membership program, which launched at the end of Q3 2021, as certain Coaches elected to become preferred customers rather than remain in our Coach network. The change in digital revenue was also due to a $3.9 million decrease in revenue from our digital streaming services due to 16% fewer subscriptions.

The increase in connected fitness revenue was primarily due to the acquisition of Myx on June 25, 2021; there was minimal connected fitness revenue for the three months ended June 30, 2021.

The decrease in nutrition and other revenue for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $42.4 million decrease in revenue from nutritional products and a $3.1 million decrease in associated shipping revenue as we ended Q2 2022 with 33% fewer nutritional subscriptions compared to Q2 2021. These decreases were partially offset by $8.5 million of revenue associated with our preferred customer membership program, which launched at the end of Q3 2021.

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Revenue				
Digital	$ 159,760	$ 189,475	$ (29,715)	(16%)
Connected fitness	30,118	10	30,108	NM
Nutrition and other	188,180	259,842	(71,662)	(28%)
Total revenue	$ 378,058	$ 449,327	$ (71,269)	(16%)

The decrease in digital revenue for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $24.4 million decrease in revenue generated from our online Coach business management platform as a result of fewer Coaches. The decrease in Coaches was primarily attributable to our preferred customer membership program, which launched at the end of Q3 2021, as certain Coaches elected to become preferred customers rather than remain in our Coach network. The change in digital revenue was also due to a $5.1 million decrease in revenue from our digital streaming services due to 16% fewer subscriptions.

The increase in connected fitness revenue was primarily due to the acquisition of Myx on June 25, 2021; there was minimal connected fitness revenue for the six months ended June 30, 2021.

The decrease in nutrition and other revenue for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $76.3 million decrease in revenue from nutritional products and a $7.6 million decrease in associated shipping revenue as we ended Q2 2022 with 33% fewer nutritional subscriptions compared to Q2 2021. These decreases were partially offset by $17.3 million of revenue associated with our preferred customer membership program, which launched at the end of Q3 2021, and $2.3 million of revenue from Coach events, which were not held in 2021 due to the COVID-19 pandemic.

Cost of Revenue

Digital Cost of Revenue

Digital cost of revenue includes costs associated with digital content creation including amortization and revision of content assets, depreciation of streaming platforms, digital streaming costs, and amortization of acquired digital platform intangible assets. It also includes customer service costs, payment processing fees, depreciation of production equipment, live trainer costs, facilities, and related personnel expenses.

Connected Fitness Cost of Revenue

Connected fitness cost of revenue consists of product costs, including bike and tablet hardware costs, duties and other applicable importing costs, shipping and handling costs, warehousing and logistics costs, costs associated with service calls and repairs of products under warranty, payment processing and financing fees, customer service expenses, and personnel-related expenses associated with supply chain and logistics.

Nutrition and Other Cost of Revenue

Nutrition and other cost of revenue includes product costs, shipping and handling, fulfillment and warehousing, customer service, and payment processing fees. It also includes depreciation of nutrition-related e-commerce websites and social commerce platforms, amortization of acquired formulae intangible assets, facilities, and related personnel expenses.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Cost of revenue				
Digital	$ 18,406	$ 11,612	$ 6,794	59 %
Connected fitness	31,459	156	31,303	NM
Nutrition and other	42,002	57,002	(15,000)	(26 %)
Total cost of revenue	$ 91,867	$ 68,770	$ 23,097	34 %
Gross profit				
Digital	$ 59,609	$ 82,713	$ (23,104)	(28 %)
Connected fitness	(20,854)	(146)	(20,708)	NM
Nutrition and other	48,514	71,771	(23,257)	(32 %)
Total gross profit	$ 87,269	$ 154,338	$ (67,069)	(43 %)
Gross margin				
Digital	76 %	88 %		
Connected fitness	(197 %)	NM		
Nutrition and other	54 %	56 %		

The increase in digital cost of revenue for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was driven, in part, by a $3.7 million increase in the amortization of content assets related to BODi which launched in the fourth quarter of 2021 and content acquired from Myx in June 2021. The change in digital cost of revenue was also due to $2.4 million increase in depreciation expense primarily related to a change in useful life of certain assets in connection with our digital platform consolidation, and a $1.5 million increase in personnel-related expenses as a result of additional headcount focused on our digital streaming services. These increases were partially offset by a $0.8 million decrease in intangible assets amortization as certain assets reached the end of their useful life prior to Q2 2022. The decrease in digital gross margin for the three months ended June 30, 2022 compared to the three months ended June 30, 2021 was primarily the result of the higher fixed expenses - content assets amortization, depreciation, and personnel-related expenses - on lower digital revenue.

The increase in connected fitness cost of revenue was primarily due to the acquisition of Myx on June 25, 2021; there was no connected fitness cost of revenue for periods prior to the acquisition. The negative connected fitness gross margin for the three months ended June 30, 2022 was primarily due to $15.0 million in adjustments for excess and obsolete inventory and to reduce the carrying value of connected fitness inventory to its net realizable value as well as high product, freight, fulfillment, and shipping costs due to supply chain surcharges and constraints and lower pricing in line with a highly-competitive connected fitness market.

The decrease in nutrition and other cost of revenue for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $13.0 million decrease in product costs, freight, and shipping expense as the result of the decrease in nutrition and other revenue and a $2.5 million decrease in customer service as nutrition and other comprises less of our total revenue. These were partially offset by a $1.2 million increase in depreciation expense. Despite a favorable impact from the preferred customer membership program, nutrition and other gross margin decreased primarily as a result of higher fixed expenses such as depreciation and personnel-related expenses on lower nutrition and other revenue.

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Cost of revenue				
Digital	$ 34,831	$ 22,734	$ 12,097	53 %
Connected fitness	76,165	156	76,009	NM
Nutrition and other	86,776	113,997	(27,221)	(24 %)
Total cost of revenue	$ 197,772	$ 136,887	$ 60,885	44 %
Gross profit				
Digital	$ 124,929	$ 166,741	$ (41,812)	(25 %)
Connected fitness	(46,047)	(146)	(45,901)	NM
Nutrition and other	101,404	145,845	(44,441)	(30 %)
Total gross profit	$ 180,286	$ 312,440	$ (132,154)	(42 %)
Gross margin				
Digital	78 %	88 %		
Connected fitness	(153 %)	NM		
Nutrition and other	54 %	56 %		

The increase in digital cost of revenue for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily driven by a $7.1 million increase in the amortization of content assets related to BODi which launched in the fourth quarter of 2021 and content acquired from Myx in June 2021. The change in digital cost of revenue was also due to a $5.6 million increase in depreciation expense primarily related to a change in useful life of certain assets in connection with our digital platform consolidation. These increases were partially offset by a decrease in variable costs of digital revenue as a result of the decrease in digital revenue. The decrease in digital gross margin for the six months ended June 30, 2022 compared to the six months ended June 30, 2021 was primarily the result of higher fixed content assets amortization and depreciation on lower digital revenue.

The increase in connected fitness cost of revenue was primarily due to the acquisition of Myx on June 25, 2021; there was no connected fitness cost of revenue for periods prior to the acquisition. The negative connected fitness gross margin for the six months ended June 30, 2022 was primarily due to $30.5 million in adjustments for excess and obsolete inventory and to reduce the carrying value of connected fitness inventory to its net realizable value in addition to higher product, freight, and shipping costs due to supply chain surcharges and constraints and lower pricing in line with a highly-competitive connected fitness market.

The decrease in nutrition and other cost of revenue for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $25.1 million decrease in product, freight, fulfillment, and shipping expense as the result of the decrease in nutrition and other revenue and a $5.0 million decrease in customer service as nutrition and other comprises less of our total revenue. These were partially offset by a $3.4 million increase in depreciation expense. Nutrition and other gross margin decreased primarily as a result of higher fixed depreciation and personnel-related expenses on lower nutrition and other revenue.

Operating Expenses

Selling and Marketing

Selling and marketing expenses primarily include the cost of Coach compensation, advertising, royalties, promotions and events, and third-party sales commissions as well as the personnel expenses for employees and consultants who support these areas. Selling and marketing expense as a percentage of total revenue may fluctuate from period to period based on total revenue, timing of new content and nutritional product launches, and the timing of our media investments to build awareness around launch activity.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Selling and marketing	$ 86,624	$ 140,194	$ (53,570)	(38%)
As a percentage of total revenue	48.4%	62.8%		

The decrease in selling and marketing expense for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $35.8 million decrease in online and television media expense and a $19.0 million decrease in Coach compensation, which was in line with the decrease in commissionable revenue. These decreases were partially offset by a $2.8 million increase in amortization of intangible assets due to the acquisition of Myx in June 2021.

Selling and marketing expense as a percentage of total revenue decreased by 1,440 basis points primarily due to the decrease in media investments compared to the three months ended June 30, 2021. We have reduced our media spend as part of our strategic realignment and in an effort to use our cash in the manner that has the highest probability of return on investment.

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Selling and marketing	$ 193,068	$ 284,890	$ (91,822)	(32%)
As a percentage of total revenue	51.1%	63.4%		

The decrease in selling and marketing expense for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $65.5 million decrease in television media and online advertising expense and a $36.2 million decrease in Coach compensation, which was in line with the decrease in commissionable revenue. These decreases were partially offset by a $4.8 million increase in personnel-related expenses, a $5.7 million increase in amortization of intangible assets due to the acquisition of Myx in June 2021, and a $3.4 million increase in expenses from Coach events.

Selling and marketing expense as a percentage of total revenue decreased by 1,230 basis points primarily due to the decrease in media investments compared to the six months ended June 30, 2021. We have reduced our media spend as part of our strategic realignment and in an effort to use our cash in the manner that has the highest probability of return on investment.

Enterprise Technology and Development

Enterprise technology and development expenses relate primarily to enterprise systems applications, hardware, and software that serve as the technology infrastructure for the Company and are not directly related to services provided or tangible goods sold. This includes maintenance and enhancements of the Company's enterprise resource planning system, which is the core of our accounting, procurement, supply chain and other business support systems. Enterprise technology and development also includes reporting and business analytics tools, security systems such as identity management and payment card industry compliance, office productivity software, research and development tracking tools, and other non-customer facing applications. Enterprise technology and development expenses include personnel-related expenses for employees and consultants who create improvements to and maintain technology

systems and are involved in the research and development of new and existing nutritional products, depreciation of enterprise technology-related assets, software licenses, hosting expenses, and technology equipment leases.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Enterprise technology and development	$ 24,133	$ 26,949	$ (2,816)	(10%)
As a percentage of total revenue	13.5%	12.1%		

The decrease in enterprise technology and development expense for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $4.9 million decrease in personnel-related expenses related to lower headcount and the completion of certain technology initiatives by Q2 2022. This decrease was partially offset by a $2.1 million increase in depreciation expense.

Enterprise technology and development expense as a percentage of total revenue increased by 140 basis points due to higher fixed depreciation expense on lower total revenue.

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Enterprise technology and development	$ 57,830	$ 54,038	$ 3,792	7%
As a percentage of total revenue	15.3%	12.0%		

The increase in enterprise technology and development expense for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $2.3 million increase in depreciation expense and a $1.9 million increase in personnel-related expenses related to certain technology initiatives.

Enterprise technology and development expense as a percentage of total revenue increased by 330 basis points due to higher fixed depreciation and personnel-related costs on lower total revenue.

General and Administrative

General and administrative expense includes personnel-related expenses and facilities-related costs primarily for our executive, finance, accounting, legal and human resources functions. General and administrative expense also includes fees for professional services principally comprised of legal, audit, tax, and insurance.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
General and administrative	$ 19,584	$ 17,231	$ 2,353	14%
As a percentage of total revenue	10.9%	7.7%		

The increase in general and administrative expense for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily due to a $3.2 million increase in personnel-related expenses ($2.0 million in incentive compensation and $1.2 million in equity-based compensation) and a $2.6 million increase in insurance expense and accounting fees as a result of operating as a public company. These increases were partially offset by a $1.8 million decrease in rent expense due to our Santa Monica lease

assignment, $1.5 million decrease in transaction costs as there was no acquisition activity in Q2 2022, and a $0.5 million decrease in recruiting expense due to fewer headcount additions in Q2 2022.

General and administrative expense as a percentage of total revenue increased by 320 basis points due to higher fixed costs on lower total revenue.

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
General and administrative	$ 39,657	$ 35,177	$ 4,480	13 %
As a percentage of total revenue	10.5 %	7.8 %		

The increase in general and administrative expense for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily due to a $5.1 million increase in personnel-related expenses ($2.7 million in incentive compensation and $2.4 million in equity-based compensation) and a $6.2 million increase in insurance expense and accounting, legal, and other professional service fees as a result of operating as a public company. These increases were partially offset by a $3.3 million decrease in rent expense due to our Santa Monica lease assignment, $2.1 million decrease in transaction costs as there was no acquisition activity in 2022, and a $1.0 million decrease in recruiting expenses due to fewer headcount additions in 2022.

General and administrative expense as a percentage of total revenue increased by 270 basis points due to higher fixed costs on lower total revenue.

Restructuring

Restructuring charges relate to our 2022 strategic alignment initiative to consolidate our streaming fitness and nutrition offerings into a single Beachbody platform. The charges incurred primarily relate to employee termination costs.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Restructuring	$ 1,332	$ —	$ 1,332	NM

	Six months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Restructuring	$ 8,555	$ —	$ 8,555	NM

Other Income (Expense)

The change in fair value of warrant liabilities consists of the fair value changes of the public and private placement warrants. Interest expense primarily consists of interest expense associated with our borrowings and amortization of debt issuance costs for our Credit Facility in 2021. Other income, net, consists of interest income earned on investments and gains (losses) on foreign currency.

	Three months ended June 30,			
	2022	2021	$ Change	% Change
	(dollars in thousands)			
Change in fair value of warrant liabilities	$ 2,070	$ 5,390	$ (3,320)	(62 %)
Interest expense	(3)	(305)	302	(99 %)
Other income, net	189	1,654	(1,465)	(89 %)

The change in fair value of warrant liabilities during the three months ended June 30, 2022 primarily resulted from a decline in our stock price during the quarter. The decrease in interest expense was due to no borrowings outstanding during the three months ended June 30,

2022 compared to $22.0 million during the three months ended June 30, 2021. The decrease in other income was primarily due to the gain on the investment in the convertible instrument from Myx prior to June 25, 2021; there was no similar investment in 2022.

	Six months ended June 30,			
	2022	**2021**	$ Change	% Change
	(dollars in thousands)			
Change in fair value of warrant liabilities	$ 2,334	$ 5,390	$ (3,056)	(57%)
Interest expense	(22)	(428)	406	(95%)
Other income, net	125	2,953	(2,828)	(96%)

The change in fair value of warrant liabilities during the six months ended June 30, 2022 primarily resulted from a decline in our stock price during 2022. The decrease in interest expense was due to no borrowings outstanding during the six months ended June 30, 2022 compared to $42.0 million during the six months ended June 30, 2021. The decrease in other income was primarily due to the gain on the investment in the convertible instrument from Myx prior to June 25, 2021; there was no similar investment in 2022.

Income Tax Benefit

Income tax benefit consists of income taxes related to U.S. federal and state jurisdictions as well as those foreign jurisdictions where we have business operations.

	Three months ended June 30,			
	2022	**2021**	$ Change	% Change
	(dollars in thousands)			
Income tax benefit	$ 281	$ 10,857	$ (10,576)	(97%)

The income tax benefit decrease for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021, was primarily driven by a reduction in our valuation allowance in Q2 2021. We recorded significant deferred tax liabilities in connection with the acquisition of Myx, which was a discrete Q2 2021 event, for which we will not incur future taxable income. This partially reduced our need for a valuation allowance, resulting in income tax benefit recorded during the three months ended June 30, 2021; there was no similar benefit recorded during the three months ended June 30, 2022.

	Six months ended June 30,			
	2022	**2021**	$ Change	% Change
	(dollars in thousands)			
Income tax benefit	$ 987	$ 11,252	$ (10,265)	(91%)

The income tax benefit decrease for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021, was primarily driven by a reduction in our valuation allowance in Q2 2021. We recorded significant deferred tax liabilities in connection with the acquisition of Myx, which was a discrete Q2 2021 event, for which we will not incur future taxable income. This partially reduced our need for a valuation allowance, resulting in income tax benefit recorded during the six months ended June 30, 2021; there was no similar benefit recorded during the six months ended June 30, 2022.

Liquidity and Capital Resources

	Six months ended June 30,	
	2022	2021
	(dollars in thousands)	
Net cash used in operating activities	$ (33,256)	$ (25,487)
Net cash used in investing activities	(19,222)	(74,480)
Net cash provided by financing activities	2,660	389,775

As of June 30, 2022, we had cash and cash equivalents totaling $57.1 million.

Net cash used in operating activities was $33.3 million for the six months ended June 30, 2022 compared to net cash used in operating activities of $25.5 million for the six months ended June 30, 2021. The increase in cash used in operating activities during the six months ended June 30, 2022, compared to the prior year quarter, was primarily due to the following:

- an increase in net loss;
- payments for 2021 payables, including connected fitness inventory, freight and duties, and media;
- a decrease in subscription revenue receipts from customers in advance of service or product delivery; partially offset by
- an increase in cash received from inventory sold.

We expect to reduce our cash used in operating activities over the next year, primarily through reduced inventory purchases and investment in media. As of June 30, 2022, our purchases of bike inventory were substantially completed as our inventory level is sufficient to meet expected connected fitness demand over the next year. Also, during the six months ended June 30, 2022, we returned to a performance marketing model which drives in-quarter or next-quarter payback and which reduced media spend by approximately $50.2 million compared to the prior year period.

Net cash used in investing activities was $19.2 million and $74.5 million for the six months ended June 30, 2022 and 2021, respectively. The decrease in net cash used in investing activities was primarily due to a $8.0 million decrease in capital expenditures and $47.3 million for certain investing activities which occurred during the six months ended June 30, 2021, but not during the six months ended June 30, 2022. These investing activities include cash paid for the Myx acquisition, investment in the convertible instrument in Myx, and another investment. We expect lower capital expenditures in 2022 compared to prior year due to the completion of significant projects at the end of 2021.

Net cash provided by financing activities was $2.7 million and $389.8 million for the six months ended June 30, 2022 and 2021, respectively. The decrease in net cash provided by financing activities was primarily due to the completion of the Business Combination during the six months ended June 30, 2021; we had no similar financing during the six months ended June 30, 2022.

We have $45.3 million of lease obligations and purchase commitments associated with contracts that are enforceable and legally binding and that specify all significant terms, including fixed or minimum services to be used, fixed, minimum or variable price provisions, and the approximate timing of the actions under the contracts. See Note 8, *Commitments and Contingencies*, for discussion of our contractual commitments that are primarily due in the next year. Our future capital requirements may vary materially from those currently planned and will depend on many factors, including our rate of revenue growth and overall economic conditions. We continue to assess and efficiently manage our working capital, and expect to generate additional liquidity through continued cost control initiatives. We believe that existing cash and cash equivalents and cost control initiatives will provide the Company with sufficient liquidity to meet our anticipated cash needs for the next twelve months.

On August 8, 2022 (the "Closing"), we entered into an agreement with a third-party lender for a $50.0 million senior secured term loan (the "Term Loan") with a four-year maturity. The Term Loan includes an incremental facility of up to an additional $25.0 million subject to certain terms and conditions. The Term Loan was funded at Closing and bears interest at our option of either (i) the Secured Overnight Financing Rate based upon an interest period of three months plus 7.15%, or (ii) a reference rate as defined in the agreement, plus 6.15%. In addition, borrowings will bear interest at 3.00%, which will be paid in kind by capitalizing such interest and adding it to the outstanding principal, annually. We paid an upfront fee of $1.5 million at Closing and are required to pay an annual fee of $0.25 million. The Term Loan requires annual amortization of 2.50% in the first two years and 5.00% in the final two years, paid quarterly, and certain mandatory repayments as defined in the agreement. The Term Loan provides customary restrictions, including prepayment premiums, and requires compliance with certain financial and other covenants.

In connection with the Term Loan, we issued warrants for the purchase of 4,716,756 million shares of the Company's Class A Common Stock at an exercise price of $1.85 per share. The warrants vest on a monthly basis over four years, with 30%, 30%, 20% and 20% vesting in the first, second, third and fourth years, respectively. The warrants have a seven-year term from the date of Closing.

We expect to use the proceeds for general corporate purposes and to pay transaction fees and expenses related to the Term Loan. We may explore additional equity or debt financing to supplement our anticipated working capital balances and further strengthen our financial position, but do not at this time know which form it will take or what the terms will be. The incurrence of debt financing would result in debt service obligations and the instruments governing such debt could provide for operating and financing covenants that would restrict our operations. The sale of additional equity would result in additional dilution to our shareholders. There can be no assurances that we will be able to raise additional capital in amounts or on terms acceptable to us.

Critical Accounting Policies and Estimates

Goodwill and Intangible Assets Impairment

Goodwill and intangible assets deemed to have an indefinite life are not amortized, but instead are assessed for impairment annually at October 1 and between annual tests if an event or change in circumstances occurs that would more likely than not reduce the fair value of a reporting unit below its carrying value or indicate that it is more likely than not that an indefinite-lived intangible asset is impaired. We carry our definite-lived intangible assets at cost less accumulated amortization. If an event or change in circumstances occurs that indicates the carrying value may not be recoverable, we would evaluate our definite-lived intangible assets for impairment at that time. Due to the sustained decline in our market capitalization and macroeconomic factors observed during the three months ended June 30, 2022, we performed an interim test for impairment of our Beachbody reporting unit goodwill and tested our definite-lived intangible assets for recoverability as of June 30, 2022. In performing the interim impairment test for goodwill we elected to bypass the qualitative assessment and proceed to performing the quantitative test.

In testing for impairment of our definite-lived intangible assets, we compared the carrying value of each asset group to its forecasted undiscounted cash flows to determine whether it was recoverable. The carrying values of each of our asset groups exceed their future undiscounted cash flows and are therefore recoverable.

We test goodwill for impairment at a level within the Company referred to as the reporting unit. We have determined that our reporting units are our operating segments, Beachbody and Other, because none of the components of either operating segment constitutes a business for which discrete financial information is available or has operating results which are regularly reviewed by segment management. There is no goodwill held by the Other reporting unit.

In testing for goodwill impairment, we compared the carrying value of the Beachbody reporting unit to its estimated fair value. Fair value was estimated using a combination of a market approach and an income approach, with significant assumptions related to guideline company financial multiples used in the market approach and significant assumptions about revenue growth, long-term growth rates, and discount rates used in a discounted cash flow model in the income approach. As of June 30, 2022, the Beachbody reporting unit's fair value exceeded the carrying value by approximately 60%. We will continue to monitor changes that would impact the significant assumptions used in the valuation.

Management will continue to monitor its reporting units for changes in the business environment that could impact their fair value. Examples of events or circumstances that could result in changes to the underlying key assumptions and judgments used in our goodwill impairment tests, and ultimately impact the estimated fair value of our reporting unit may include the duration of the COVID-19 global pandemic, its impact on the global economy, supply chain disruptions and demand for at-home fitness solutions; adverse macroeconomic conditions; volatility in the equity and debt markets which could result in higher weighted-average cost of capital and our subscriber growth rates. Changes in any of the assumptions used in the valuation of the reporting unit, or changes in the business environment could materially affect the expected cash flows, and such impacts could potentially result in a material non-cash impairment charge.

Recent Accounting Pronouncements

See Note 1, *Description of Business and Summary of Significant Accounting Policies*, of the notes to our unaudited condensed consolidated financial statements included elsewhere in this Report for recently adopted accounting pronouncements and recently issued accounting pronouncements not yet adopted.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Foreign Currency Risk

We are exposed to foreign currency exchange risk related to transactions in currencies other than the U.S. Dollar, which is our functional currency. Our foreign subsidiaries, sales, certain inventory purchases and operating expenses expose us to foreign currency exchange risk. For three months ended June 30, 2022 and 2021, approximately 11% of our revenue was in foreign currencies. These sales were primarily denominated in Canadian dollars and British pounds.

We use derivative instruments to manage the effects of fluctuations in foreign currency exchange rates on our net cash flows. We primarily enter into option contracts to hedge forecasted payments, typically for up to 12 months, for cost of revenue, selling and marketing expenses, general and administrative expenses and intercompany transactions not denominated in the local currencies of our foreign operations. We designate some of these instruments as cash flow hedges and record them at fair value as either assets or liabilities within the consolidated balance sheets. Some of these instruments are freestanding derivatives for which hedge accounting does not apply.

Changes in the fair value of cash flow hedges are recorded in accumulated other comprehensive income (loss) until the hedged forecasted transaction affects earnings. Deferred gains and losses associated with cash flow hedges of third-party payments are recognized in cost of revenue, selling and marketing or general and administrative expenses, as applicable, during the period when the hedged underlying transaction affects earnings. Changes in the fair value of certain derivatives for which hedge accounting does not apply are immediately recognized directly in earnings to cost of revenue.

A hypothetical 10% change in exchange rates, with the U.S. dollar as the functional and reporting currency, would not result in a material increase or decrease in cost of revenue and operating expenses due to the derivative instruments we use to hedge any foreign currency exposure.

The aggregate notional amount of foreign exchange derivative instruments at June 30, 2022 and December 31, 2021 was $26.5 million and $30.4 million, respectively.

Item 4. Controls and Procedures.

Management's Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of June 30, 2022. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Report.

Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Limitations on Effectiveness of Controls and Procedures

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives, as specified above. Our management recognizes that any control system, no matter how well designed and operated, is based upon certain judgements and assumptions and cannot provide absolute assurance that its objectives will be met.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

We are and, from time to time, we may become, involved in legal proceedings or be subject to claims arising in the ordinary course of our business. There have been no material changes from the information previously reported under Part I, Item 3 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

Item 1A. Risk Factors.

There have been no material developments with respect to the information previously reported under Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Issuer Repurchase of Equity Securities.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosure.

None.

Item 5. Other Information.

Financing Agreement

On August 8, 2022 (the "Effective Date"),The Beachbody Company, Inc., a Delaware corporation (the "Parent" or the "Company"), Beachbody, LLC, a Delaware limited liability company and wholly-owned direct subsidiary of the Company (the "Borrower"), and certain subsidiaries of the Company (together with the Company and the Borrower, each, a "Loan Party", and collectively, the "Loan Parties"), entered into a senior secured term loan facility (the "Credit Facility").

The loan documents for the Credit Facility (the "Loan Documents") include a Financing Agreement (the "Financing Agreement") entered into by the Company, the other Loan Parties, the lenders party thereto, and Blue Torch Finance, LLC, as administrative agent and collateral agent (the "Term Loan Agent") for such lenders.

The Financing Agreement provides for senior secured term loans on the Effective Date in an aggregate principal amount of $50.0 million (the "Term Loan") which was drawn on the Effective Date. The proceeds of the Credit Facility will be used for general business purposes and to pay transaction fees and expenses related to the Credit Facility. In addition, the Credit Facility contains an incremental facility feature which permits the Borrower to borrow up to an additional $25.0 million, subject to the terms and conditions set forth in the Financing Agreement. The Credit Facility matures on August 8, 2026.

The Borrower's obligations under the Financing Agreement are guaranteed by the other Loan Parties, including the Company. Pursuant to the Financing Agreement and the other Loan documents, the Company and the other Loan Parties granted a lien to the Term Loan Agent in substantially all of the assets now owned or hereafter acquired by any Loan Party, including, without limitation: accounts, cash and cash equivalents, chattel paper, deposit accounts, documents, equipment, fixtures, general intangibles, instruments, intellectual property and intellectual property licenses, inventory, investment property, letter of credit rights, supporting obligations, insurance policies, goods, books and records, commercial tort claims, and the proceeds and products of each of the foregoing, in each case, subject to certain customary exceptions.

The Term Loan borrowings under the Credit Facility may take the form of base rate ("Reference Rate") loans or Secured Overnight Financing Rate ("SOFR") loans. Reference Rate loans will bear interest at a rate per annum equal to the sum of an applicable margin of 6.15% per annum, plus the greatest of (a) 2.00% per annum, (b) the Federal Funds Rate plus 0.50% per annum, (c) the "SOFR Rate" (based upon an interest period of 1 month) plus 1.00% per annum, and (d) the rate last quoted by The Wall Street Journal. SOFR loans will bear interest at a rate per annum equal to the sum of an applicable margin of 7.15% and the "SOFR Rate" (based upon an interest period of 3 months). The "SOFR Rate" is subject to a floor of 1.00%. In addition, the Term Loan borrowings under the Credit Facility will bear interest at a rate per annum equal to 3.00%, which interest will be paid in kind by capitalizing such interest and adding such capitalized interest to the then outstanding principal amount of the loans annually on each anniversary of the Effective Date.

The Financing Agreement contains certain customary covenants, including requirements to prepay the loans in an amount equal to (i) 100% of the net cash proceeds from certain asset dispositions, extraordinary receipts and debt issuances, subject to certain reinvestment rights and other exceptions and (ii) 50% of excess cash flow of the Company and its subsidiaries, subject to certain exceptions. The Credit Facility will amortize at 2.50% per year from the Effective Date to the date that is the second anniversary of the Effective Date, payable on a quarterly basis, and thereafter, at 5.00% per year, payable on a quarterly basis.

Amounts outstanding under the Term Loan Credit Agreement may become due and payable upon the occurrence of specified events of default, which among other things include (subject to certain exceptions and cure periods): failure to pay principal, interest, or any fees or certain other amounts when due; breach of any representation or warranty, covenant, or other agreement in the Financing Agreement and other related loan documents; the occurrence of a bankruptcy or insolvency proceeding with respect to any Loan Party; any failure by a Loan Party to make a payment with respect to indebtedness having an aggregate principal amount in excess of a specified threshold; and certain other customary events of default.

The Financing Agreement contains financial covenants whereby the Loan Parties are required to (a) maintain certain minimum revenue levels, to be tested on a quarterly basis, beginning on the fiscal quarter ending September 30, 2022, and (b) maintain minimum Liquidity (as defined in the Financing Agreement) of (i) $10.0 million at all times from the Effective Date through December 31, 2022, (ii) $12.5 million at all times thereafter through June 30, 2023, and (iii) $15.0 million at all times thereafter through the maturity of the Credit Facility. The Financing Agreement also contains customary representations, warranties, and covenants, which include, but are not limited to, restrictions on indebtedness, liens, fundamental changes, restricted payments, asset sales, affiliate transactions, line of business, investments, negative pledges and amendments to organizational documents and material contracts.

Any amounts voluntarily or mandatorily prepaid under the Credit Facility are subject to a prepayment penalty, subject to certain exceptions, equal to (i) 5.00% of the principal amount prepaid if the prepayment occurs on or prior to the first anniversary of the Effective Date, (ii) 3.00% of the principal amount prepaid if the prepayment occurs after the first anniversary and on or prior to the second anniversary of the Effective Date, (iii) 2.00% of the principal amount prepaid if the prepayment occurs after the second anniversary and on or prior to the third anniversary of the Effective Date, and (iv) 0.00% thereafter.

The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the Financing Agreement which is attached hereto as Exhibit 10.2 and is incorporated by reference herein.

Warrant

Pursuant to the Financing Agreement, on August 8, 2022, the Company issued to certain holders affiliated with Blue Torch Finance, LLC warrants (each, a "Warrant" and, collectively, the "Warrants") to purchase, in the aggregate, 4,716,756 shares of Class A common stock of the Company, $0.0001 par value per share (the "Common Stock") at an exercise price of $1.85 per share. The shares of Common Stock underlying the Warrants shall vest in accordance with the schedule set forth in the Warrants (the "Vested Shares"). The Warrants are exercisable for all or part of the unexercised Vested Shares from time to time on or after the Effective Date.

The foregoing summary of the Warrant is qualified in its entirety by reference to the full text of the form of Warrant, a copy of which is attached hereto as Exhibit 10.3 and incorporated herein by reference.

Item 6. Exhibits.

Exhibit		Incorporated by Reference				Filed or Furnished herewith
		Form	Exhibit	Filing Date	File No.	
2.1	Agreement and Plan of Merger, dated as of February 9, 2021, by and among Forest Road Acquisition Corp., BB Merger Sub, Inc., Myx Merger Sub, LLC, The Beachbody Company Group, LLC, And Myx Fitness Holdings, LLC.	8-K/A	2.1	2/16/2021	001-39735	
3.1	Amended and Restated Certificate of Incorporation of The Beachbody Company, Inc.	8-K	3.1	7/1/2021	001-39735	
3.2	Amended and Restated Bylaws of The Beachbody Company, Inc. (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed July 1, 2021).	8-K	3.2	7/1/2021	001-39735	
10.1	Revised Offer of Employment Letter, dated as of May 10, 2022, as amended, by and between Beachbody, LLC and Kathy Vrabeck					*
10.2	Financing Agreement, dated August 8, 2022, by and among Beachbody, LLC, a Delaware limited liability company, The Beachbody Company, Inc., a Delaware corporation (the "Parent"), each subsidiary of the Parent from time to time party thereto, the lenders from time to time party hereto (each a "Lender" and collectively, the "Lenders"), and Blue Torch Finance, LLC, as collateral agent and as administrative agent for the Lenders.					*
10.3	Form of Warrant.					*
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and 15d-14(a)					*
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and 15d-14(a)					*
32.1	Certification of Chief Executive Officer and Chief Financial Officer of Periodic Report Pursuant to 18 U.S.C. Section 1350					**
101.INS	Inline XBRL Instance Document					*
101.SCH	Inline XBRL Taxonomy Extension Schema Document					*
101.CAL	Inline XBRL Taxonomy Calculation Linkbase Document					*
101.DEF	Inline XBRL Taxonomy Definition Linkbase Document					*
101.LAB	Inline XBRL Taxonomy Extension Label 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
** Furnished herewith.
^ Indicates management contract or compensatory plan.

SIGNATURES

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

The Beachbody Company, Inc.

Date: August 8, 2022

By: /s/ Carl Daikeler

Carl Daikeler
Chief Executive Officer
(Principal Executive Officer)

Date: August 8, 2022

By: /s/ Marc Suidan

Marc Suidan
Chief Financial Officer
(Principal Financial Officer)

Exhibit 10.1

VIA EMAIL

May 10, 2022

Ms. Kathy Vrabeck

Re: Revised Offer of Employment – Promotion to Chief Operating Officer

Dear Kathy:

On behalf of Beachbody, LLC ("***Beachbody***" or the **"*Company*"**), a wholly-owned subsidiary of The Beachbody Company, Inc., I am pleased to communicate your revised terms of employment and your promotion to Chief Operating Officer ("***COO***") to the Company effective as of April 15, 2022 (the "***Promotion Date***") which was officially ratified by the Board of Directors of the Company's parent corporation as of May 10, 2022. Your position as COO will continue to report to the Chief Executive Officer.

This letter will revise and update certain terms of your offer of employment letter with the Company dated March 27, 2021 (along with any amendments or predecessors to such letter, the "***Prior Letter***") which is attached hereto. Upon signing and agreeing to this letter below, the Prior Letter will still remain in full force and effect, except as modified herein.

You remain eligible to participate in Beachbody's 2022 Bonus Plan for Exempt Employees ("***BPE***"). Your target opportunity shall be increased to 75% of your annual base salary ("***Target Bonus***") and you must be employed at Beachbody on the date the incentive is paid (if any) in order to receive an award. The terms of the BPE are reviewed annually and will be communicated to you once they have been approved.

In connection with your promotion, you were granted 500,000 non-qualified stock options with an exercise price of $1.83 per option share, which represented the fair market value on April 18, 2022 ("***Grant Date***") as approved by the Board of Directors of the Company's parent corporation. The non-qualified options were granted pursuant to and are subject to the terms of Beachbody's 2021 Incentive Award Plan (the "***Plan***"), and to the terms of Beachbody's then-current applicable form equity agreement, as of the Grant Date. The non-qualified options granted will vest annually over four (4) years (in equal installments of 25% each year over four years) on your Grant Date, with the initial 25% vesting twelve (12) months after your Grant Date. All vesting shall cease upon any termination of your employment. Should Beachbody implement an annual long-term incentive plan, you will be eligible to receive additional equity grants beginning in calendar year 2022 (expected to occur later this month) or at such later time that the plan is implemented.

All payments to you under your revised offer letter will be subject to any required withholding of federal, state and local taxes pursuant to any applicable law or regulation and the Company and its affiliates are entitled to withholding any and all such taxes from amounts payable under this updated offer letter.

The terms of your existing Confidentiality and Non-Solicitation Agreement and Dispute Resolution Agreement with the Company, and all other policies of the Company, remain in full force and effect.

This revised offer letter does not constitute an employment agreement for a specified term. Your employment with Beachbody, like our other employees, will be "at-will," permitting you or Beachbody to terminate the employment relationship at any time, for any lawful reason, with or without Cause or prior notice. Your at-will status can only be modified in writing and signed by both you and the Chief Executive Officer. By your signature on this letter, you acknowledge, understand and agree that the employment relationship is, and remains, at-will.

This letter will be governed by and interpreted in accordance with the laws of the State of California, without regard to the conflict of law rules thereof.

Very truly yours,

Blake T. Bilstad, Esq.
Chief Legal Officer & Corporate Secretary

I hereby accept the revisions to my Beachbody "at will" employment as described in this letter and understand that it does not constitute an employment contract.

Agreed to and accepted this 10th day of May, 2022

/s/ Kathy Vrabeck
KATHY VRABECK

March 27, 2021

Kathy Vrabeck

RE: Offer of Employment

Dear Kathy,

On behalf of Beachbody, LLC (including any successor thereto, "Beachbody"), I am pleased to offer you employment, on a full-time basis, as Chief Strategy Officer commencing on April 26, 2021. In your position, you will report to the Chief Executive Officer.

Your base salary will be at the annualized rate of $525,000.00 payable in accordance with Beachbody's regular payroll practices and procedures. This is an exempt position under federal and state law.

Once you have met each of the eligibility requirements, you will be entitled to participate in our comprehensive employee benefits package applicable to employees of Beachbody at your level. The terms and conditions of these benefits are set forth in the Beachbody Employee Guide and in summary plan descriptions. Attached is a brief summary of the various plans and benefits currently offered by Beachbody. You will be eligible for health care insurance (medical, dental and vision) for you and your beneficiaries at Beachbody's expense, plus retirement benefits comparable to other employees of Beachbody at your level, subject to the terms of these plans and programs.

Currently, Beachbody offers a 401(k) savings plan with a 50% match (up to 6% of eligible salary), subject to the terms and conditions of the plan. You will be eligible for health care benefits and the 401(k) savings plan effective on the first day of the month following your start date. All of these benefits, and how much Beachbody or Beachbody's employees pay for them, are subject to change from time to time at Beachbody's sole discretion.

You are eligible to participate in Beachbody's 2021 Bonus Plan for Exempt Employees (BPE). Your target opportunity is 67% of your annual base salary and you must be employed at Beachbody on the date the incentive is paid to receive an award. Your 2021 bonus, if any, will be prorated based on the time you are employed by Beachbody in the calendar year 2021. The terms of the BPE are reviewed annually and will be communicated to you once they have been approved.

You will be granted non-qualified options and/or restricted stock units as determined by the Beachbody Compensation Committee, with a grant-date fair value of approximately $2,300,000 in total, as soon as reasonably practicable following the closing of the proposed merger transaction between The Beachbody Company Group, LLC and Forest Road Acquisition Corp, subject to approval by the board of directors, but no later than June 30, 2021, provided the merger is approved and completed by such date. The applicable equity will be granted pursuant to and will be subject to the terms of Beachbody's (or its parent's) 2021 Incentive Award Plan (the "Plan"), and to the terms of Beachbody's then-current applicable form equity agreement. The applicable equity granted will vest annually over four years (in

equal installments of 25% each year over four years) on your anniversary date, with the first anniversary being twelve (12) months after your actual commencement of employment date. All vesting ceases upon any termination of your employment.

If your employment is terminated by Beachbody without Cause, or by you for Good Reason, then:

- Beachbody will pay you an amount equal to 0.5 times your annual base salary (i.e., 6 months) in effect for the calendar year in which the termination date occurs (the "Severance"); provided, however, that in the event either such termination occurs on or within 12 months following a Change in Control (as defined in the Plan), then the Severance shall be an amount equal to 1.0 times your annual base salary (i.e., 12 months). The Severance will be paid in substantially equal installments in accordance with its normal payroll practices over the six-month (or 12-month, if such termination occurs on or within 12 months following a Change in Control) period following the termination date, but will commence on the first normal payroll date following the Release Effective Date (as defined below), and amounts otherwise payable prior to such first payroll date shall be paid on such date without interest thereon.

- Beachbody will pay you, in a single lump sum no later than 60 days following the termination date, a cash amount equal to the sum of (i) six (or, if the termination occurs on or within 12 months following a Change in Control, twelve) times your estimated monthly COBRA premiums based on your elections in effect on the termination date, and (ii) an additional amount sufficient to pay any taxes that are directly imposed on such amount, if any.

Any severance payments and benefits will be conditioned upon your timely execution and non-revocation of Beachbody's standard general release of all claims against Beachbody and related entities and persons.

For purposes hereof, the term "Cause" shall mean: (i) your misconduct or intentional actions that adversely affects or threatens to adversely affect Beachbody or its reputation in any material respect as determined in good faith by the CEO or Chairman or the Board of Beachbody; (ii) acts or threats of violence in any manner affecting Beachbody's reputation or otherwise connected to your employment in any way; (iii) alcohol or substance abuse; (iv) wrongful destruction of Beachbody property; (v) theft, bribery or other illegal acts, or your indictment for the same, other than for minor traffic offenses; (vi) any act of fraud or personal dishonesty which relates to or involves Beachbody in any material way, including misrepresentation on your employment application or other materials provided in the course of seeking employment at Beachbody; (vii) unauthorized disclosure of confidential information of Beachbody; (viii) material violation of any written policy of Beachbody; or (ix) gross negligence of, or gross incompetence in, the performance of your duties for Beachbody as determined by a majority of votes from the board of directors.

For purposes hereof, "Good Reason" shall mean: (a) a material breach of this letter by Beachbody (including Beachbody's failure to pay compensation when due to you); (b) relocation of the location where you work of more than 100 miles; (c) a material diminution in your titles, duties, authority, or responsibilities which will include, without limitation, a change in your reporting relationship from the Chief Executive Officer for any reason other than resulting from an acquisition of the company by an operating company that constitutes a Change of Control; or (d) without your approval, a reduction in your annual base salary or annual discretionary bonus opportunity, unless such reduction in either salary and/or

discretionary bonus opportunity is applied proportionately to other members of the Beachbody executive team, and is made in the good faith belief that it is in the best interest of Beachbody. With respect to the acts or omissions set forth in this paragraph, (A) you shall provide the CEO, within 45 days after the date of the occurrence of any event that you know or should reasonably know to constitute Good Reason, with a written notice specifying in detail the basis for the termination of employment for Good Reason and the provision(s) under this letter on which such termination is based, (B) Beachbody shall have thirty (30) days to cure the matters specified in the notice delivered, and (C) if uncured, you must terminate your employment with Beachbody in writing within ninety (90) days thereafter in order for such termination to be considered to be for Good Reason.

All payments to you under this offer letter will be subject to any required withholding of federal, state and local taxes pursuant to any applicable law or regulation and the Company and its affiliates are entitled to withholding any and all such taxes from amounts payable under this offer letter.

No amount that is deferred compensation subject to Section 409A of the Internal Revenue Code, as amended (the "Code") shall be payable pursuant to this offer letter unless your termination of employment constitutes a "separation from service" from Beachbody within the meaning of Section 409A of the Code and the Department of Treasury regulations and other guidance promulgated thereunder ("Section 409A"). For purposes of Section 409A, your right to receive any installment payments under this offer letter shall be treated as a right to receive a series of separate payments and, accordingly, each such installment payment shall at all times be considered a separate and distinct payment.

Notwithstanding the foregoing, no compensation or benefits, including without limitation any severance payments or benefits described above, shall be paid to you during the six-month period following your "separation from service" from Beachbody if Beachbody determines that paying such amounts at the time or times indicated in this offer letter would be a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code. If the payment of any such amounts is delayed as a result of the previous sentence, then on the first business day following the end of such 6-month period (or such earlier date upon which such amount can be paid under Section 409A without resulting in a prohibited distribution, including as a result of your death), Beachbody shall pay you a lump-sum amount equal to the cumulative amount that would have otherwise been payable to you during such period.

This offer of employment, and your continued employment at Beachbody, is contingent upon the satisfactory completion of reference/background checks. In addition, as a condition of employment, you will be required to execute a Confidentiality Agreement and a Dispute Resolution Agreement.

This offer letter does not constitute an employment contract. Your employment with Beachbody, like our other employees, will be "at-will," permitting you or Beachbody to terminate the employment relationship at any time, for any lawful reason, with or without cause or prior notice. Your at-will status can only be modified in writing and signed by both you and the Chief Executive Officer. By your signature on this letter, you acknowledge, understand and agree that the employment relationship is at-will.

I am very excited about the contribution you will make to this exciting enterprise. If you share my enthusiasm and these terms and conditions are satisfactory to you, please acknowledge and accept this offer by signing this letter and returning it to Helene Klein, Chief People Officer, via email at hklein@beachbody.com on or before March 31, 2021.

Very truly yours,

Carl Daikeler
Chief Executive Officer
Beachbody, LLC

I hereby accept the Beachbody "at will" employment offer as described in this letter and understand that it does not constitute an employment contract.

Agreed to and accepted this _____ day of _____, 2021

_____
Kathy Vrabeck

Exhibit 10.2

FINANCING AGREEMENT

Dated as of August 8, 2022

by and among

BEACHBODY, LLC,

as Borrower,

THE BEACHBODY COMPANY, INC.,

as Parent

AND EACH SUBSIDIARY OF PARENT
LISTED AS A GUARANTOR ON THE SIGNATURE PAGES HERETO,
as Guarantors,

THE LENDERS FROM TIME TO TIME PARTY HERETO,
as Lenders,

and

BLUE TORCH FINANCE, LLC,
as Administrative Agent and Collateral Agent

FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE, THE TERM LOANS ARE BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. REQUESTS FOR INFORMATION REGARDING THE ORIGINAL ISSUE DISCOUNT ON THE TERM LOANS MAY BE DIRECTED TO BEACHBODY, LLC C/O THE BEACHBODY COMPANY, INC., AT 400 CONTINENTAL BLVD, SUITE 400 EL SEGUNDO, CA 90245.

Table of Contents

SCHEDULE AND EXHIBITS

FINANCING AGREEMENT

Financing Agreement, dated as of August 8, 2022, by and among Beachbody, LLC, a Delaware limited liability company (the "Borrower"), The Beachbody Company, Inc., a Delaware corporation (the "Parent"), each subsidiary of the Parent listed as a "Guarantor" on the signature pages hereto (together with the Parent and each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party hereto (each a "Lender" and collectively, the "Lenders"), Blue Torch Finance, LLC, a Delaware limited liability company ("Blue Torch"), as collateral agent for the Lenders (in such capacity, together with its permitted successors and assigns in such capacity, the "Collateral Agent"), and Blue Torch, as administrative agent for the Lenders (in such capacity, together with its permitted successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

RECITALS

The Borrower has asked the Lenders to extend credit to the Borrower consisting of a senior secured Initial Term Loan in an initial aggregate principal amount of $50,000,000. The proceeds of the Initial Term Loan shall be used on the Effective Date for general corporate purposes of the Borrower and to pay fees and expenses related to this Agreement. The Lenders are severally, and not jointly, willing to extend such credit to the Borrower subject to the terms and conditions hereinafter set forth.

In consideration of the premises and the covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS; CERTAIN TERMS

Section 1.01 Definitions. As used in this Agreement, the following terms shall have the respective meanings indicated below:

"Account" as defined in the UCC or the PPSA, as applicable.

"Account Debtor" means, with respect to any Person, each debtor, customer or obligor in any way obligated on or in connection with any Account of such Person.

"Acquisition" means the acquisition (whether by means of a merger, amalgamation, consolidation or otherwise) of all of the Equity Interests of any Person or all or substantially all of the assets of (or any division or business line of) any Person.

"Action" has the meaning specified therefor in Section 12.12.

"Additional Amount" has the meaning specified therefor in Section 2.09(a).

"Administrative Agent" has the meaning specified therefor in the preamble hereto.

"Administrative Agent's Accounts" means one or more accounts designated by the Administrative Agent at a bank designated by the Administrative Agent from time to time as the accounts into which the Loan Parties shall make all payments to the Administrative Agent for the benefit of the Agents and the Lenders under this Agreement and the other Loan Documents.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) solely for purposes of Section 7.02(j), vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the Board of Directors of such Person or (b) direct or cause the direction of the management and policies of such Person whether by contract or otherwise. Notwithstanding anything herein to the contrary, in no event shall any Agent or any Lender be considered an "Affiliate" of any Loan Party.

"Agent" and "Agents" have the respective meanings specified therefor in the preamble hereto.

"Agreement" means this Financing Agreement, including all amendments, restatements, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to this Agreement as the same may be in effect at the time such reference becomes operative.

"Anti-Corruption Laws" means all Requirements of Law concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010, *Corruption of Foreign Public Officials Acts* (Canada), the *Criminal Code* (Canada) and the anti-bribery and anti-corruption laws and regulations of those jurisdictions in which the Loan Parties do business.

"Anti-Money Laundering Laws" means all Requirements of Law concerning or relating to terrorism or money laundering, including the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956-1957), the USA PATRIOT Act and the Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act," 31 U.S.C. §§ 5311-5332 and 12 U.S.C. §§ 1818(s), 1820(b) and §§ 1951-1959) and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), and the rules and regulations thereunder, and any law prohibiting or directed against the financing or support of terrorist activities (*e.g.*, 18 U.S.C. §§ 2339A and 2339B).

"Applicable Board" means the Board of Directors or Board of Managers, as applicable, of Parent and the Borrower (in each case, excluding any committees thereof).

"Applicable Margin" means, as of any date of determination, with respect to the interest rate of (a) any Reference Rate Loan or any portion thereof, 6.15% per annum and (b) any SOFR Rate Loan or any portion thereof, 7.15% per annum.

"Assignment and Acceptance" means an assignment and acceptance entered into by an assigning Lender and an assignee, and accepted by the Collateral Agent (and the

Administrative Agent, if applicable), in accordance with Section 12.07 hereof and substantially in the form of Exhibit B hereto or such other form acceptable to the Collateral Agent.

"Authorized Officer" means, with respect to any Person, the chief executive officer, chief operating officer, chief financial officer, treasurer or other financial officer performing similar functions, president or executive vice president, vice president, director, manager (or sole member if such Person that is a limited liability company does not have a director or a manager), company secretary, secretary or assistant secretary of such Person or any other officer of such Person designated as an "Authorized Officer" by any of the foregoing officers.

"Bankruptcy Code" means Title 11 of the United States Code, as amended from time to time and any successor statute or any similar federal or state law for the relief of debtors.

"Benchmark" shall mean, initially, the Term SOFR Reference Rate for a one month tenor; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.13(a).

"Benchmark Replacement" shall mean with respect to any Benchmark Transition Event, the sum of (a) the alternate benchmark rate that has been selected by the Administrative Agent giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than 1.00%, such Benchmark Replacement will be deemed to be 1.0% for the purposes of this Agreement.

"Benchmark Replacement Adjustment" shall mean, with respect to any replacement of the then-current Benchmark with an Unadjusted 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 giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities.

"Benchmark Replacement Date" shall mean the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published

component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event", the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative or non-compliant with or non-aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks; provided that such non-representativeness, non-compliance or non-alignment will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if such Benchmark (or such component thereof) continues to be provided on such date.

"Benchmark Transition Event" shall mean the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide 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 such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide 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 such Benchmark (or such component thereof); or

(c) 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) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) announcing that such Benchmark (or such component thereof) is not, or as of a specified future date will not be, representative or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks.

"Benchmark Transition Start Date" shall mean, 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" shall mean the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder in accordance with Section 2.13 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder in accordance with Section 2.13.

"Blue Torch" has the meaning specified therefor in the preamble hereto.

"Board" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Board of Directors" means with respect to (a) any corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) a partnership, the board of directors of the general partner of the partnership, (c) a limited liability company, the managing member or members or any controlling committee or board of directors of such company or the sole member or the managing member thereof, and (d) any other Person, the board or committee of such Person serving a similar function.

"Borrower" has the meaning specified therefor in the preamble hereto.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required to close.

"Canadian Defined Benefit Plan" means a pension plan registered under the Income Tax Act, the *Pension Benefits Act* (Ontario) or any other applicable pension standards legislation in Canada which contains a "defined benefit provision", as such term is defined in subsection 147.1(1) of the Income Tax Act.

"Canadian Loan Party" means any Canadian Subsidiary that is a Loan Party.

"Canadian Pension Plan" means a "registered pension plan", as such term is defined in subsection 248(1) of the Income Tax Act or any other plan subject to the Pension Benefits Act (Ontario) or any other applicable pension standards legislation in Canada, which is or was sponsored, administered or contributed to, or required to be contributed to, by any Loan Party or under which any Loan Party has or may incur any actual or contingent liability.

"Canadian Security Agreement" means a Canadian Pledge and Security Agreement, in form and substance reasonably satisfactory to the Collateral Agent, made by each Canadian Loan Party in favor of the Collateral Agent for the benefit of the Secured Parties securing the Obligations.

"Canadian Subsidiary" means any Subsidiary that is organized and existing under the laws of Canada or any province or territory thereof.

"Capital Expenditures" means, with respect to any Person for any period, the sum of (a) the aggregate of all expenditures by such Person and its Subsidiaries during such period that in accordance with GAAP are or should be included in "property, plant and equipment" or in a similar fixed asset account on its balance sheet, whether such expenditures are paid in cash or financed, including all Capitalized Lease Obligations, obligations under synthetic leases and capitalized software costs that are paid or due and payable during such period and (b) to the extent not covered by clause (a) above, the aggregate of all expenditures by such Person and its Subsidiaries during such period to acquire by purchase or otherwise the business or fixed assets of, or the Equity Interests of, any other Person; provided, that the term "Capital Expenditures" shall not include any such expenditures which constitute (i) expenditures financed with the proceeds received from the sale or issuance of Equity Interests to a Permitted Holder or any other Person permitted under this Agreement so long as (A) the Borrower is not required to make a prepayment of the Loans with such proceeds pursuant to Section 2.05(c)(iii) and (B) such proceeds are used exclusively to fund such expenditures, (ii) a Permitted Acquisition, (iii) expenditures that are accounted for as capital expenditures of such Person and that actually are paid for by a third party (excluding any Loan Party) and for which no Loan Party has provided or is required to provide or incur, directly or indirectly, any consideration or obligation to such third party or any other person (whether before, during or after such period), (iv) the purchase price of equipment that is purchased substantially contemporaneously with the trade in of existing equipment to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time, and (v) expenditures by a Loan Party made in connection with the acquisition, replacement, substitution repair or restoration of such Loan Party's assets pursuant to Section 2.05(c)(vi) from the Net Cash Proceeds of such Dispositions and Specified Extraordinary Receipts.

"Capitalized Lease" means, with respect to any Person, any lease of (or other arrangement conveying the right to use) real or personal property by such Person as lessee that is required under GAAP to be capitalized on the balance sheet of such Person, subject to clause (i) of Section 1.04(a).

"Capitalized Lease Obligations" means, with respect to any Person, obligations of such Person and its Subsidiaries under Capitalized Leases, and, for purposes hereof, the amount of any such obligation shall be the capitalized amount thereof determined in accordance with GAAP.

"Cash Equivalents" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or the Government of Canada or issued by any agency thereof and backed by the full faith and credit of the United States or Canada, as applicable, in each case, maturing within six months from the date of acquisition thereof; (b) commercial paper, maturing not more than 270 days after the date of issue rated P 1 by Moody's or A 1 by Standard & Poor's; (c) certificates of deposit maturing not more than 270 days after the date of issue, issued by commercial banking institutions and money market or demand deposit accounts maintained at commercial banking institutions, each of which is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $500,000,000; (d) repurchase agreements having maturities of not more than 90 days from the date of acquisition which are entered into with major money center banks included in the commercial banking institutions described in clause (c) above and which are secured by readily marketable

direct obligations of the United States Government, Canada or any agency thereof; (e) money market accounts maintained with mutual funds having assets in excess of $2,500,000,000, which assets are primarily comprised of Cash Equivalents described in another clause of this definition; (f) marketable tax exempt securities rated A or higher by Moody's or A+ or higher by Standard & Poor's, in each case, maturing within 270 days from the date of acquisition thereof and (g) in the case of any Foreign Subsidiary, cash and cash equivalents that are substantially equivalent in such jurisdiction to those described in clauses (a) through (f) above.

"Cash Management Accounts" means the bank accounts of each Loan Party maintained at one or more Cash Management Banks listed on Schedule 8.01.

"Cash Management Bank" has the meaning specified therefor in Section 8.01(a).

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives concerning capital adequacy promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or Canada or foreign regulatory authorities shall, in each case, be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"CFC" means a direct or indirect Foreign Subsidiary of the Parent that is a "controlled foreign corporation" within the meaning of Section 957 of the Internal Revenue Code.

"Change of Control" means each occurrence of any of the following:

(a) any person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), other than the Permitted Holders, shall at any time have acquired direct or indirect beneficial ownership (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) of more than (A) 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Parent and (B) the percentage of the ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of the Parent owned in the aggregate, directly or indirectly, beneficially, by the Permitted Holders, collectively; or

(b) a "Change of Control" (or any comparable term or provision) under or with respect to any of the Equity Interests or material Indebtedness of the Parent or any of its Subsidiaries.

"Class" (a) when used with respect to Lenders, refers to whether such Lenders are Initial Term Loan Lenders or New Term Loan Lenders, (b) when used with respect to Commitments, refers to whether such Commitments are Initial Term Loan Commitments or New

Term Loan Commitments and (c) when used with respect to Loans or a borrowing, refers to whether such Loans, or the Loans comprising such borrowing, are Initial Term Loans or New Term Loans.

"Collateral" means all of the property and assets and all interests therein and proceeds thereof now owned or hereafter acquired by any Person upon which a Lien is granted or purported to be granted by such Person as security for all or any part of the Obligations; provided that, the term "Collateral" shall not include any Excluded Property (as defined in the Security Agreement or Canadian Security Agreement, as applicable); provided, further, that notwithstanding anything else contained herein, and other than in the case of any UK Subsidiary, in no event shall any Loan Party be required to pledge or provide any other security interest in excess of 65% of the voting Equity Interests of each class of voting stock of any CFC or of any FSHCO to the extent such pledge or security interest could reasonably be expected to result in material and adverse tax consequences to Parent or its Subsidiaries (as mutually and in good faith determined by the Borrower and the Administrative Agent (acting reasonably)), it being understood and agreed that, notwithstanding anything to the contrary herein or in any Loan Document, in the case of any UK Subsidiary, 100% of the Equity Interests (voting or otherwise) of such UK Subsidiary shall be pledged as Collateral and shall not constitute Excluded Property under any Loan Document).

"Collateral Agent" has the meaning specified therefor in the preamble hereto.

"Collateral Agent Advances" has the meaning specified therefor in Section 10.08(a).

"Collections" means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds).

"Commitments" means, with respect to each Lender, such Lender's Initial Term Loan Commitment, New Term Loan Commitment or any combination thereof, as the context may require.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"Compliance Certificate" means a Compliance Certificate, substantially in the form of Exhibit E, duly executed by an Authorized Officer of the Parent.

"Conforming Changes" means with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Reference Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 2.10 and other technical, administrative or operational matters) that the

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

"Consolidated EBITDA" means, with respect to any Person for any period:

(a) the Consolidated Net Income of such Person for such period,

plus

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

(i) any provision for United States federal income taxes or other taxes measured by net income,

(ii) Consolidated Net Interest Expense,

(iii) any non-cash loss from extraordinary items,

(iv) any depreciation and amortization expense,

(v) any aggregate net loss on the Disposition of property (other than accounts and Inventory) outside the ordinary course of business, and

(vi) any other non-cash expenditure, charge or loss for such period (other than any non-cash expenditure, charge or loss relating to write-offs, write-downs or reserves with respect to accounts and Inventory),

minus

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

(i) any credit for United States federal income taxes or other taxes measured by net income,

(ii) any gain from extraordinary items,

(iii) any aggregate net gain from the Disposition of property (other than accounts and Inventory) outside the ordinary course of business, and

(iv) any other non-cash gain, including any reversal of a charge referred to in clause (b)(vi) above by reason of a decrease in the value of any Equity Interest;

in each case, determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person, for any period, the consolidated net income (or loss) of such Person and its Subsidiaries for such period; provided, however, that the following shall be excluded: (a) the net income of any other Person in which such Person or one of its Subsidiaries has a joint interest with a third-party (which interest does not cause the net income of such other Person to be consolidated into the net income of such Person), except to the extent of the amount of dividends or distributions paid to such Person or Subsidiary, (b) the net income of any Subsidiary of such Person that is, on the last day of such period, subject to any restriction or limitation on the payment of dividends or the making of other distributions, to the extent of such restriction or limitation, and (c) the net income of any other Person arising prior to such other Person becoming a Subsidiary of such Person or merging or consolidating into such Person or its Subsidiaries.

"Consolidated Net Interest Expense" means, with respect to any Person for any period, (a) gross interest expense of such Person and its Subsidiaries for such period determined on a consolidated basis and in accordance with GAAP (including interest expense paid to Affiliates of such Person), less (b) the sum of (i) interest income for such period and (ii) gains for such period on Hedging Agreements (to the extent not included in interest income above and to the extent not deducted in the calculation of gross interest expense), plus (c) the sum of (i) losses for such period on Hedging Agreements (to the extent not included in gross interest expense) and (ii) the upfront costs or fees for such period associated with Hedging Agreements (to the extent not included in gross interest expense), in each case, determined on a consolidated basis and in accordance with GAAP.

"Contingent Indemnity Obligations" means any Obligation constituting a contingent, unliquidated indemnification obligation of any Loan Party, in each case, to the extent (a) such obligation has not accrued and is not yet due and payable and (b) no claim has been made with respect thereto.

"Contingent Obligation" means, with respect to any Person, any obligation of such Person guaranteeing or intending to guarantee any Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including (a) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the Indebtedness of a primary obligor, (b) the obligation to make take-or-pay or similar payments in respect of Indebtedness, if required, regardless of nonperformance by any other party or parties to an agreement, and (c) any obligation of such Person, whether or not contingent, (i) to purchase any such primary obligation in respect of Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary obligation in respect of Indebtedness, (iii) to purchase property, assets, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; provided, however, that the term "Contingent Obligation" shall not include any product warranties extended in the ordinary course of business or, for the avoidance of doubt, guarantees of operating leases. The amount of any Contingent Obligation shall be deemed to be an amount equal to the

stated or determinable amount of the primary obligation with respect to which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such Person may be liable pursuant to the terms of the instrument evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto (assuming such Person is required to perform thereunder), as determined by such Person in good faith.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control Agreement" means, with respect to any deposit account, any securities account, futures account or commodity account, a "springing" account control agreement, in form and substance reasonably satisfactory to the Collateral Agent, the financial institution or other Person at which such account is maintained and the Loan Party maintaining such account, effective to grant "control" (as defined under the applicable UCC or *Securities Transfer Act* (British Columbia), or used in the PPSA, as applicable) over such account to the Collateral Agent.

"Controlled Investment Affiliate" means, as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person primarily for the purpose of making equity or debt investments in one or more companies; provided, that, for the avoidance of doubt, any trust, partnership or other bona fide estate-planning vehicle of the Permitted Holder or his immediate family members shall be deemed to constitute a Controlled Investment Affiliate. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Current Value" has the meaning specified therefor in Section 7.01(m).

"Debtor Relief Law" means the Bankruptcy Code, *Bankruptcy and Insolvency Act* (Canada), *Companies' Creditors Arrangement Act* (Canada), *Winding-Up and Restructuring Act* (Canada) and any other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief law of the United States, Canada or other applicable jurisdiction from time to time in effect (including any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt).

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Disbursement Letter" means a disbursement letter, in form and substance reasonably satisfactory to the Collateral Agent, by and among the Loan Parties, the Agents, the Lenders and the other Persons party thereto, and the related funds flow memorandum describing the sources and uses of all cash payments in connection with the transactions contemplated to occur on the Effective Date.

"Disposition" means any transaction, or series of related transactions, pursuant to which any Person or any of its Subsidiaries sells, assigns, transfers, leases, licenses (as licensor) or otherwise disposes of any property or assets (whether now owned or hereafter acquired) to any other Person, in each case, whether or not the consideration therefor consists of cash, securities or other assets owned by the acquiring Person. For purposes of clarification, "Disposition" shall include (a) the sale or other disposition for value of any contracts, (b) any disposition of property through a "plan of division" under the Delaware Limited Liability Company Act or any comparable transaction under any similar law, (c) the early termination or modification of any contract resulting in the receipt by any Loan Party of a cash payment or other consideration in exchange for such event (other than payments in the ordinary course for accrued and unpaid amounts due through the date of termination or modification) or (d) any sale of merchant accounts (or any rights thereto (including any rights to any residual payment stream with respect thereto)) by any Loan Party. For the avoidance of doubt, the issuance by the Parent of Qualified Equity Interests shall not constitute a Disposition.

"Disqualified Equity Interests" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale or similar event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than Contingent Indemnity Obligations) and the termination of the Commitments), (b) is redeemable (other than redemption in kind) at the option of the holder thereof, in whole or in part, (c) provides for the scheduled payments of dividends or distributions in cash, or (d) is convertible into or exchangeable for (i) Indebtedness or (ii) any other Equity Interests that would constitute Disqualified Equity Interests, in each case of clauses (a) through (d), prior to the date that is 91 days after the Final Maturity Date; provided, that if such Equity Interest is issued pursuant to a plan for the benefit of employees of any Loan Party or any Subsidiary or by any such plan to such employees, such Equity Interest shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by a Loan Party or a Subsidiary in order to satisfy applicable statutory or regulatory obligations; provided, further, that an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of a change of control, asset sale or similar event shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after a date that is 91 days after the Final Maturity Date.

"Disqualified Institution" means each Person that is (a) designated by the Permitted Holder or any Borrower, by written notice delivered to the Administrative Agent prior to the Effective Date and approved by the Administrative Agent, as a (x) disqualified institution or (y) any competitor of Parent or any of its Subsidiaries that is an operating company ("Competitor") or (b) reasonably identifiable solely on the basis of such Person's name, as an affiliate of any person referred to in clauses (a)(x) or (a)(y) above; provided, that Disqualified Institutions shall include any Person that from time to time is added as a Competitor, pursuant to a written supplement to the list of Competitors that are Disqualified Institutions delivered after the Effective Date by the Borrower to the Administrative Agent, but which supplement shall not apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the

Loans and/or Commitments as permitted herein with respect to such Loans and Commitments previously acquired. Such list of Disqualified Institutions shall be available for inspection upon request by any Lender in connection with a contemplated assignment or participation. For the avoidance of doubt, "Disqualified Institutions" shall exclude any Person that the Borrower has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent from time to time.

"Dollar," "Dollars" and the symbol "$" each means lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary that is organized and existing under the laws of the United States or any state or commonwealth thereof or under the laws of the District of Columbia.

"Effective Date" has the meaning specified therefor in Section 5.01.

"Employee Plan" means an employee benefit plan within the meaning of Section 3(3) of ERISA (other than a Multiemployer Plan), regardless of whether subject to ERISA, that any Loan Party or any of its ERISA Affiliates maintains, sponsors or contributes to or is obligated to contribute to, which, for greater certainty, includes a Foreign Plan.

"Environmental Claim" means any action, suit, complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding or judgment from any Person or Governmental Authority relating to or arising out of any threatened, alleged or actual (a) Environmental Liability, (b) violation of, non-compliance with, or liability under, any Environmental Law, or (c) the manufacture, use, handling, processing, distribution, labeling, generation, transportation, storage, treatment, Release, threatened Release, disposal or arranging for the disposal of, or exposure to, any Hazardous Materials.

"Environmental Law" means any Requirement of Law relating to, regulating or governing (i) the pollution or protection of the environment, any environmental media, natural resources, or, to the extent related to exposure to Hazardous Materials, human health or safety, or (ii) the manufacture, use, handling, processing, distribution, labeling, generation, transportation, storage, treatment, Release, threatened Release, disposal or arranging for the disposal of, or exposure to, any Hazardous Materials.

"Environmental Liability" means all liabilities (contingent or otherwise, known or unknown), monetary obligations, losses (including monies paid in settlement), damages, natural resource damages, costs and expenses (including all reasonable fees, costs, client charges and expenses of counsel, experts and consultants), fines, penalties, sanctions and interest arising directly or indirectly as a result of, from, or based upon (a) any Environmental Claim, (b) any actual, alleged or threatened violation of or non-compliance with any Environmental Law or Environmental Permit, (c) any actual, alleged or threatened Release of, or exposure to, Hazardous Materials, (d) any Remedial Action, (e) any adverse environmental condition or (f) any contract, agreement or other arrangement pursuant to which liability is assumed or imposed contractually or by operation of law with respect to any of the foregoing (a)-(e).

"Environmental Lien" means any Lien in favor of any Governmental Authority arising out of any Environmental Liability.

"Environmental Permit" means any permit, license, authorization, approval, registration or entitlement required by or issued pursuant to any Environmental Law or by any Governmental Authority pursuant to Environmental Law.

"Equity Documents" means the Warrants, duly executed by the Parent.

"Equity Interests" means (a) all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

"Equity Issuance" means either (a) the sale or issuance by any Loan Party or any of its Subsidiaries of any shares of its Equity Interests or (b) the receipt by the Parent of any cash capital contributions.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case, as in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means, with respect to any Person, any trade or business (whether or not incorporated) which is a member of a group of which such Person is a member and which would be deemed to be a "controlled group" or under "common control" within the meaning of Sections 414(b), (c), (m) or (o) of the Internal Revenue Code or Sections 4001(a)(14) or 4001(b)(1) of ERISA.

"ERISA Event" means (a) the occurrence of a Reportable Event with respect to any Pension Plan; (b) the failure to meet the minimum funding standards of Section 412 or 430 of the Internal Revenue Code or Section 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Internal Revenue Code or Section 302(c) of ERISA) or the failure to make a contribution or installment required under Section 412 or Section 430(j) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (c) a determination that any Pension Plan is, or is expected to be, in "at risk" status (as defined in Section 430 of the Internal Revenue Code or Section 303 of ERISA); (d) a determination that any Multiemployer Plan is, or is expected to be, in "critical" or "endangered" status under Section 432 of the Internal Revenue Code or Section 305 of ERISA; (e) the filing of a notice of intent to terminate a Pension Plan or the treatment of an amendment to a Pension Plan as a termination under Section 4041 of ERISA; (f) the withdrawal by any Loan Party or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to any Loan Party or any of its ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (g) the institution

by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition that might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (h) the imposition of liability on any Loan Party or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069(a) of ERISA or by reason of the application of Section 4212(c) of ERISA; (i) the withdrawal of any Loan Party or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan or the receipt by any Loan Party or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is insolvent pursuant to Section 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (j) the occurrence of an act or omission which could give rise to the imposition on any Loan Party or any of its ERISA Affiliates of fines, penalties, taxes or related charges under Sections 4975 or 4971 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Plan; (k) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent, upon any Loan Party or any of its ERISA Affiliates; (l) the assertion of a claim (other than routine claims for benefits) against any Employee Plan or the assets thereof, or against any Loan Party or any of its ERISA Affiliates in connection with any Employee Plan or Multiemployer Plan; (m) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any such Pension Plan (or such other Employee Plan) to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; (n) the imposition on any Loan Party of any material fine, excise tax or penalty with respect to any Employee Plan or Multiemployer Plan resulting from any noncompliance with any Requirements of Law; (o) the imposition of a Lien pursuant to Section 430(k) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan; or (p) the occurrence of any Foreign Plan Event.

"Erroneous Distribution" has the meaning specified therefor in Section 10.17.

"Event of Default" has the meaning specified therefor in Section 9.01.

"Excess Cash Flow" means, with respect to any Person for any period, (a) Consolidated EBITDA of such Person and its Subsidiaries for such period, less (b) the sum of, without duplication, (i) all scheduled principal payments (excluding any principal payments made pursuant to Section 2.05(b)) on the Loans made during such period, and all scheduled principal payments on Indebtedness (other than Indebtedness incurred under this Agreement) of such Person or any of its Subsidiaries during such period to the extent such other Indebtedness is permitted to be incurred, and such payments are permitted to be made, under this Agreement (but, in the case of revolving loans, only to the extent that the revolving credit commitment in respect thereof is permanently reduced by the amount of such payments), (ii) all Consolidated Net Interest Expense to the extent paid or payable in cash during such period, (iii) the cash portion of Capital Expenditures made by such Person and its Subsidiaries during such period to the extent permitted to be made under this Agreement (excluding Capital Expenditures to the extent financed through the incurrence of Indebtedness), (iv) taxes paid in cash by such Person and its Subsidiaries for such period, (v) all cash expenses, cash charges, cash losses and other cash items that were added back in the determination of Consolidated EBITDA for such period, (vi) the excess, if any, of Working Capital at the end of such period over Working Capital at the beginning of such period (or minus

the excess, if any, of Working Capital at the beginning of such period over Working Capital at the end of such period), (vii) to the extent financed from Internally Generated Cash of Parent or any Subsidiary, (A) an amount equal to the cash portion of any aggregate net loss on the Disposition of property (other than accounts and Inventory) outside the ordinary course of business to the extent such amounts are added to Consolidated Net Income in the determination of Consolidated EBITDA for such period, (B) an amount equal to the aggregate net non-cash gain on Dispositions by Parent or any Subsidiary during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at Consolidated Net Income for such period and the net cash loss on Dispositions to the extent such amounts are otherwise added to arrive at Consolidated Net Income for such period, (C) the amount of Investments made in cash pursuant to clause (dd) of the definition of "Permitted Investments" during such period so long as such Investment is made in an unaffiliated third party, (D) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by Parent and its Subsidiaries during such period that are made in connection with any payment, prepayment or redemption of Indebtedness to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income, (E) the amount of Restricted Payments paid in cash during such period pursuant to clauses (a), (b), (f) and (g) of the definition of Permitted Restricted Payments, in each case to the extent financed with Internally Generated Cash of Parent or any Subsidiary, and (F) the aggregate amount of expenditures in respect of obligations under derivative instruments actually paid in cash by Parent and its Subsidiaries during such period to the extent such payments are not deducted in calculating Consolidated Net Income.

Notwithstanding anything in the definition of any term used in the definition of "Excess Cash Flow" to the contrary, all components of Excess Cash Flow shall be computed for Parent and its Subsidiaries on a consolidated basis.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Account" means any deposit account or any other accounts which (i) are used for the sole purpose of making payroll, payroll and withholding Tax payments related thereto (the employee portion thereof) and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, bonuses, benefits and expense reimbursements), (ii) are used for the sole purpose of paying Taxes, including payroll, withholding and sales or similar Taxes and Tax Distributions, (iii) are zero balance deposit accounts, (iv) constitute custodian, trust, fiduciary or other escrow accounts or collateral accounts established for the benefit of third parties in the ordinary course of business in connection with transactions permitted hereunder, or (v) are accounts that contain amounts which do not exceed a balance of $10,000 per such account or $50,000 for all such accounts in the aggregate.

"Excluded Subsidiary" means any Subsidiary (a) that is prohibited by Requirements of Law from guaranteeing the Obligations or which would require consent, approval, license or authorization from any Governmental Authority to guarantee the Obligations (unless such consent, approval, license or authorization has been received (it being agreed that there shall be no obligation to obtain such consent, approval, license or authorization)), (b) with respect to which guaranteeing the Obligations could reasonably be expected to result in material and adverse Tax consequences (as reasonably determined by the Borrower in good faith) to the Parent or any of its Subsidiaries, (c) to the extent the burden or cost of such Subsidiary providing

a guaranty of the Obligations outweighs the benefit that would be afforded thereby as reasonably determined by the Borrower and the Administrative Agent, (d) that is a Foreign Subsidiary that (i) contributed 5.0% or less of the Consolidated EBITDA of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, (ii) contributed 5.0% or less of the revenues of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, and (iii) had assets representing 5.0% or less of the total consolidated assets of the Parent and its Subsidiaries on the last day of the most recently ended period for which financial statements have been delivered: provided, if at any time and from time to time after the Effective Date, Foreign Subsidiaries which are Excluded Subsidiaries pursuant to this clause (d): (x) contributed in the aggregate more than 7.5% of the Consolidated EBITDA of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, (y) contributed or more than 7.5% of the revenues of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, or (z) had assets representing more than 7.5% of the consolidated assets of the Parent and its Subsidiaries as of the end of the most recently ended period for which financial statements have been delivered, then the Parent shall, not later than thirty days after the date by which financial statements for such period are required to be delivered (or such longer period as the Administrative Agent may agree in its sole discretion), designate in writing to the Administrative Agent that one or more of such Subsidiaries is no longer an Excluded Subsidiary for purposes of this Agreement to the extent required such that the foregoing conditions set forth in clauses (x), (y) and (z) of this proviso cease to be true, (e) that is an Immaterial Subsidiary and (f) that is prohibited from guaranteeing the Obligations under any contractual obligation permitted to exist under the Loan Documents and existing as of the Effective Date, or the date of acquisition thereof, so long as, in either case, such contractual prohibition is not created in contemplation of such acquisition and unless such consent, approval, license or authorization has been received (but only for so long as such prohibition or restriction exists).

"Excluded Swap Obligation" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason not to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor becomes effective with respect to such related Swap Obligation.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.09, amounts with respect to such Taxes were

payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.09(d) and (d) any Taxes imposed under FATCA.

"Executive Order No. 13224" means the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Extraordinary Receipts" means any cash received by the Parent or any of its Subsidiaries not in the ordinary course of business (and not consisting of proceeds described in Section 2.05(c)(ii) or (iii) hereof), consisting solely of (a) foreign, United States, Canada, province, territory, state or local tax refunds (other than in respect of any period occurring prior to the Effective Date) that Borrower or its Subsidiaries are legally entitled to retain, (b) pension plan reversions, (c) proceeds of insurance (other than (x) to the extent reimbursing the Parent or any of its Subsidiaries for cash expenditures or losses or (y) proceeds of business interruption insurance), (d) proceeds of judgments or settlements or other consideration of any kind in respect of litigation, (e) condemnation awards (and payments in lieu thereof), (f) indemnity payments (other than to the extent such indemnity payments are (i) immediately payable to a Person that is not an Affiliate of the Borrower or any of its Subsidiaries or (ii) received by the Parent or any of its Subsidiaries as reimbursement for any costs previously incurred or any payment previously made by such Person) and (g) any purchase price adjustment received in connection with any purchase agreement.

"Facility" means each owned real property identified on Schedule 1.01(B) and any New Facility in the United States or Canada hereafter acquired by the Parent or any of its Subsidiaries, including the land on which each such facility is located, all buildings and other improvements thereon, and all fixtures located thereat or used in connection therewith.

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any fiscal, tax or regulatory legislation, rules or official practices adopted pursuant to any intergovernmental agreement, treaty or convention entered into in connection with the implementation of Sections 1471 through 1474 of the Internal Revenue Code and the Treasury Regulations thereunder.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Fee Letter" means the fee letter, dated as of the date hereof, among the Borrower and Blue Torch.

"Final Maturity Date" means, in the case of both the Initial Term Loans and New Term Loans, the earlier of (i) August 8, 2026 and (ii) the date on which all Loans shall become due and payable in full hereunder, whether by acceleration or otherwise; provided that if such day is not a Business Day, then on the immediately succeeding Business Day.

"Financial Statements" means (a) the audited consolidated balance sheet of the Parent and its Subsidiaries for the Fiscal Year ended December 31, 2021, and the related consolidated statement of operations, shareholders' equity and cash flows for the Fiscal Year then ended, and (b) the unaudited consolidated balance sheet of the Parent and its Subsidiaries for the six months ended June 30, 2022, and the related consolidated statement of operations, shareholder's equity and cash flows for the three months ended March 31, 2022.

"Fiscal Year" means the fiscal year of the Parent and its Subsidiaries ending on December 31 of each year.

"Foreign Plan" means any employee benefit plan, program, policy, arrangement or agreement (including, for greater certainty, a Canadian Pension Plan) maintained, sponsored or contributed to, or for which there is an obligation to contribute to, by any Loan Party or any of its ERISA Affiliates that is subject to any Requirements of Laws other than, or in addition to, the laws of the United States or any state thereof or the laws of the District of Columbia.

"Foreign Plan Event" means, with respect to any Foreign Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any Requirement of Law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make any required contribution, remittance, withholding or payment under any Requirement of Law within the time permitted by any Requirement of Law for such contributions, remittances, withholding or payments, (c) the receipt of a notice from a Governmental Authority relating to the intention to terminate any such Foreign Plan or to appoint a trustee or similar official to administer any such Foreign Plan, or alleging the insolvency of any such Foreign Plan, (d) the incurrence of any liability by any Loan Party or any Subsidiary under any law on account of the complete or partial termination of such Foreign Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction with respect to a Foreign Plan that is prohibited under any Requirement of Law and that could reasonably be expected to result in the incurrence of any liability by any Loan Party or any Subsidiary, or the imposition on any Loan Party or any Subsidiary of any fine, excise tax or penalty with respect to a Foreign Plan resulting from any noncompliance with any Requirement of Law.

"Foreign Subsidiary" means any Subsidiary of the Parent that is not a Domestic Subsidiary or Canadian Subsidiary.

"FSHCO" means any direct or indirect Subsidiary of the Parent that has no material assets other than Equity Interests (or Equity Interests and indebtedness) of one or more (i) CFCs and/or (ii) other FSHCOs.

"Funding Losses" has the meaning specified therefor in Section 2.08.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States or in Canada, applied on a consistent basis, provided that for the purpose of Section 7.03 hereof and the definitions used therein, "GAAP" shall mean generally accepted accounting principles in effect on the date hereof and consistent with those used in the preparation of the Financial Statements, provided, further, that if there occurs after the date of this Agreement any change in GAAP that affects in any respect the calculation of any covenant contained in Section 7.03 hereof, the Collateral Agent and the Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of the Lenders and the Borrower after such change in GAAP conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the covenants in Section 7.03 hereof shall be calculated as if no such change in GAAP has occurred.

"Governing Documents" means, (a) with respect to any corporation or unlimited liability company, the certificate or articles of incorporation and the bylaws and the association agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization, and the operating agreement; (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, declaration or other applicable agreement or documentation evidencing or otherwise relating to its formation or organization, governance and capitalization; and (d) with respect to any of the entities described above, any other agreement, instrument, filing or notice with respect thereto filed in connection with its formation, incorporation or organization with the applicable Governmental Authority in the jurisdiction of its formation, incorporation or organization.

"Governmental Authority" means any nation or government, any federal, state, province, territory, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guaranteed Obligations" has the meaning specified therefor in Section 11.01.

"Guarantor" means (a) the Parent and each Subsidiary of the Parent listed as a "Guarantor" on the signature pages hereto, and (b) each other Person which guarantees, pursuant to Section 7.01(b) or otherwise, all or any part of the Obligations; provided that, in no event shall Guarantors include any Excluded Subsidiary.

"Guaranty" means (a) the guaranty of each Guarantor party hereto contained in Article XI hereof and (b) each other guaranty, in form and substance reasonably satisfactory to the Collateral Agent, made by any other Guarantor in favor of the Collateral Agent for the benefit of the Agents and the Lenders guaranteeing all or part of the Obligations.

"Hazardous Material" means any element, material, substance, waste, compound or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic or hazardous material, hazardous substance, toxic or hazardous waste, universal waste, special waste, or solid waste or is otherwise characterized by words of similar import under any Environmental Law or that is regulated under, or for which liability or standards of care are imposed, pursuant to any Environmental Law, including petroleum, polychlorinated biphenyls; asbestos-containing materials, lead or lead-containing materials, urea formaldehyde-containing materials, radioactive materials, radon, per- and polyfluoroalkyl substances and mold.

"Hedging Agreement" means any interest rate, foreign currency, commodity or equity swap, collar, cap, floor or forward rate agreement, or other agreement or arrangement designed to protect against fluctuations in interest rates or currency, commodity or equity values (including any option with respect to any of the foregoing and any combination of the foregoing agreements or arrangements), and any confirmation executed in connection with any such agreement or arrangement.

"Highest Lawful Rate" means, with respect to any Agent or any Lender, the maximum non-usurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Obligations under laws applicable to such Agent or such Lender which are currently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum non-usurious interest rate than applicable laws now allow.

"Holdout Lender" has the meaning specified therefor in Section 12.02(c).

"Immaterial Subsidiary" means, at any time, any Subsidiary that (i) contributed 2.5% or less of the Consolidated EBITDA of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, (ii) contributed 2.5% or less of the revenues of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, and (iii) had assets representing 2.5% or less of the total consolidated assets of the Parent and its Subsidiaries on the last day of the most recently ended period for which financial statements have been delivered; provided, if at any time and from time to time after the Effective Date, Immaterial Subsidiaries comprise in the aggregate more than 5.0% of the Consolidated EBITDA of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered, or more than 5.0% of the revenues of the Parent and its Subsidiaries for the most recently ended period for which financial statements have been delivered or more than 5.0% of the consolidated assets of the Parent and its Subsidiaries as of the end of the most recently ended period for which financial statements have been delivered, then the Parent shall, not later than thirty days after the date by which financial statements for such period are required to be delivered (or such longer period as the Administrative Agent may agree in its sole discretion), designate in writing to the Administrative Agent that one or more of such Subsidiaries is no longer an Immaterial Subsidiary for purposes of this Agreement to the extent required such that the foregoing condition ceases to be true. As of the Effective Date, the Immaterial Subsidiaries are listed on Schedule 1.01(C).

"Income Tax Act" means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

"Incremental Amount" means an amount equal to $25,000,000 which amount shall be uncommitted on the Effective Date.

"Incremental Joinder Agreement" means an agreement in form and substance reasonably satisfactory to the Required Lenders setting forth the terms of the applicable New Term Loans as contemplated by Section 2.12.

"Indebtedness" means, with respect to any Person, without duplication, (a) all indebtedness of such Person for borrowed money; (b) all obligations of such Person for the deferred purchase price of property or services (other than trade payables, accrued expenses, or other accounts payable incurred in the ordinary course of such Person's business and not outstanding for more than 90 days after the date such payable was created (unless such payable or expense is being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves or other appropriate provisions are maintained on the books of such Person in accordance with GAAP) and any earn-out, purchase price adjustment or similar obligation until such obligation appears in the liabilities section of the balance sheet of such Person); (c) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments or upon which interest payments are customarily made; (d) all reimbursement, payment or other obligations and liabilities of such Person created or arising under any conditional sales or other title retention agreement with respect to property used and/or acquired by such Person, even though the rights and remedies of the lessor, seller and/or lender thereunder may be limited to repossession or sale of such property; (e) all Capitalized Lease Obligations of such Person; (f) all obligations and liabilities, contingent or otherwise, of such Person, in respect of letters of credit, acceptances and similar facilities (other than obligations and liabilities that are cash collateralized); (g) all net obligations and liabilities, calculated in accordance with accepted practice, of such Person under Hedging Agreements; (h) all monetary obligations under any receivables factoring, receivable sales or similar transactions and all monetary obligations under any synthetic lease, off-balance sheet financing or similar financing; (i) all Contingent Obligations; (j) all Disqualified Equity Interests; and (k) all obligations referred to in clauses (a) through (j) of this definition of another Person secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien upon property owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness; provided, however that if recourse in respect of any Indebtedness of the foregoing is limited to specific assets, then such Indebtedness shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the asset encumbered thereby as determined by such Person in good faith. The Indebtedness of any Person shall include the Indebtedness of any partnership of or joint venture in which such Person is a general partner or a joint venturer. For the avoidance of doubt, Indebtedness shall not include (i) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy representation and warranties or unperformed obligations of the seller of such asset, purchase price adjustments and working capital adjustments, (ii) endorsements of checks or drafts arising in the ordinary course of business, (iii) operating leases, or (iv) preferred Equity Interests to the extent not constituting Disqualified Equity Interests.

"Indemnified Matters" has the meaning specified therefor in Section 12.15.

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

"Indemnitees" has the meaning specified therefor in Section 12.15.

"Initial Budget" means, with respect to the first such budget provided pursuant to Section 7.01(a)(ix), a budget that reflects, on a line-item basis, the projected receipts and expenditures of Parent and its Subsidiaries on a weekly basis, from such week through the end of the 13-week period following such week.

"Initial Term Loan" means, collectively, the loans made by the Initial Term Loan Lenders to the Borrower on the Effective Date pursuant to Section 2.01(a).

"Initial Term Loan Commitment" means, with respect to each Lender, the commitment of such Lender to make the Initial Term Loan to the Borrower in the amount set forth in Schedule 1.01(A) hereto or in the Assignment and Acceptance pursuant to which such Lender became a Lender under this Agreement, as the same may be terminated or reduced from time to time in accordance with the terms of this Agreement.

"Initial Term Loan Lender" means a Lender with an Initial Term Loan Commitment or an Initial Term Loan.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of any Debtor Relief Law.

"Installment Date" has the meaning specified therefor in Section 2.03(a).

"Intellectual Property" has the meaning specified therefor in the Security Agreement or the Canadian Security Agreement.

"Intellectual Property Contracts" means all agreements concerning Intellectual Property, including license agreements, technology consulting agreements, confidentiality agreements, co-existence agreements, consent agreements and non-assertion agreements.

"Intercompany Subordination Agreement" means (i) the Master Intercompany Note or (ii) an Intercompany Subordination Agreement made by the Parent and its Subsidiaries in favor of the Collateral Agent for the benefit of the Agents and the Lenders, in form and substance reasonably satisfactory to the Collateral Agent.

"Interest Period" means, with respect to each SOFR Rate Loan, a period commencing on the date of the making of such SOFR Rate Loan (or the continuation of a SOFR Rate Loan or the conversion of a Reference Rate Loan to a SOFR Rate Loan) and ending 3 months thereafter; provided, however, that (a) if any Interest Period would end on a day that is not a Business Day, such Interest Period shall be extended (subject to clauses (c)-(e) below) to the next succeeding Business Day, (b) interest shall accrue at the applicable rate based upon the SOFR Rate from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (c) any Interest Period that would end on a day that is not a Business Day

shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (d) with respect to an Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period), the Interest Period shall end on the last Business Day of the calendar month that is 3 months after the date on which the Interest Period began, as applicable and (e) the Borrower may not elect an Interest Period which will end after the Final Maturity Date.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

"Internally Generated Cash" means, with respect to any period, any cash of Parent or any Subsidiary generated from the business operations of Parent and its Subsidiaries during such period, excluding the proceeds of any non-ordinary course Disposition, Extraordinary Receipts and any Cash that is generated from an incurrence of Indebtedness or an Equity Issuance.

"Inventory" means, with respect to any Person, all goods and merchandise of such Person leased or held for sale or lease by such Person, including all raw materials, work-in-process and finished goods, and all packaging, supplies and materials of every nature used or usable in connection with the shipping, storing, advertising or sale of such goods and merchandise, whether now owned or hereafter acquired, and all such other property the sale or other disposition of which would give rise to an Account or cash.

"Investment" means, with respect to any Person, (a) any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances or other extensions of credit (excluding Accounts arising in the ordinary course of business), capital contributions or acquisitions of Indebtedness (including, any bonds, notes, debentures or other debt securities), Equity Interests, or all or substantially all of the assets of such other Person (or of any division or business line of such other Person) or (b) the purchase or ownership of any exchange traded or over the counter derivative transaction, including any Hedging Agreement, futures contract or liability for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract. The amount of any Investment at any time shall be the original principal or capital amount thereof (measured without giving effect to subsequent changes in value or any write-ups, write-downs or write-offs) less all returns of principal or equity or capital thereon received in cash limited to the amount of such Investment at the time it was originally made.

"Joinder Agreement" means a Joinder Agreement, substantially in the form of Exhibit A, duly executed by a Subsidiary of a Loan Party made a party hereto pursuant to Section 7.01(b).

"KPI Metrics Report" means a KPI Metrics Report substantially in the form set forth in the May 2022 Monthly Financial Report and provided to the Administrative Agent on or around July 13, 2022 (with such amendments thereto as may be agreed by the Administrative Agent in its reasonable discretion).

"Lease" means any lease, sublease or license of, or other agreement granting a possessory interest in, real property to which any Loan Party or any of its Subsidiaries is a party as lessor, lessee, sublessor, sublessee, licensor or licensee.

"Lender" has the meaning specified therefor in the preamble hereto.

"Lien" means any mortgage, deed of trust, deed to secure debt, pledge, lien (statutory or otherwise), security interest, hypothec, charge or other encumbrance or security or preferential arrangement of any nature, including any conditional sale or title retention arrangement, any Capitalized Lease and any assignment, deposit arrangement or financing lease intended as, or having the effect of, security.

"Liquidity" means the result of Qualified Cash, minus the amount of trade payables that are outstanding for more than 90 days after the date such payable was due (other than trade payables that are being contested in good faith and by appropriate proceedings promptly initiated and diligently conducted), and a reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor.

"Liquidity Trigger Event" means an event that occurs when Liquidity is below $15,000,000 and continues until such time as Liquidity is greater than $15,000,000.

"Loan" means the Initial Term Loan and the New Term Loan made by a Lender to the Borrower pursuant to Article II hereof, or any combination thereof, as the context may require.

"Loan Account" means an account maintained hereunder by the Administrative Agent on its books of account at the Payment Office, and with respect to the Borrower, in which the Borrower will be charged with all Loans made to, and all other Obligations incurred by, the Borrower.

"Loan Document" means this Agreement, any Control Agreement, the Disbursement Letter, the Fee Letter, any Equity Document, any Guaranty, any Intercompany Subordination Agreement, any Joinder Agreement, any Mortgage, any Security Agreement, any Canadian Security Agreement, the VCOC Management Rights Agreement, any landlord waiver, any collateral access agreement, any Perfection Certificate and any other agreement, instrument, certificate, report and other document executed and delivered pursuant hereto or thereto or otherwise evidencing or securing any Loan or any other Obligation.

"Loan Party" means the Borrower and any Guarantor.

"Master Intercompany Note" means a Master Intercompany Note substantially in the form of Exhibit G hereto, executed by Parent and its Subsidiaries from time to time party thereto.

"Material Adverse Effect" means a material adverse effect on any of (a) the operations, assets, liabilities, financial condition of the Loan Parties taken as a whole, (b) the ability of the Loan Parties taken as a whole to perform any of their obligations taken as a whole under any Loan Document, (c) the legality, validity or enforceability of this Agreement or any other Loan Document, (d) the rights and remedies of any Agent or any Lender under any Loan Document, or (e) the validity, perfection or priority of a Lien in favor of the Collateral Agent for the benefit of the Agents and the Lenders on Collateral having a fair market value in excess of $2,000,000 (it being agreed and acknowledged that the failure of the Agents or any Lender to make required

filings, take required actions based on accurate information timely provided by the Loan Parties or to maintain "control" over possessory collateral in accordance with applicable law shall not constitute a Material Adverse Effect).

"Material Contract" means, with respect to any Person, (a) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of $10,000,000 or more in any Fiscal Year (other than purchase orders in the ordinary course of the business of such Person or such Subsidiary and other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days' notice without penalty or premium) and (b) all other contracts or agreements as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage" means a mortgage, deed of trust, hypothec or deed to secure debt, in each case with respect to a Facility, in form and substance reasonably satisfactory to the Collateral Agent, made by a Loan Party in favor of the Collateral Agent for the benefit of the Agents and the Lenders, securing the Obligations and delivered to the Collateral Agent.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which any Loan Party or any of its ERISA Affiliates has contributed, or has been obligated to contribute, to at any time during the preceding six calendar years.

"Net Cash Proceeds" means, with respect to, any issuance or incurrence of any Indebtedness, any Disposition or the receipt of any Extraordinary Receipts by any Person or any of its Subsidiaries, the aggregate amount of cash received (directly or indirectly) from time to time (whether as initial consideration or through the payment or disposition of deferred consideration) by or on behalf of such Person or such Subsidiary, in connection therewith after deducting therefrom only (a) in the case of any Disposition or the receipt of any Extraordinary Receipts consisting of insurance proceeds or condemnation awards, the amount of any Indebtedness secured by any Permitted Lien on any asset (other than Indebtedness assumed by the purchaser of such asset, together with any premium, penalty, interest, fees and expenses with respect to such Indebtedness) which is senior in priority to the Liens in favor of the Loans and which is required to be, and is, repaid in connection therewith (other than Indebtedness under this Agreement) and, in the case of any insurance proceeds received in connection with a cyber security attack, any ransom actually paid as a result of such attack, (b) reasonable fees and expenses related thereto incurred by such Person or such Subsidiary in connection therewith, (c) transfer, stamp or real property taxes paid to any taxing authorities by such Person or such Subsidiary in connection therewith, (d) without duplication, net income or other taxes to be paid in connection therewith (after taking into account any tax credits or deductions and any tax sharing arrangements) and (e) the amount of any reserves established as required by GAAP against liabilities in connection with any Disposition or any Extraordinary Receipt (provided that any subsequent release of such reserve shall constitute Net Cash Proceeds), in each case, to the extent, but only to the extent, that the amounts so deducted are (i) actually paid or payable to a Person that, except in the case of

reasonable out-of-pocket expenses, is not an Affiliate of such Person or any of its Subsidiaries and (ii) properly attributable to such transaction or to the asset that is the subject thereof.

"New Facility" has the meaning specified therefor in Section 7.01(m).

"New Term Loan Commitments" as defined in Section 2.12.

"New Term Loan Lender" as defined in Section 2.12.

"New Term Loans" as defined in Section 2.12.

"Non-U.S. Lender" has the meaning specified therefor in Section 2.09(d).

"Notice of Borrowing" has the meaning specified therefor in Section 2.02(a).

"Obligations" means all present and future indebtedness, obligations, and liabilities (including the Term Loan PIK Amount) of each Loan Party to the Agents and the Lenders arising under or in connection with this Agreement or any other Loan Document, whether or not the right of payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding referred to in Section 9.01. Without limiting the generality of the foregoing, the Obligations of each Loan Party under the Loan Documents include (a) the obligation (irrespective of whether a claim therefor is allowed in an Insolvency Proceeding) to pay principal, interest (including the Term Loan PIK Amount), charges, expenses, fees, premiums (including the Prepayment Premium), attorneys' fees and disbursements, indemnities and other amounts payable by such Person under the Loan Documents, and (b) the obligation of such Person to reimburse any amount in respect of any of the foregoing that any Agent or any Lender (in its sole discretion) may elect to pay or advance on behalf of such Person. Notwithstanding any of the foregoing, Obligations shall not include any Excluded Swap Obligations.

"OFAC" means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

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

"Paid in Full" or "Payment in Full" means:

(a) payment in full in cash of the principal of, premium (including the Prepayment Premium) and interest (including premium and interest accruing on or after the commencement of any bankruptcy proceeding, whether or not such interest would be allowed in such bankruptcy proceeding) constituting the Obligations;

(b) payment in full in cash of all other amounts that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than any contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been made at such time with respect to the Obligations); and

(c) termination or expiration of all commitments of the holders of the Obligations, to extend credit or make loans or other credit accommodations to any of the Loan Parties.

"Parent" has the meaning specified therefor in the preamble hereto.

"Participant Register" has the meaning specified therefor in Section 12.07(i).

"Payment Office" means the Administrative Agent's office located at 150 East 58th Street, 18th Floor, New York, New York 10155, or at such other office or offices of the Administrative Agent as may be designated in writing from time to time by the Administrative Agent to the Collateral Agent and the Borrower.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" means an Employee Plan that is subject to Section 412 of the Internal Revenue Code, Section 302 of ERISA or Title IV of ERISA maintained, sponsored or contributed to, or for which there is an obligation to contribute to, by any Loan Party or any of its ERISA Affiliates at any time during the preceding six calendar years.

"Perfection Certificate" means a certificate in form and substance reasonably satisfactory to the Collateral Agent providing information with respect to the property of each Loan Party.

"Permitted Acquisition" means any Acquisition by a Loan Party or any wholly-owned Subsidiary of a Loan Party to the extent that each of the following conditions shall have been satisfied:

(a) no Default or Event of Default shall have occurred and be continuing or would result from the consummation of the proposed Acquisition;

(b) to the extent the Acquisition will be financed in whole or in part with the proceeds of any Loan, the conditions set forth in Section 5.01 shall have been satisfied or waived by the Administrative Agent;

(c) the Borrower shall have furnished to the Agents at least 10 Business Days (or such shorter period as the Administrative Agent may agree) prior to the consummation of such Acquisition (i) an executed term sheet and/or commitment letter (setting forth in reasonable detail the terms and conditions of such Acquisition) and, at the request of any Agent, such other

information and documents that any Agent may request, including executed counterparts of the respective agreements, instruments or other documents pursuant to which such Acquisition is to be consummated (including any related management, non-compete, employment, option or other material agreements), any schedules to such agreements, instruments or other documents and all other material ancillary agreements, instruments or other documents to be executed or delivered in connection therewith, (ii) pro forma financial statements of the Parent and its Subsidiaries after the consummation of such Acquisition, (iii) a certificate of the chief financial officer, treasurer or other financial officer performing similar functions of the Parent, demonstrating on a pro forma basis compliance, as at the end of the most recently ended fiscal quarter for which internally prepared financial statements are available, with all covenants set forth in Section 7.03 hereof after the consummation of such Acquisition, and (iv) copies of such other agreements, instruments or other documents as any Agent shall reasonably request;

(d) the agreements, instruments and other documents referred to in paragraph (c) above shall provide that (i) neither the Loan Parties nor any of their Subsidiaries shall, in connection with such Acquisition, assume or remain liable in respect of any Indebtedness of the Seller or Sellers, or other obligation of the Seller or Sellers (except for obligations incurred in the ordinary course of business in operating the property so acquired and necessary or desirable to the continued operation of such property and except for Permitted Indebtedness), and (ii) all property to be so acquired in connection with such Acquisition shall be free and clear of any and all Liens, except for Permitted Liens (and if any such property is subject to any Lien not permitted by this clause (ii) then concurrently with such Acquisition such Lien shall be released);

(e) such Acquisition shall be effected in such a manner so that the acquired assets or Equity Interests are owned either by a Loan Party or a wholly-owned Subsidiary of a Loan Party and, if effected by merger, amalgamation or consolidation involving a Loan Party, such Loan Party shall be the continuing or surviving Person;

(f) pro forma Liquidity shall not be less than $50,000,000 immediately after giving effect to the consummation of the proposed Acquisition;

(g) the assets being acquired or the Person whose Equity Interests are being acquired did not have negative Consolidated EBITDA during the 12 consecutive month period most recently concluded prior to the date of the proposed Acquisition;

(h) the assets being acquired (other than a *de minimis* amount of assets in relation to the Loan Parties' and their Subsidiaries' total assets), or the Person whose Equity Interests are being acquired, are useful in or engaged in, as applicable, the business of the Loan Parties and their Subsidiaries or a business reasonably related thereto;

(i) the assets being acquired (other than a *de minimis* amount of assets in relation to the assets being acquired) are located within the United States or the Person whose Equity Interests are being acquired is organized in a jurisdiction located within the United States;

(j) such Acquisition shall be consensual and shall have been approved by the board of directors of the Person whose Equity Interests or assets are proposed to be acquired and

shall not have been preceded by an unsolicited tender offer for such Equity Interests by, or proxy contest initiated by, Parent or any of its Subsidiaries or an Affiliate thereof;

(k) any such Subsidiary (and its equityholders) shall execute and deliver the agreements, instruments and other documents required by Section 7.01(b) on or prior to the date of the consummation of such Acquisition; and

(l) the Purchase Price payable in respect of (i) any single Acquisition or series of related Acquisitions shall not exceed $5,000,000 in the aggregate and (ii) all Acquisitions (including the proposed Acquisition) shall not exceed $10,000,000 in the aggregate during the term of this Agreement; provided, that if the Purchase Price is paid solely with (A) the sale or issuance by Parent of any shares of its Equity Interests or (B) the receipt by the Parent or Borrower of any cash capital contributions, there shall be no limit to the Purchase Price in connection with any Acquisition.

"Permitted Disposition" means:

(a) (i) sale and other Dispositions of Inventory in the ordinary course of business (it being understood and agreed that any bulk sale or other similar bulk liquidation outside the ordinary course of business of bikes and related equipment, including tablets and accessories thereto, shall be permitted solely pursuant to clause (m) below and not any other clause of this definition of "Permitted Dispositions") and (ii) dispositions of cash or Cash Equivalents in the ordinary course of business in a manner that is not prohibited by the terms of this Agreement;

(b) licensing, on a non-exclusive basis, Intellectual Property rights in the ordinary course of business;

(c) leasing or subleasing assets (excluding Intellectual Property) in the ordinary course of business and the termination or cancellation of any lease or sublease in the ordinary course of business;

(d) (i) the lapse of Registered Intellectual Property of the Parent and its Subsidiaries to the extent not economically desirable in the conduct of their business or (ii) the abandonment of any Intellectual Property or Intellectual Property rights in the ordinary course of business so long as (in each case under clauses (i) and (ii)), (A) such Intellectual Property or Intellectual Property rights do not generate material revenue or are not material to the business of any Loan Party, and (B) any such lapse is not materially adverse to the interests of the Secured Parties;

(e) any involuntary loss, damage or destruction of property;

(f) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(g) transfers of assets from (i) any Loan Party or Subsidiary of any Loan Party to any Loan Party, (ii) any Foreign Subsidiary to any Domestic Subsidiary, Canadian Subsidiary or UK Subsidiary, (iii) any Foreign Subsidiary that is not a Loan Party to any other Foreign

Subsidiary, (iv) any non-Loan Party to any Loan Party and (v) any non-Loan Party to any non-Loan Party;

(h) a Disposition of Accounts in connection with the collection or compromise thereof in the ordinary course of business and consistent with past practice or in any situation of a work-out or financial distress, in each case, (i) of the Person owing such accounts receivable and (ii) not part of a bulk sale or receivables financing;

(i) to the extent deemed a Disposition and without any duplication, the making of a Permitted Investment, the granting of a Permitted Lien, the making of a Permitted Restricted Payment and a transaction permitted pursuant to Section 7.02(c)(i);

(j) a Disposition of obsolete, damaged, unsaleable, worn-out or surplus property or property not presently used or useful in the business, in the ordinary course of business (it being understood and agreed that any bulk sale or other bulk Disposition outside the ordinary course of business of bikes and related equipment, including tablets and accessories, shall be permitted solely pursuant to clause (m) below and not any other clause of "Permitted Dispositions");

(k) (i) the sale or issuance of Equity Interests (other than Disqualified Equity Interests) of Parent, (ii) the sale or issuance of Equity Interests (other than Disqualified Equity Interests) of any wholly-owned Subsidiary of a Loan Party that is itself a Loan Party to such Loan Party and (iii) the sale or issuance of Equity Interests (other than Disqualified Equity Interests) of any Subsidiary that is not a Loan Party to any Subsidiary that is not a Loan Party;

(l) Disposition of non-core property or assets acquired pursuant to a Permitted Acquisition or Permitted Investment, if such Disposition is within 12 months after such Permitted Acquisition or Permitted Investment; provided that (i) such Disposition is for an aggregate amount not less than the fair market value of such property or assets and not less than 75% of the proceeds of such Disposition shall be cash and Cash Equivalents and (ii) the proceeds therefrom are applied as required by Section 2.05(c)(ii); and (iii) the Administrative Agent shall have received a certificate signed by an Authorized Officer of the Borrower and certifying that such property or assets are not necessary or economically desirable in connection with the business of the Loan Parties and their Subsidiaries;

(m) Disposition by sale or liquidation of bikes and related equipment, including tablets and accessories; provided that (i) any bulk sale or other bulk Disposition outside the ordinary course of business of bikes and related equipment, including tablets and accessories, shall be permitted solely pursuant to this clause (m) and not any other clause of "Permitted Dispositions", (ii) not less than 75% of the proceeds of such Disposition shall be cash and Cash Equivalents and (iii) the proceeds therefrom are applied as required by Section 2.05(c)(ii); and

(n) Disposition of property or assets not otherwise permitted in clauses (a) through (m) above for cash in an aggregate amount not less than the fair market value of such property or assets; provided that (i) the aggregate amount of such Dispositions shall not exceed $500,000 in any Fiscal Year and (ii) the proceeds therefrom are applied as required by Section 2.05(c)(ii).

"Permitted Holder" means Carl Daikeler and any Controlled Investment Affiliates thereof.

"Permitted Indebtedness" means:

(a) any Indebtedness owing to any Agent or any Lender under this Agreement and the other Loan Documents;

(b) any other Indebtedness listed on Schedule 7.02(b), and any Permitted Refinancing Indebtedness in respect of such Indebtedness;

(c) Permitted Purchase Money Indebtedness and any Permitted Refinancing Indebtedness in respect of such Indebtedness;

(d) Permitted Intercompany Investments;

(e) Indebtedness incurred in the ordinary course of business under performance, surety, statutory, and appeal bonds and similar obligations;

(f) Indebtedness owed to any Person providing property, casualty, liability, or other insurance to the Loan Parties, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the period in which such Indebtedness is incurred and such Indebtedness is outstanding only during such period;

(g) the incurrence by any Loan Party of Indebtedness under Hedging Agreements that are incurred for the bona fide purpose of hedging the interest rate, commodity, or foreign currency risks associated with such Loan Party's operations and not for speculative purposes;

(h) Indebtedness incurred in respect of netting services, overdraft protections, credit cards, credit card processing services, debit cards, stored value cards, purchase cards (including so-called "procurement cards" or "P-cards") or other similar cash management services or otherwise in connection with deposit accounts, in each case, incurred in the ordinary course of business;

(i) contingent liabilities in respect of any indemnification obligation, adjustment of purchase price, non-compete, or similar obligation of any Loan Party incurred in connection with the consummation of one or more Permitted Acquisitions;

(j) Indebtedness of a Person whose assets or Equity Interests are acquired by the Parent or any of its Subsidiaries in a Permitted Acquisition in an aggregate amount not to exceed $500,000 at any one time outstanding; provided, that such Indebtedness (i) is either Permitted Purchase Money Indebtedness or a Capitalized Lease with respect to equipment or mortgage financing with respect to a Facility, (ii) was in existence prior to the date of such Permitted Acquisition, and (iii) was not incurred in connection with, or in contemplation of, such Permitted Acquisition;

(k) unsecured Indebtedness owing to the Seller that is incurred by the applicable Loan Party in connection with the consummation of one or more Permitted Acquisitions so long as (i) the aggregate principal amount for all such Indebtedness does not exceed $500,000 at any one time outstanding, (ii) such Indebtedness is subordinated to the Obligations on terms and conditions reasonably acceptable to the Collateral Agent, (iii) such Indebtedness has a final maturity that is at least 180 days after the Final Maturity Date and (iv) such Indebtedness is otherwise on terms and conditions (including all economic terms) reasonably acceptable to the Collateral Agent;

(l) unsecured Indebtedness of the Parent or any Loan Party that is incurred on the date of the consummation of a Permitted Acquisition solely for the purpose of consummating such Permitted Acquisition so long as (i) no Event of Default has occurred and is continuing or would result therefrom, (ii) such unsecured Indebtedness is not incurred for working capital purposes, (iii) such unsecured Indebtedness does not mature prior to the date that is 12 months after the Final Maturity Date, (iv) such unsecured Indebtedness does not amortize until 12 months after the Final Maturity Date, (v) such unsecured Indebtedness does not provide for the payment of interest thereon in cash or Cash Equivalents prior to the date that is 12 months after the Final Maturity Date, and (vi) such Indebtedness is subordinated in right of payment to the Obligations on terms and conditions reasonably satisfactory to the Collateral Agent;

(m) Indebtedness owed to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Parent or any of its Subsidiaries incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person;

(n) Indebtedness due to any landlord in connection with the financing by such landlord of leasehold improvements;

(o) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Borrower and its Subsidiaries;

(p) Indebtedness representing deferred compensation to employees incurred in the ordinary course of business;

(q) Indebtedness permitted by clause (n) of the definition of "Permitted Investments";

(r) Indebtedness incurred to purchase unused raw materials from co-manufacturers as required by contract in connection with the reduction or cancellation of orders;

(s) guaranty obligations of a Loan Party in respect of Indebtedness of a Loan Party otherwise permitted hereunder, and guaranty obligations of a Subsidiary of a Loan Party in respect of Indebtedness of a Loan Party or any Subsidiary of a Loan Party otherwise permitted hereunder;

(t) Indebtedness in respect of letters of credit issued for the account of the Borrower or any Subsidiary in an aggregate principal amount not to exceed $1,000,000;

(u) the accrual of interest, accretion or amortization of original issue discount, or the payment of interest in kind, in each case, on Indebtedness that otherwise constitutes Permitted Indebtedness;

(v) unsecured Subordinated Indebtedness in an aggregate principal amount not exceeding $2,000,000 at any time outstanding; and

(w) other Indebtedness that ranks no greater than pari passu in priority in right of payment to the Obligations in an aggregate principal amount not exceeding $2,000,000 at any time outstanding.

"Permitted Intercompany Investments" means Investments made by (a) a Loan Party to or in another Loan Party (other than the Parent), (b) a Subsidiary that is not a Loan Party to or in another Subsidiary that is not a Loan Party, (c) a Subsidiary that is not a Loan Party to or in a Loan Party, so long as, in the case of a loan or advance, the parties thereto are party to any Intercompany Subordination Agreement, and (d) a Loan Party to or in a Subsidiary that is not a Loan Party so long as (i) the aggregate amount of all such Investments made by the Loan Parties to or in Subsidiaries that are not Loan Parties does not exceed $500,000 at any time outstanding, (ii) no Default or Event of Default has occurred and is continuing either before or after giving effect to such Investment, and (iii) the Borrower has Liquidity of not less than $15,000,000 after giving effect to such Investment.

"Permitted Investments" means:

(a) Investments in cash and Cash Equivalents;

(b) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business;

(c) advances made in connection with purchases of goods or services in the ordinary course of business;

(d) Investments received in settlement of amounts due to any Loan Party or any of its Subsidiaries effected in the ordinary course of business or owing to any Loan Party or any of its Subsidiaries as a result of Insolvency Proceedings involving an Account Debtor or upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries;

(e) Investments existing on the date hereof, as set forth on Schedule 7.02(e) hereto, but not any increase in the amount thereof as set forth in such Schedule or any other modification of the terms thereof (except as a result of appreciation in values);

(f) Permitted Intercompany Investments;

(g) Permitted Acquisitions;

(h) the maintenance of deposit accounts in the ordinary course of business, so long as the applicable provisions of Article VIII have been complied with in respect of each such deposit account;

(i) Investments (i) consisting of non-cash loans made by Parent to officers, directors and employees of any Subsidiary which are used by such Persons to simultaneously purchase Equity Interests of Parent or any direct or indirect parent thereof and (ii) consisting of loans to employees of any Subsidiary of Parent to enable such Person to purchase Equity Interests of Parent (or any direct or indirect parent thereof) or one of its Subsidiaries, so long as the proceeds of such loan are substantially contemporaneously contributed to Parent (or such parent) or such Subsidiary for the purchase of such Equity Interests in an aggregate principal amount at any time not to exceed $1,000,000; each in the ordinary course of business;

(j) Investments (i) acquired in connection with the good faith settlement of delinquent Accounts in the ordinary course of business and consistent with past practice, (ii) in the form of deposits, prepayments and other credits to suppliers made in the ordinary course of business and (iii) received in compromise or resolution of litigation, arbitration or other disputes with Persons who are not Affiliates, each in the ordinary course of business;

(k) to the extent deemed an investment and without any duplication, any guaranty that qualifies as Permitted Indebtedness;

(l) Investments to the extent that payment therefor is made solely with Qualified Equity Interests of Parent (or any direct or indirect parent thereof);

(m) security deposits provided to landlords, utility companies and governmental authorities in the ordinary course of business;

(n) loans to Parent or any direct or indirect parent thereof in lieu of any Permitted Restricted Payment, in the ordinary course of business;

(o) Hedging Agreements entered into in the ordinary course of business for non-speculative purposes;

(p) pledges and deposits constituting Permitted Liens;

(q) Investments consisting of endorsements of instruments for collection or deposit in the ordinary course of business;

(r) Investments consisting of Capital Expenditures;

(s) Investments consisting of the non-exclusive licensing or contribution of Intellectual Property pursuant to joint marketing arrangements with other Persons in the ordinary course of business;

(t) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of any Subsidiary;

(u) equity Investments by any Loan Party in any Subsidiary of such Loan Party which is required by applicable law to maintain a minimum net capital requirement or as may be otherwise required by applicable law;

(v) any Investment constituting a permitted (i) merger, amalgamation, consolidation, reorganization or recapitalization, (ii) reclassification of Equity Interests, (iii) transfer of assets, in each case solely to the extent permitted by Section 7.02(c) hereof or (iv) Permitted Indebtedness (other than pursuant to clauses (a), (d), (q), (r) and (s) of "Permitted Indebtedness");

(w) loans and advances to officers, directors and employees of any Loan Party for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business, in an aggregate principal amount at any time not to exceed $500,000;

(x) Investments held by a Person acquired in a Permitted Acquisition to the extent that such Investments (i) were not made in contemplation of or in connection with such Permitted Acquisition, (ii) were in existence on the date of such Permitted Acquisition and (iii) are otherwise permitted under the terms of this Agreement;

(y) purchases of unused raw materials from co-manufacturers as required by contract in connection with the reduction or cancellation of orders to the extent permitted under clause (r) of the definition of "Permitted Indebtedness";

(z) Equity Interests or other securities acquired in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to a Loan Party or its Subsidiaries (in bankruptcy of Customers or suppliers or otherwise outside the ordinary course of business) or as security for any such Indebtedness or claims;

(aa) Investments consisting of any deferred portion of the sales price received by any Loan Party in connection with any Permitted Disposition;

(bb) [reserved];

(cc) Guaranty obligations permitted by clause (s) of the definition of "Permitted Indebtedness"; and

(dd) so long as (i) pro forma Liquidity is greater than or equal to $25,000,000 and (ii) no Default or Event of Default has occurred and is continuing or would result therefrom, any other Investments in an aggregate amount not to exceed $1,000,000 per Fiscal Year;

provided that, notwithstanding anything in this Agreement to the contrary, no material Intellectual Property owned, in whole or in part, by any Loan Party, including Parent and Borrower, may be contributed or transferred as an Investment or through a Sale and Leaseback Transaction to any non-Loan Party.

"Permitted Liens" means:

(a) Liens securing the Obligations;

(b) Liens for taxes, assessments and governmental charges the payment of which is not required under Section 7.01(c)(ii);

(c) Liens imposed by law, such as carriers', warehousemen's, mechanics', materialmen's and other similar Liens arising in the ordinary course of business and securing obligations (other than Indebtedness for borrowed money) that are not overdue by more than 30 days or are being contested in good faith and by appropriate proceedings promptly initiated and diligently conducted, and a reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor;

(d) Liens described on Schedule 7.02(a), provided that any such Lien shall only secure the Indebtedness that it secures on the Effective Date and any Permitted Refinancing Indebtedness in respect thereof;

(e) purchase money Liens on equipment acquired or held by any Loan Party or any of its Subsidiaries in the ordinary course of its business to secure Permitted Purchase Money Indebtedness so long as such Lien only (i) attaches to such property and (ii) secures the Indebtedness that was incurred to acquire such property or any Permitted Refinancing Indebtedness in respect thereof;

(f) deposits and pledges of cash securing (i) obligations incurred in respect of workers' compensation, unemployment insurance or other forms of governmental insurance or benefits, (ii) the performance of bids, tenders, leases, contracts (other than for the payment of money) and statutory obligations or (iii) obligations in respect of customs, stay, performance, utility, bid, surety or appeal bonds and completion guarantees and other obligations of a like nature, but only to the extent such deposits or pledges are made or otherwise arise in the ordinary course of business and secure obligations not past due or are being contested in good faith by appropriate proceedings promptly initiated and diligently conducted, and a reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor;

(g) with respect to any Facility, encroachments, rights of way, easements, covenants, conditions, zoning restrictions, reservations, municipal and zoning ordinances and laws, and similar encumbrances on real property and irregularities in the title thereto, in each case, that do not (i) secure obligations for the payment of money (other than inchoate liens with respect to real estate taxes which are not yet due and payable or mechanics' liens for obligations not yet due and payable); (ii) materially impair the value of such property or its use by any Loan Party or any of its Subsidiaries in the normal conduct of such Person's business; or (iii) Liens which are disclosed in any applicable title insurance policy or survey provided to and accepted by the Collateral Agent;

(h) Liens of landlords and mortgagees of landlords (i) arising by statute, common law, or under any Lease or related Contractual Obligation entered into in the ordinary course of business, (ii) on fixtures and movable tangible property located on the real property leased or subleased from such landlord, or (iii) for amounts not yet due or that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves or other appropriate provisions are maintained on the books of such Person in accordance with GAAP;

(i) the title and interest of a licensor, sublicensor, lessor or sublessor in and to personal property (excluding Intellectual Property) licensed, sublicensed, leased or subleased (other than through a Capitalized Lease), in each case extending only to such personal property;

(j) non-exclusive licenses of Intellectual Property rights in the ordinary course of business;

(k) judgment liens (other than for the payment of taxes, assessments or other governmental charges) securing judgments and other proceedings not constituting an Event of Default under Section 9.01(j);

(l) rights of set-off or bankers' liens upon deposits of cash in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of such deposit accounts in the ordinary course of business;

(m) Liens granted in the ordinary course of business on the unearned portion of insurance premiums securing the financing of insurance premiums to the extent the financing is permitted under the definition of Permitted Indebtedness;

(n) Liens assumed by the Borrower and its Subsidiaries in connection with a Permitted Acquisition that secure Indebtedness permitted by clause (j) of the definition of Permitted Indebtedness;

(o) Liens solely on any cash earnest money deposits made by any Loan Party in connection with any letter of intent or purchase agreement with respect to a Permitted Acquisition;

(p) precautionary Uniform Commercial Code or PPSA filings made by a lessor pursuant to an operating lease of a Loan Party entered into in the ordinary course of business;

(q) cash collateral securing letters of credit issued for the account of the Borrower or any Subsidiary in an aggregate principal amount not to exceed $1,050,000;

(r) Liens in favor of collecting banks arising under Section 4-210 of the Uniform Commercial Code or, with respect to collecting banks located in the State of New York, under Section 4-208 of the Uniform Commercial Code;

(s) Liens in favor of customs and revenue authorities arising as a matter of law which secure payments of customs duties in connection with the importation of goods in the ordinary course of business;

(t) Liens that are replacements of Permitted Liens to the extent that the original Indebtedness is the subject of Permitted Refinancing Indebtedness and so long as the replacement Liens only encumber those assets that secured the original Indebtedness;

(u) other Liens which do not secure Indebtedness for borrowed money or letters of credit and as to which the aggregate amount of the obligations secured thereby does not exceed $2,000,000; and

(v) Liens securing Indebtedness permitted by clause (w) of the definition of "Permitted Indebtedness" in an aggregate principal amount not to exceed $2,000,000.

"Permitted Purchase Money Indebtedness" means, as of any date of determination, Indebtedness (other than the Obligations, but including Capitalized Lease Obligations) incurred to finance the acquisition of any fixed assets secured by a Lien permitted under clause (e) of the definition of "Permitted Liens"; provided that (a) such Indebtedness is incurred within 20 days after such acquisition, (b) such Indebtedness when incurred shall not exceed the purchase price of the asset financed and (c) the aggregate principal amount of all such Indebtedness shall not exceed $2,000,000 at any time outstanding.

"Permitted Refinancing Indebtedness" means the extension of maturity, refinancing or modification of the terms of Indebtedness so long as:

(a) after giving effect to such extension, refinancing or modification, the amount of such Indebtedness is not greater than the amount of Indebtedness outstanding immediately prior to such extension, refinancing or modification (other than by the amount of premiums and penalties paid thereon and the fees and expenses incurred in connection therewith and by the amount of unfunded commitments with respect thereto and any interest accrued thereon);

(b) such extension, refinancing or modification does not result in a shortening of the average weighted maturity (measured as of the extension, refinancing or modification) of the Indebtedness so extended, refinanced or modified;

(c) such extension, refinancing or modification is pursuant to terms that are not less favorable, in any material respect, taken as a whole, to the Loan Parties and the Lenders than the terms of the Indebtedness (including terms relating to the collateral (if any) and subordination (if any)) being extended, refinanced or modified;

(d) the Indebtedness that is extended, refinanced or modified is not recourse to any Loan Party or any of its Subsidiaries that is liable on account of the obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended; and

(e) if such Indebtedness is secured, it is not secured on any assets other than Collateral and on no more favorable basis than the Indebtedness being refinanced.

"Permitted Restricted Payments" means:

(a) any payments by any Loan Party to the Parent in amounts necessary to pay taxes and other customary expenses as and when due and owing by the Parent in the ordinary course of its business as a holding company (including salaries and related reasonable and customary expenses incurred by employees of the Parent),

(b) Tax Distributions, provided that such Tax Distributions are actually used to pay the applicable Taxes and not for any other purpose;

(c) any Restricted Payment made by any Subsidiary of the Parent to the Borrower or any other Subsidiary,

(d) the payment of dividends in the form of Qualified Equity Interests made by the Parent.

(e) any payments in any Fiscal Year (x) made pursuant to any employment agreement, employee benefit plan, officer or director indemnification agreement or any similar arrangement entered into by the Loan Parties or any of their Subsidiaries in the ordinary course of business and (y) of reasonable and customary director and officer compensation (including bonuses and stock option programs), benefits and indemnification arrangements (including bonuses, retirement, health, stock option and other benefits);

(f) any payment of independent directors' and advisory board members' fees and reimbursement of actual out-of-pocket expenses incurred in the ordinary course of business in connection with attending Board of Director or advisory board meetings; provided that the aggregate amount of such dividends and distributions in any Fiscal Year to the Parent under this clause (f) shall not exceed $500,000;

(g) distributions by the Loan Parties and their Subsidiaries to Parent (or its direct or indirect parent company) which are immediately used by Parent (or its direct or indirect parent company) to redeem or repurchase Equity Interests from current and former officers, directors and employees (including deceased or terminated officers, directors and employees) of Parent (or its direct or indirect parent company) or any Subsidiary thereof; provided that the aggregate amount of such dividends and distributions in any Fiscal Year to the Parent under this clause (g) shall not exceed $500,000;

(h) in the event of a successful transaction advised by The Raine Group LLC (or any of its Affiliates), payment by Parent to The Raine Group LLC or any of its Affiliates under an advisory agreement entered into by the Parent and The Raine Group LLC or any of its Affiliates in connection with any mergers and acquisition or capital raise transaction as in effect from time to time;

(i) exchange by Parent of Qualified Equity Interests for other Qualified Equity Interests in a cashless exchange (other than with respect to any cash payments made in exchange for fractional shares); provided that (i) such exchange is permitted by applicable law; and (ii) no Event of Default or Default shall have occurred or would occur after giving pro forma effect to such exchange; and

(j) to the extent constituting Restricted Payments, any Permitted Dispositions (other than pursuant to clause (i) of the definition thereof) among the Loan Parties and their Subsidiaries.

"Permitted Specified Liens" means Permitted Liens described in clauses (a), (b) and (c) of the definition of Permitted Liens, and, solely in the case of Section 7.01(b)(i), including clauses (g), (h) and (i) of the definition of Permitted Liens.

"Person" means an individual, corporation, limited liability company, unlimited liability company, partnership, association, joint-stock company, trust, unincorporated organization, joint venture or other enterprise or entity or Governmental Authority.

"Post-Default Rate" means a rate of interest per annum equal to the rate of interest otherwise in effect from time to time pursuant to the terms of this Agreement plus 2.00%, or, if a rate of interest is not otherwise in effect, interest at the highest rate specified herein for any Loan then outstanding prior to an Event of Default plus 2.00%.

"PPSA" means the *Personal Property Security Act* (British Columbia) (or any successor statute) and the regulations thereunder; provided, however, if validity, perfection and effect of perfection and non-perfection and opposability of Collateral Agent's Lien on any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than British Columbia, PPSA shall mean the personal property security laws (including the *Civil Code of Québec*) in such other jurisdiction for the purposes of the provisions hereof relating to such validity, perfection, and effect of perfection and non-perfection and for the definitions related to such provisions, as from time to time in effect.

"Prepayment Premium" has the meaning specified therefor in Section 2.06(a).

"Pro Rata Share" means, with respect to:

(a) a Lender's obligation to make the Initial Term Loan and the right to receive payments of interest, fees, and principal with respect thereto, the percentage obtained by dividing (i) such Lender's Initial Term Loan Commitment, by (ii) the Total Initial Term Loan Commitment, provided that if the Total Initial Term Loan Commitment has been reduced to zero, the numerator shall be the aggregate unpaid principal amount of such Lender's portion of the Initial Term Loans of and the denominator shall be the aggregate unpaid principal amount of all Initial Term Loans,

(b) a Lender's obligation to make the New Term Loan and the right to receive payments of interest, fees, and principal with respect thereto, the percentage obtained by dividing (i) such Lender's New Term Loan Commitment, by (ii) the Total New Term Loan Commitment, provided that if the Total New Term Loan Commitment has been reduced to zero, the numerator shall be the aggregate unpaid principal amount of such Lender's portion of the New Term Loans and the denominator shall be the aggregate unpaid principal amount of the New Term Loans, and

(c) all other matters (including the indemnification obligations arising under Section 10.05), the percentage obtained by dividing (i) the unpaid principal amount of such Lender's portion of the Initial Term Loan and the New Term Loan, by (ii) the aggregate unpaid principal amount of all Initial Term Loans and New Term Loans.

"Projections" means financial projections of the Parent and its Subsidiaries delivered pursuant to Section 6.01(g)(ii), as updated from time to time pursuant to Section 7.01(a)(vi).

"Purchase Price" means, with respect to any Acquisition, an amount equal to the sum of (a) the aggregate consideration, whether cash, property or securities (including the fair market value of any Equity Interests of any Loan Party or any of its Subsidiaries issued in connection with such Acquisition), paid or delivered by a Loan Party or any of its Subsidiaries (whether as initial consideration or through the payment or disposition of deferred consideration, including in the form of seller financing, royalty payments, payments allocated towards

non-compete covenants, payments to principals for consulting services or other similar payments) in connection with such Acquisition, plus (b) the aggregate amount of liabilities of the acquired business (net of current assets of the acquired business) that would be reflected on a balance sheet (if such were to be prepared) of the Parent and its Subsidiaries after giving effect to such Acquisition, plus (c) the aggregate amount of all transaction fees, costs and expenses incurred by the Parent or any of its Subsidiaries in connection with such Acquisition.

"Qualified Cash" means, as of any date of determination, the aggregate amount of unrestricted cash on-hand of the Loan Parties maintained in deposit accounts in the name of a Loan Party in the United States or Canada as of such date, which deposit accounts are subject to Control Agreements; provided, that prior to the date that is 45 days after the Effective Date (or such later date as agreed to by the Collateral Agent in its sole discretion) so long as the Loan Parties are using commercially reasonable efforts to put in place such Control Agreements, such unrestricted cash shall not be subject to the requirement to be subject to a Control Agreement prior to such date.

"Qualified Equity Interests" means, with respect to any Person, all Equity Interests of such Person that are not Disqualified Equity Interests.

"Real Property Deliverables" means each of the following agreements, instruments and other documents in respect of each Facility, each in form and substance reasonably satisfactory to the Collateral Agent:

(a) a Mortgage duly executed by the applicable Loan Party,

(b) evidence of the recording of each Mortgage in such office or offices as may be necessary or, in the reasonable opinion of the Collateral Agent, desirable to perfect the Lien purported to be created thereby or to otherwise protect the rights of the Collateral Agent and the Lenders thereunder;

(c) a Title Insurance Policy with respect to each Mortgage;

(d) a current ALTA survey, certified to the Collateral Agent and to the issuer of the Title Insurance Policy with respect thereto by a professional surveyor licensed in the state in which such Facility is located and reasonably satisfactory to the Collateral Agent or an existing survey ExpressMap or other aerial drawing, together with an "affidavit of no change", in each case sufficient to allow the issuer of the Title Insurance Policy to issue such Title Insurance Policy without a survey exception and to provide reasonable and customary survey-related endorsements reasonably requested by the Collateral Agent;

(e) [reserved];

(f) a zoning report issued by a provider reasonably satisfactory to the Collateral Agent or a copy of each letter issued by the applicable Governmental Authority, evidencing each Facility's compliance with all applicable Requirements of Law;

(g) an opinion of counsel, satisfactory to the Collateral Agent, in the state where such Facility is located with respect to the enforceability of the Mortgage to be recorded and such other matters as the Collateral Agent may reasonably request;

(h) a Phase I Environmental Site Assessment prepared in accordance with the United States Environmental Protection Agency Standards and Practices for "All Appropriate Inquiries" under Section 101(3)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act as referenced in 40 CFR Part 312 and ASTM E-1527-13 "Standard Practice for Environmental Assessments" or, where the Mortgage is not in relation to real property located in the United States, a reasonably comparable foreign equivalent ("Phase I ESA") (and if reasonably requested by the Collateral Agent based upon the results of such Phase I ESA, a Phase II Environmental Site Assessment), by a nationally-recognized environmental consulting firm, reasonably satisfactory to the Collateral Agent; and

(i) such other agreements, instruments, appraisals and other documents as the Collateral Agent may reasonably require.

"Recipient" means any Agent or any Lender, as applicable.

"Reference Rate" means, for any period, the greatest of (a) 2.0% per annum, (b) the Federal Funds Rate plus 0.50% per annum, (c) the SOFR Rate (which rate shall be calculated based upon an Interest Period of 1 month and shall be determined on a daily basis) plus 1.00% per annum, and (d) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Reference Rate shall be effective from and including the date such change is publicly announced as being effective.

"Reference Rate Loan" means each portion of a Loan that bears interest at a rate determined by reference to the Reference Rate.

"Register" has the meaning specified therefor in Section 12.07(f).

"Registered Intellectual Property" means Intellectual Property that is issued, registered, renewed or the subject of a pending application with the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office.

"Registered Loans" has the meaning specified therefor in Section 12.07(f).

"Regulation T", "Regulation U" and "Regulation X" mean, respectively, Regulations T, U and X of the Board or any successor, as the same may be amended or supplemented from time to time.

"Related Fund" means, with respect to any Person, an Affiliate of such Person, or a fund or account managed by such Person or an Affiliate of such Person.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the direct and indirect equityholders, partners, directors, officers, employees, agents, consultants,

trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Material (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Material) into the indoor or outdoor environment, including the movement of Hazardous Materials through or in any environmental media, including the indoor or outdoor air, soil, surface or ground water, sediments or property.

"Relevant Governmental Body" shall mean the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"Remedial Action" means any action (a) to correct, mitigate, or address any actual, alleged or threatened violation of or non-compliance with any Environmental Law or Environmental Permit, or (b) to clean up, remove, remediate, mitigate, abate, contain, treat, monitor, assess, evaluate, investigate, prevent, minimize or in any other way address any environmental condition or the actual, alleged or threatened presence, Release or threatened Release of any Hazardous Materials (including the performance of pre-remedial studies and investigations and post-remedial operation and maintenance activities).

"Replacement Lender" has the meaning specified therefor in Section 12.02(c).

"Replacement Rate" has the meaning specified therefor in Section 2.07(g).

"Reportable Event" means an event described in Section 4043 of ERISA (other than an event not subject to the provision for 30-day notice to the PBGC under the regulations promulgated under such Section).

"Required Lenders" means Lenders whose Pro Rata Shares (calculated in accordance with clause (c) of the definition thereof) aggregate at least 50.1%.

"Required Prepayment Date" shall have the meaning assigned to such term in Section 2.05(g).

"Requirements of Law" means, with respect to any Person, collectively, the common law and any and all federal, state, provincial, territorial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities), and the interpretation or administration thereof by, and other binding determinations, directives, requirements or requests of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserve Percentage" means, on any day, for any Lender, the maximum percentage prescribed by the Board (or any successor Governmental Authority) for determining the reserve requirements (including any basic, supplemental, marginal, or emergency reserves) that are in

effect on such date with respect to eurocurrency funding (currently referred to as "eurocurrency liabilities") of that Lender, but so long as such Lender is not required or directed under applicable regulations to maintain such reserves, the Reserve Percentage shall be zero.

"Restricted Payment" means (a) the declaration or payment of any dividend or other distribution, direct or indirect, on account of any Equity Interests of any Loan Party or any of its Subsidiaries, now or hereafter outstanding, together with any payment or distribution pursuant to a "plan of division" under the Delaware Limited Liability Company Act or any comparable transaction under any similar law, (b) the making of any repurchase, redemption, retirement, defeasance, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Equity Interests of any Loan Party or any direct or indirect parent of any Loan Party, now or hereafter outstanding, (c) the making of any payment to retire, or to obtain the surrender of, any outstanding warrants, options or other rights for the purchase or acquisition of shares of any class of Equity Interests of any Loan Party, now or hereafter outstanding, (d) the return of any Equity Interests to any shareholders or other equity holders of any Loan Party or any of its Subsidiaries, or make any other distribution of property, assets, shares of Equity Interests, warrants, rights, options, obligations or securities thereto as such or (e) the payment of any management, consulting, monitoring or advisory fees or any other fees or expenses (including the reimbursement thereof by any Loan Party or any of its Subsidiaries) pursuant to any management, consulting, monitoring, advisory or other services agreement to any of the shareholders or other equityholders of any Loan Party or any of its Subsidiaries or other Affiliates, or to any other Subsidiaries or Affiliates of any Loan Party.

"Revenues" means, for any period, the total revenue of Parent and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, in each case excluding the effect of any adjustment with respect to any period prior to the Effective Date (including any revenue booked in a current period with respect to any prior to the Effective Date).

"Sale and Leaseback Transaction" means, with respect to the Parent or any of its Subsidiaries, any arrangement, directly or indirectly, with any Person whereby the Parent or any of its Subsidiaries shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

"Sanctioned Country" means, at any time, a country or territory that is the subject or target of any comprehensive Sanctions that broadly prohibit dealings with that country or territory (as of the Effective Date, the Crimea, Donetsk, and Luhansk regions of Ukraine, Cuba, Iran, North Korea and Syria).

"Sanctioned Person" means, at any time, (a) any Person listed in OFAC's Specially Designated Nationals and Blocked Persons List, OFAC's Sectoral Sanctions Identification List, or any other Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury of the United Kingdom, Germany, Canada, Australia, or any other relevant sanctions authority, (b) a Person that resides in, or is organized in, a Sanctioned Country, (c) any Person with whom or with

which a U.S. Person is prohibited from dealing under any of the Sanctions, or (d) any Person owned or controlled by one or more Person or Persons described in clause (a) or (b).

"Sanctions" means Requirements of Law concerning or relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by OFAC, the U.S. Department of State, the European Union, or Her Majesty's Treasury of the United Kingdom, or any other relevant sanctions authority.

"SEC" means the Securities and Exchange Commission or any other similar or successor agency of the Federal government administering the Securities Act.

"Secured Party" means any Agent and any Lender.

"Securities Act" means the Securities Act of 1933, as amended, or any similar Federal statute, and the rules and regulations of the SEC thereunder, all as the same shall be in effect from time to time.

"Securitization" has the meaning specified therefor in Section 12.07(k).

"Security Agreement" means a New York law governed Pledge and Security Agreement, in form and substance reasonably satisfactory to the Collateral Agent, made by a Loan Party in favor of the Collateral Agent for the benefit of the Secured Parties securing the Obligations.

"Seller" means any Person that sells Equity Interests or other property or assets to a Loan Party or a Subsidiary of a Loan Party in a Permitted Acquisition.

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

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

"SOFR Deadline" has the meaning specified therefor in Section 2.07(a).

"SOFR Determination Day" has the meaning specified therefor in the definition of "Term SOFR".

"SOFR Notice" means a written notice substantially in the form of Exhibit D.

"SOFR Option" has the meaning specified therefor in Section 2.07(a).

"SOFR Rate" means, for purposes of any calculation, the rate *per annum* equal to Term SOFR for such calculation.

"SOFR Rate Loan" means each portion of a Loan that bears interest at a rate determined by reference to the SOFR Rate.

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is not less than the total amount of the liabilities of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its existing debts as they become absolute and matured, (c) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital, and (f) is not an "insolvent person" within the meaning of the *Bankruptcy and Insolvency Act* (Canada).

"Specified Extraordinary Receipts" means Extraordinary Receipts consisting of proceeds of property insurance, condemnation awards and purchase price adjustments received in connection with any purchase agreement.

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc. and any successor thereto.

"Subordinated Indebtedness" means Indebtedness of any Loan Party the terms of which (including payment terms, interest rates, covenants, remedies, defaults and other material terms) are satisfactory to the Collateral Agent and which has been expressly subordinated in right of payment to all Indebtedness of such Loan Party under the Loan Documents (a) by the execution and delivery of a subordination agreement, in form and substance satisfactory to the Collateral Agent, or (b) otherwise on terms and conditions satisfactory to the Collateral Agent.

"Subsidiary" means, with respect to any Person at any date, any corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity (a) the accounts of which would be consolidated with those of such Person in such Person's consolidated financial statements if such financial statements were prepared in accordance with GAAP or (b) of which more than 50% of (i) the outstanding Equity Interests having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such Person. References to a Subsidiary shall mean a Subsidiary of the Parent unless the context expressly provides otherwise.

"Swap Obligation" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"Tax Distributions" means in the event the Borrower or any of its Subsidiaries are members of a group filing a consolidated, combined, affiliated or unitary income tax return with any direct or indirect parent of the Borrower (including Parent), direct or indirect payments to such

parent of the Borrower in amounts required for such parent entity to pay U.S. federal, foreign, state and local Taxes imposed on such parent entity in respect of the Borrower and/or its Subsidiaries, reduced by any such Taxes paid directly by the Borrower and its Subsidiaries to the relevant Governmental Authority; provided, however, that the amount of such payments in respect of any tax year does not, in the aggregate, exceed the amount that the Borrower and its Subsidiaries that are members of such consolidated, combined, affiliated or unitary tax group would have been required to pay in respect of such Taxes in respect of such year if the Borrower and its Subsidiaries paid such Taxes directly on a separate company basis or as a stand-alone consolidated, combined, affiliated or unitary tax group, reduced by any such Taxes paid directly by any Loan Party to the relevant Governmental Authority.

"Taxes" means all present or future taxes, levies, imposts, duties, goods and services, harmonized sales, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan" means, collectively, the loans made by the Term Loan Lenders to the Borrower on the Effective Date pursuant to Section 2.01(a).

"Term Loan Commitment" means, with respect to each Lender, the commitment of such Lender to make the Term Loan to the Borrower in the amount set forth in Schedule 1.01(A) hereto or in the Assignment and Acceptance pursuant to which such Lender became a Lender under this Agreement, as the same may be terminated or reduced from time to time in accordance with the terms of this Agreement.

"Term Loan Lender" means a Lender with a Term Loan Commitment or a Term Loan.

"Term Loan PIK Amount" means, as of any date of determination, the amount of all interest accrued with respect to the Term Loan that has been paid in kind by being added to the balance thereof in accordance with Section 2.04(a).

"Term SOFR" means, for any calculation with respect to a SOFR Rate Loan, the Term SOFR Reference Rate for tenor comparable to the applicable Interest Period on the day (such date, the "SOFR Determination Day") that is two 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 that, solely for purposes of determining the Reference Rate under this Agreement, the foregoing tenor shall be one month on the day that is two U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, further, that (a) if as of 5:00 p.m. (New York City time) on any SOFR Determination Day the Term SOFR Reference Rate for such 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 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 U.S. Government Securities Business Days prior to such SOFR Determination Day, and (b) if Term

SOFR as so determined shall ever be less than 1.00%, then Term SOFR shall be deemed to be 1.00% 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.

"Title Insurance Policy" means a mortgagee's loan policy, in form and substance reasonably satisfactory to the Collateral Agent, together with any endorsements made from time to time thereto, issued to the Collateral Agent by or on behalf of a title insurance company selected by or otherwise reasonably satisfactory to the Collateral Agent, insuring the Lien created by a Mortgage in an amount equal to the Current Value of the real property and with such endorsements reasonably satisfactory to the Collateral Agent, delivered to the Collateral Agent.

"Total Commitment" means the sum of the Total Initial Term Loan Commitment and the Total New Term Loan Commitment.

"Total Initial Term Loan Commitment" means the sum of the amounts of the Lenders' Initial Term Loan Commitments.

"Total New Term Loan Commitment" means the sum of the amounts of the Lenders' New Term Loan Commitments.

"UK Subsidiary" means any Subsidiary that is organized and existing under the laws of the United Kingdom or any province or territory thereof.

"Unadjusted Benchmark Replacement" shall mean the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Uniform Commercial Code" or "UCC" has the meaning specified therefor in Section 1.04.

"Updated Budget" has the meaning specified therefor in Section 7.01(a)(ix).

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001 (Title III of Pub. L. 107-56, Oct. 26, 2001) as amended by the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. 109-177, March 9, 2006) and as the same may have been or may be further renewed, extended, amended, or replaced.

"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.

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

"Variance Report" has the meaning specified therefor in Section 7.01(a)(x).

"VCOC Management Rights Agreement" means the management rights letter, dated as of the Effective Date, among the Loan Parties and the Agents (as the same may be amended, restated amended and restated, supplemented or otherwise modified from time to time).

"Waivable Mandatory Prepayment" shall have the meaning assigned to such term in Section 2.05(g).

"WARN" has the meaning specified therefor in Section 6.01(p).

"Warrants" means the warrants issued on the Effective Date to Blue Torch or its designees and representing 1.50% of the total voting and economic Equity Interests of the Parent.

"Withholding Agent" means any Loan Party and the Administrative Agent.

"Working Capital" means, at any date of determination thereof, (a) the sum, for any Person and its Subsidiaries, of (i) the unpaid face amount of all Accounts of such Person and its Subsidiaries as at such date of determination, plus (ii) the aggregate amount of prepaid expenses and other current assets of such Person and its Subsidiaries as at such date of determination (other than cash, Cash Equivalents and any Indebtedness owing to such Person or any of its Subsidiaries by Affiliates of such Person), minus (b) the sum, for such Person and its Subsidiaries, of (i) the unpaid amount of all accounts payable of such Person and its Subsidiaries as at such date of determination, plus (ii) the aggregate amount of all accrued expenses of such Person and its Subsidiaries as at such date of determination (other than the current portion of long-term debt and all accrued interest and taxes).

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any right or interest in or to assets and properties of any kind whatsoever, whether real, personal or mixed and whether tangible

or intangible and (f) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations.

Section 1.03 Certain Matters of Construction. References in this Agreement to "determination" by any Agent include good faith estimates made by such Agent (in the case of quantitative determinations) and good faith beliefs by such Agent (in the case of qualitative determinations). A Default or Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall "continue" or be "continuing" until such Event of Default has been waived in writing by the Required Lenders. Any Lien referred to in this Agreement or any other Loan Document as having been created in favor of any Agent, any agreement entered into by any Agent pursuant to this Agreement or any other Loan Document, any payment made by or to or funds received by any Agent pursuant to or as contemplated by this Agreement or any other Loan Document, or any act taken or omitted to be taken by any Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of the Agents and the Lenders. Wherever the phrase "to the knowledge of any Loan Party" or words of similar import relating to the knowledge or the awareness of any Loan Party are used in this Agreement or any other Loan Document, such phrase shall mean and refer to (i) the actual knowledge of a senior officer of any Loan Party or (ii) the knowledge that a senior officer would have obtained if such officer had engaged in good faith and diligent performance of such officer's duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Loan Party and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

Section 1.04 Accounting and Other Terms.

(a) Unless otherwise expressly provided herein, each accounting term used herein shall have the meaning given it under GAAP. For purposes of determining compliance with any incurrence or expenditure tests set forth in Section 7.01, Section 7.02 and Section 7.03, any amounts so incurred or expended (to the extent incurred or expended in a currency other than Dollars) shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents and Borrower or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents and Borrower) as in effect on the date of such incurrence or expenditure under any provision of any such Section that has an aggregate Dollar limitation provided for therein (and to the extent the respective incurrence or expenditure test regulates the aggregate amount outstanding at any time and it is expressed in terms of Dollars,

all outstanding amounts originally incurred or spent in currencies other than Dollars shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents and Borrower or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents and Borrower) as in effect on the date of any new incurrence or expenditures made under any provision of any such Section that regulates the Dollar amount outstanding at any time). Notwithstanding the foregoing, (i) with respect to the accounting for leases as either operating leases or capital leases and the impact of such accounting in accordance with FASB ASC 842 on the definitions and covenants herein, GAAP as in effect on December 31, 2018 shall be applied, unless the Borrower chooses otherwise, (ii) for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Parent and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded and (iii) with respect to revenue recognition and the impact of such accounting in accordance with FASB ASC 606 on the definitions and covenants herein, GAAP as in effect on December 31, 2017 shall be applied.

(b) All terms used in this Agreement which are defined in Article 8 or Article 9 of the Uniform Commercial Code as in effect from time to time in the State of New York (the "Uniform Commercial Code" or the "UCC") or the PPSA, as applicable, and which are not otherwise defined herein shall have the same meanings herein as set forth therein, provided that terms used herein which are defined in the Uniform Commercial Code as in effect in the State of New York or in the PPSA as in effect in the Province of British Columbia on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as any Agent and Borrower may otherwise determine.

Section 1.05 Time References. Unless otherwise indicated herein, all references to time of day refer to Eastern Standard Time or Eastern daylight saving time, as in effect in New York City on such day. For purposes of the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding"; provided, however, that with respect to a computation of fees or interest payable to any Secured Party, such period shall in any event consist of at least one full day. Whenever any action or delivery to be taken or made under this Agreement or any other Loan Document shall be stated to be due on a day other than a Business Day, such action or delivery shall be deemed to be due on the next succeeding Business Day.

Section 1.06 Rates. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Reference Rate, the Term SOFR Reference Rate, SOFR Rate or Term SOFR, or any component or definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Reference Rate, the Term SOFR Reference Rate, SOFR Rate, Term SOFR, or (b) the effect, implementation or composition of any Conforming Changes. The

Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Reference Rate, the Term SOFR Reference Rate, Term SOFR, SOFR Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Reference Rate, the Term SOFR Reference Rate, Term SOFR or SOFR Rate, 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 1.07 Quebec Matters. For purposes of any assets, liabilities or entities located in the Province of Québec and for all other purposes pursuant to which the interpretation or construction of this Agreement or any other Loan Document may be subject to the laws of the Province of Québec or a court or tribunal exercising jurisdiction in the Province of Québec, (a) "personal property" shall include "movable property", (b) "real property" or "real estate" shall include "immovable property", (c) "tangible property" shall include "corporeal property", (d) "intangible property" shall include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall include a "hypothec", "right of retention", "prior claim" , "reservation of ownership" and a resolutory clause, (f) all references to filing, perfection, priority, remedies, registering or recording under the Uniform Commercial Code or a PPSA shall include publication under the *Civil Code of Québec,* (g) all references to "perfection" of or "perfected" liens or security interest shall include a reference to an "opposable" or "set up" hypothec as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall include a "right of compensation", (i) "goods" shall include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall include a "mandatary", (k) "construction liens" or "mechanics, materialmen, repairmen, construction contractors or other like Liens" shall include "legal hypothecs" and "legal hypothecs in favour of persons having taken part in the construction or renovation of an immovable", (l) "joint and several" shall include "solidary", (m) "gross negligence or wilful misconduct" shall be deemed to be "intentional or gross fault", (n) "beneficial ownership" shall include "ownership on behalf of another as mandatary", (o) "easement" shall include "servitude", (p) "priority" shall include "rank" or "prior claim", as applicable (q) "survey" shall include "certificate of location and plan", (r) "state" shall include "province", (s) "fee simple title" shall include "absolute ownership" and "ownership" (including ownership under a right of superficies), (t) "accounts" shall include "claims", (u) "legal title" shall be including "holding title on behalf of an owner as mandatary or prete-nom", (v) "ground lease" shall include "emphyteusis" or a "lease with a right of superficies, as applicable, (w) "leasehold interest" shall include "rights resulting from a lease", (x) "lease" shall include a "leasing contract" and (y) "foreclosure" shall include "the exercise of hypothecary recourse", and (z) "guarantee" and "guarantor" shall include "suretyship" and "surety", respectively. The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que*

tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.

Section 1.08 Currency Indemnity. If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement or any other Loan Document, it becomes necessary to convert into a particular currency (the "Judgment Currency") any amount due under this Agreement or under any other Loan Document in any currency other than the Judgment Currency (the "Currency Due"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose "rate of exchange" means the rate at which the Administrative Agent is able, on the relevant date, to purchase the Currency Due with the Judgment Currency in accordance with its normal practice at its head office in New York, New York. In the event that there is a change in the rate of exchange prevailing between the Business Day immediately preceding the day on which the judgment is given and the date of receipt by the Administrative Agent of the amount due, the Borrower shall, on the date of receipt by the Administrative Agent, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any, as may be necessary to ensure that the amount received by the Administrative Agent on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of receipt by the Administrative Agent is the amount then due under this Agreement or such other Loan Document in the Currency Due. If the amount of the Currency Due which the Administrative Agent is so able to purchase is less than the amount of the Currency Due originally due to it, the Borrower shall indemnify and save the Administrative Agent and the Lenders harmless from and against all loss or damage arising as a result of such deficiency, subject to and in accordance with Section 12.15. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the other Loan Documents, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Administrative Agent from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or any other Loan Document or under any judgment or order.

ARTICLE II

THE LOANS

Section 2.01 Commitments.

Subject to the terms and conditions and relying upon the representations and warranties herein set forth each Initial Term Loan Lender severally agrees to make the Initial Term Loan to the Borrower on the Effective Date, in an aggregate principal amount not to exceed the amount of such Lender's Initial Term Loan Commitment.

(b) Notwithstanding the foregoing the aggregate principal amount of the Initial Term Loan made on the Effective Date shall not exceed the Total Initial Term Loan Commitment. Any principal amount of the Initial Term Loan which is repaid or prepaid may not be reborrowed.

Section 2.02 Making the Loans. The Borrower shall give the Administrative Agent prior written notice in substantially the form of Exhibit C hereto (a "Notice of Borrowing"),

not later than 12:00 noon (New York City time) on the date which is 3 Business Days (or, in the case of the Initial Term Loans 10:00 a.m. (New York City time) on the date which is 1 Business Day) prior to the date of the proposed Loan (or such shorter period as the Administrative Agent is willing to accommodate from time to time, but in no event later than 10:00 a.m. (New York City time) on the borrowing date of the proposed Loan). Such Notice of Borrowing shall be irrevocable and shall specify (i) the principal amount of the proposed Loan, (ii) in the case of Loans requested on the Effective Date, whether the Loan is requested to be a Reference Rate Loan or a SOFR Rate Loan, (iii) the use of the proceeds of such proposed Loan, and (iv) the proposed borrowing date, which must be a Business Day, and, with respect to the Initial Term Loan, must be the Effective Date. The Administrative Agent and the Lenders may act without liability upon the basis of written, telecopied or telephonic notice believed by the Administrative Agent in good faith to be from the Borrower (or from any Authorized Officer thereof designated in writing purportedly from the Borrower to the Administrative Agent). The Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic Notice of Borrowing. The Administrative Agent and each Lender shall be entitled to rely conclusively on any Authorized Officer's authority to request a Loan on behalf of the Borrower until the Administrative Agent receives written notice to the contrary. The Administrative Agent and the Lenders shall have no duty to verify the authenticity of the signature appearing on any written Notice of Borrowing.

(b) Each Notice of Borrowing pursuant to this Section 2.02 shall be irrevocable and the Borrower shall be bound to make a borrowing in accordance therewith.

(c) All Loans under this Agreement shall be made by the Lenders simultaneously and proportionately to their Pro Rata Shares of the Total Initial Term Loan Commitment, it being understood that no Lender shall be responsible for any default by any other Lender in that other Lender's obligations to make a Loan requested hereunder, nor shall the Commitment of any Lender be increased or decreased as a result of the default by any other Lender in that other Lender's obligation to make a Loan requested hereunder, and each Lender shall be obligated to make the Loans required to be made by it by the terms of this Agreement regardless of the failure by any other Lender.

(d) Each Lender shall make its Loan available to the Administrative Agent not later than 12:00 p.m. (New York City time) on the Borrowing Date set forth in the applicable Notice of Borrowing, by wire transfer of same day funds in Dollars, at the Payment Office designated by the Administrative Agent. Upon receipt of all requested funds and satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of the Loans available to the Borrower on the Borrowing Date set forth in the applicable Notice of Borrowing by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from the Lenders to be wired to the account of the Borrower or as otherwise designated to the Administrative Agent by the Borrower in the applicable Notice of Borrowing.

Section 2.03 Repayment of Loans; Evidence of Debt. The outstanding principal amount of the Initial Term Loan shall be repayable in consecutive quarterly installments on the last Business Day of each March, June, September and December (each an "Installment Date"), beginning with the calendar quarter ending September 30, 2022. Each such quarterly installment

shall be in an aggregate amount equal to the aggregate principal amount set forth below opposite the applicable period set forth (subject to adjustment pursuant to Section 2.05(d)):

Installment Date	Quarterly Installment
For each Installment Date occurring after the Effective Date, up to and including September 30, 2024	$312,500
For each Installment Date occurring after September 30, 2024	$625,000

; provided, however, that the last such installment shall be in the amount necessary to repay in full the unpaid principal amount of the Initial Term Loan. The outstanding unpaid principal amount of the Initial Term Loan, and all accrued and unpaid interest thereon, shall be due and payable on the earliest of (i) the Final Maturity Date and (ii) the date on which the Initial Term Loan is declared due and payable pursuant to the terms of this Agreement.

(b) The New Term Loans of each Lender shall mature in consecutive installments (which shall be no more frequent than quarterly) as specified in the applicable Incremental Joinder Agreement pursuant to which such New Term Loans were made.

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(e) The entries made in the accounts maintained pursuant to Section 2.03(c) or Section 2.03(d) shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that (i) the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement and (ii) in the event of any conflict between the entries made in the accounts maintained pursuant to Section 2.03(c) and the accounts maintained pursuant to Section 2.03(d), the accounts maintained pursuant to Section 2.03(d) shall govern and control.

(f) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) substantially in the form of Exhibit F hereto. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 12.07)

be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.04 Interest.

(a) Term Loan. Subject to the terms of this Agreement, at the option of the Borrower, the Initial Term Loan (including the Term Loan PIK Amount relating thereto) or any portion thereof shall be either a Reference Rate Loan or a SOFR Rate Loan. Each portion of the Initial Term Loan that is a Reference Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Initial Term Loan until repaid, at a rate per annum equal to the Reference Rate plus the Applicable Margin, and each portion of the Initial Term Loan that is a SOFR Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Initial Term Loan until repaid, at a rate per annum equal to the SOFR Rate for the Interest Period in effect for the Initial Term Loan (or such portion thereof) plus the Applicable Margin; provided that interest on the Initial Term Loan accruing at a rate per annum equal to 3.00% shall be paid by capitalizing such interest and adding such capitalized interest to the then outstanding principal amount of the Initial Term Loan annually on each anniversary of the Effective Date and, thereafter, shall bear interest as provided hereunder as if it had originally been part of the outstanding principal of the Initial Term Loan.

(b) Default Interest. To the extent permitted by law and notwithstanding anything to the contrary in this Section, upon the occurrence and during the continuance of an Event of Default, the principal (including the Term Loan PIK Amount) of, and all accrued and unpaid interest on, all Loans, fees, indemnities or any other Obligations of the Loan Parties under this Agreement and the other Loan Documents, shall bear interest, from the date such Event of Default occurred until the date such Event of Default is cured or waived in writing in accordance herewith, at a rate per annum equal at all times to the Post-Default Rate.

(c) Interest Payment. Interest (other than the Term Loan PIK Amount, which shall be capitalized in accordance with Section 2.04(a)) on each Loan shall be shall be payable (i) in the case of a Reference Rate Loan, quarterly, in arrears, on the last Business Day of each March, June, September and December, (ii) in the case of a SOFR Rate Loan, in arrears, on the last day of the then effective Interest Period applicable to such Loan, and (iii) in the case of each Loan, at maturity (whether upon demand, by acceleration or otherwise). Interest at the Post-Default Rate shall be payable on demand. The Borrower hereby authorizes the Administrative Agent to, and the Administrative Agent may, from time to time, charge the Loan Account pursuant to Section 4.01 with the amount of any interest payment due hereunder.

(d) General. All interest shall be computed on the basis of a year of 360 days for the actual number of days, including the first day but excluding the last day, elapsed.

(e) Interest Act.

(i) For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid under any Loan Document is to be calculated on the basis of a 360-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which

the same is to be ascertained and divided by 360 . The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

(ii) The Borrower acknowledges and confirms that:

(A) clause (i) above satisfies the requirements of Section 4 of the *Interest Act* (Canada) to the extent it applies to the expression or statement of any interest payable under any Loan Document; and

(B) each Loan Party is able to calculate the yearly rate or percentage of interest payable under any Loan Document based upon the methodology set out in clause (i) above.

(iii) The Borrower agrees not to, and to cause each Loan Party not to, plead or assert, whether by way of defence or otherwise, in any proceeding relating to the Loan Documents, that the interest payable thereunder and the calculation thereof has not been adequately disclosed to any Loan Party, whether pursuant to Section 4 of the *Interest Act* (Canada) or any other applicable law or legal principle.

Section 2.05 Reduction of Commitment; Prepayment of Loans.

(a) Reduction of Commitments. The Total Initial Term Loan Commitment shall terminate at 5:00 p.m. (New York City time) on the Effective Date.

(b) Optional Prepayment.

(i) Initial Term Loan. The Borrower may, at any time and from time to time, upon at least 5 Business Days' prior written notice to the Administrative Agent (or such shorter period as the Administrative Agent may agree), prepay the principal of the Initial Term Loan, in whole or in part. Each prepayment made pursuant to this Section 2.05(b)(i) shall be accompanied by the payment of (A) accrued interest to the date of such payment on the amount prepaid and (B) the Prepayment Premium, if any, payable in connection with such prepayment of the Initial Term Loan. Each such prepayment shall be applied against the remaining installments of principal due on the Initial Term Loan at the Borrower's direction, or absent such direction, in the inverse order of maturity.

(ii) Termination of Agreement. The Borrower may, upon at least 10 days prior written notice to the Administrative Agent (or such shorter period as the Administrative Agent may agree), terminate this Agreement by paying to the Administrative Agent, in cash, the Obligations, in full, plus the Prepayment Premium, if any, payable in connection with such termination of this Agreement; provided that, such notice may provide that such termination is conditioned upon the consummation of a transaction, in which case, such notice may be revoked or extended by the Borrower if any such transaction is not consummated prior to the date of termination of this Agreement in such notice. If the Borrower has sent a notice of termination pursuant to this Section 2.05(b)(ii), then the Lenders' obligations to extend credit hereunder shall terminate and the Borrower shall be obligated to repay the Obligations, in full, plus the Prepayment

Premium, if any, payable in connection with such termination of this Agreement on the date set forth as the date of termination of this Agreement in such notice (except that such termination may be conditioned on the consummation of a transaction).

(c) Mandatory Prepayment.

(i) Contemporaneously with the delivery to the Agents and the Lenders of audited annual financial statements pursuant to Section 7.01(a)(iii), commencing with the delivery to the Agents and the Lenders of the financial statements for the Fiscal Year ended December 31, 2022 or, if such financial statements are not delivered to the Agents and the Lenders on the date such statements are required to be delivered pursuant to Section 7.01(a)(iii), on the date such statements are required to be delivered to the Agents and the Lenders pursuant to Section 7.01(a)(iii), the Borrower shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 50% of the Excess Cash Flow of the Parent and its Subsidiaries for such Fiscal Year minus the aggregate principal amount of all payments made by the Borrower pursuant to Section 2.05(b) for such Fiscal Year.

(ii) Subject to clause (vi) below, within ten (10) Business Days following any Disposition which qualifies as a Permitted Disposition pursuant to clauses (l), (m) and (n) of the definition thereof) by any Loan Party or its Subsidiaries, the Borrower shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such Disposition to the extent that the aggregate amount of Net Cash Proceeds received by all Loan Parties and their Subsidiaries (and not paid to the Administrative Agent as a prepayment of the Loans) shall exceed for all such Dispositions $500,000 in any Fiscal Year. Nothing contained in this Section 2.05(c)(ii) shall permit any Loan Party or any of its Subsidiaries to make a Disposition of any property other than in accordance with Section 7.02(c)(ii).

(iii) Within two (2) Business Days following receipt of Net Cash Proceeds from the issuance or incurrence by any Loan Party or any of its Subsidiaries of any Indebtedness (other than Permitted Indebtedness), the Borrower shall prepay the outstanding amount of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection therewith. The provisions of this Section 2.05(c)(iii) shall not be deemed to be implied consent to any such issuance, incurrence or sale otherwise prohibited by the terms and conditions of this Agreement.

(iv) Subject to clause (vi) below, within ten (10) Business Days following the receipt by any Loan Party or any of its Subsidiaries of any Extraordinary Receipts, the Borrower shall prepay the outstanding principal of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection therewith to the extent that the aggregate amount of Net Cash Proceeds received by all Loan Parties and their Subsidiaries (and not paid to the Administrative Agent as a prepayment of the Loans) shall exceed for all such Extraordinary Receipts $1,000,000 in any Fiscal Year.

(v) [Reserved].

(vi) Notwithstanding the foregoing, with respect Net Cash Proceeds received by any Loan Party or any of its Subsidiaries in connection with a Disposition or the receipt of Specified Extraordinary Receipts that are required to be used to prepay the Obligations pursuant to Section 2.05(c)(ii) or Section 2.05(c)(iv), as the case may be, up to $1,000,000 in the aggregate in any Fiscal Year of the Net Cash Proceeds from all such Dispositions and Extraordinary Receipts shall not be required to be so used to prepay the Obligations to the extent that such Net Cash Proceeds are used to replace, repair or restore properties or assets (other than current assets) used in such Person's business, provided that, (A) no Event of Default under Section 9.01(a), 9.01(f) or 9.01(g) has occurred and is continuing on the date such Person receives such Net Cash Proceeds, (B) the Borrower delivers a certificate to the Administrative Agent within 5 Business Days after such Disposition, loss, destruction or taking, as the case may be (or such later date as approved by the Administrative Agent in its sole discretion), stating that such Net Cash Proceeds shall be used to replace, repair or restore properties or assets used in such Person's business within a period specified in such certificate not to exceed 150 days after the date of receipt of such Net Cash Proceeds (which certificate shall set forth estimates of the Net Cash Proceeds to be so expended), (C) such Net Cash Proceeds are deposited in an account subject to a Control Agreement, and (D) upon the earlier of (1) the expiration of the period specified in the relevant certificate furnished to the Administrative Agent pursuant to clause (B) above or (2) the occurrence of an Event of Default under Section 9.01(a), 9.01(f) or 9.01(g), such Net Cash Proceeds, if not theretofore so used, shall be used to prepay the Obligations in accordance with Section 2.05(c)(ii) or Section 2.05(c)(iv) as applicable; provided, further, that, in the case of any Net Cash Proceeds from a Permitted Disposition pursuant to clause (m) of the definition thereof, the Borrower shall have provided at least 20 Business Days' notice thereof to the Administrative Agent (or such shorter period as the Administrative Agent may agree in its sole discretion), and the right of the Borrower to use such Net Cash Proceeds as set forth above and not prepay the Obligations shall be subject to the prior written approval of the Administrative Agent.

(d) Application of Payments. Each prepayment pursuant to subsections (c)(i), (c)(ii), (c)(iii) and (c)(iv) above shall be applied against the remaining installments of principal of the Loan in the inverse order of maturity. Notwithstanding the foregoing, after the occurrence and during the continuance of an Event of Default, if the Administrative Agent has elected, or has been directed by the Collateral Agent or the Required Lenders, to apply payments in respect of any Obligations in accordance with Section 4.03(b), prepayments required under Section 2.05(c) shall be applied in the manner set forth in Section 4.03(b).

(e) Interest and Fees. Any prepayment made pursuant to this Section 2.05 shall be accompanied by (i) accrued interest on the principal amount being prepaid to the date of prepayment, (ii) any Funding Losses payable pursuant to Section 2.08 and (iii) the Prepayment Premium, if any, payable in connection with such prepayment of the Loans to the extent required under Section 2.06(a).

(f) Cumulative Prepayments. Except as otherwise expressly provided in this Section 2.05, payments with respect to any subsection of this Section 2.05 are in addition to payments made or required to be made under any other subsection of this Section 2.05.

(g) Waivable Mandatory Prepayments. Anything contained herein to the contrary notwithstanding, in the event that the Borrower is required to make any mandatory prepayment (a

"Waivable Mandatory Prepayment") of the Loans pursuant to Section 2.05(c), not less than 12:00 noon (New York City time) 2 Business Days prior to the date on which the Borrower is required to make such Waivable Mandatory Prepayment (the "Required Prepayment Date"), the Borrower shall notify the Administrative Agent in writing of the amount of such prepayment, and the Administrative Agent will promptly thereafter notify each Lender of the amount of such Lender's Pro Rata Share of such Waivable Mandatory Prepayment and such Lender's option to refuse such amount. Each such Lender may exercise such option by giving written notice to the Borrower and the Administrative Agent of its election to do so on or before 12:00 noon (New York City time) one Business Day prior to the Required Prepayment Date (it being understood that any Lender that does not notify the Borrower and the Administrative Agent of its election to exercise such option on or before 12:00 noon (New York City time) one Business Day prior to the Required Prepayment Date shall be deemed to have elected, as of such date, not to exercise such option). On the Required Prepayment Date, the Borrower shall pay to the Administrative Agent the amount of the Waivable Mandatory Prepayment, which amount shall be applied (i) in an amount equal to that portion of the Waivable Mandatory Prepayment payable to those Lenders that have elected not to exercise such option, to prepay the Loans of such Lenders (which prepayment shall be applied to prepay the outstanding principal amount of the Obligations in accordance with Section 2.05(d)) and (ii) to the extent of any excess, to the Borrower for working capital and general corporate purposes.

(h) Notwithstanding any other provisions of this Section 2.05, to the extent that the Borrower has determined in good faith that repatriation of any or all of the (x) Net Cash Proceeds of any Disposition, (y) Extraordinary Receipts or (z) Excess Cash Flow giving rise to a prepayment event pursuant to Section 2.05 would result in material and adverse tax consequence (after taking into account foreign tax credit or benefit actually received in connection with such prepayment or repatriation) for Parent or any of its Subsidiaries or would be prohibited or restricted by any applicable law, rule or regulation or contractual restrictions (provided that such contractual restrictions are not entered into in contemplation thereof) (any such event, a "Payment Block") with respect to such Net Cash Proceeds, Extraordinary Receipts or Excess Cash Flow, the Net Cash Proceeds, Extraordinary Receipts or Excess Cash Flow so affected will not be required to be applied or otherwise give rise to an obligation to repay Loans at the times provided in this Section 2.05 but may be retained by the applicable Loan Party or Subsidiary and the Borrower shall not be required to monitor any such Payment Block and/or reserve cash for future repatriation after the Borrower has notified the Administrative Agent of the existence of such Payment Block, so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause each Foreign Subsidiary to use its commercially reasonable efforts to promptly take all actions reasonably required by the applicable local law to permit such repatriation) and if within 12 months of the applicable prepayment event, such repatriation of any of such affected Net Cash Proceeds, Extraordinary Receipts or Excess Cash Flow is permitted under the applicable local law, such repatriation will be promptly effected and such repatriated Net Cash Proceeds, Extraordinary Receipts or Excess Cash Flow will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof, including tax distributions in respect thereof) to the repayment of the Loans pursuant to this Section 2.05 to the extent provided herein.

Section 2.06 Fees.

(a) Prepayment Premium.

(i) (i) In the event that all or any portion of the Loans is repaid or prepaid (x) pursuant to Section 2.05(b), Section 2.05(c)(ii) (other than with the Net Cash Proceeds of any Disposition which qualifies as a Permitted Disposition pursuant to clause (m) of the definition thereof) or Section 2.05(c)(iii) or following the acceleration of the Obligations for any reason, including acceleration in accordance with Section 9.01, including as a result of the commencement of an Insolvency Proceeding, prior to the third anniversary of the Effective Date, such repayments or prepayments will be made together with a premium equal to (A) 5.0% of the amount repaid or prepaid, if such repayment or prepayment occurs on or prior to the first anniversary of the Effective Date, (B) 3.0% of the amount repaid or prepaid, if such repayment or prepayment occurs after the first anniversary of the Effective Date but on or prior to the second anniversary of the Effective Date, (C) 2.0% of the amount repaid or prepaid, if such repayment or prepayment occurs after the second anniversary of the Effective Date but on or prior to the third anniversary of the Effective Date and (D) 0.0% of the amount repaid or prepaid, if such repayment or prepayment occurs after the third anniversary of the Effective Date or (y) pursuant to Section 2.05(c)(ii), but solely with respect to the Net Cash Proceeds of any Disposition which qualifies as a Permitted Disposition pursuant to clause (m) of the definition thereof, prior to the third anniversary of the Effective Date, such prepayments will be made together with a premium equal to (A) 2.0% of the amount prepaid, if such prepayment occurs on or prior to the first anniversary of the Effective Date, (B) 1.5% of the amount prepaid, if such prepayment occurs after the first anniversary of the Effective Date but on or prior to the second anniversary of the Effective Date, (C) 1.0% of the amount prepaid, if such repayment or prepayment occurs after the second anniversary of the Effective Date but on or prior to the third anniversary of the Effective Date and (D) 0.0% of the amount prepaid, if such prepayment occurs after the third anniversary of the Effective Date. Nothing contained in this Section 2.05(c)(ii) shall permit any Loan Party or any of its Subsidiaries (the foregoing premiums in each of clauses (x) and (y), the "Prepayment Premium"). If the Loans are accelerated or otherwise become due prior to their maturity date, in each case, as a result of an Event of Default (including upon the occurrence of an Insolvency Proceeding (including the acceleration of claims by operation of law)), the amount of principal of and premium on the Loans that becomes due and payable shall equal 100% of the principal amount of the Loans plus the Prepayment Premium in effect on the date of such acceleration or such other prior due date, as if such acceleration or other occurrence were a voluntary prepayment of the Loans accelerated or otherwise becoming due. Any premium payable above shall be presumed to be the liquidated damages sustained by each Lender and the Loan Parties agree that it is reasonable under the circumstances currently existing. THE LOAN PARTIES EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION.

(ii) The Loan Parties expressly agree (to the fullest extent they may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed

to in this paragraph; (E) their agreement to pay the Prepayment Premium is a material inducement to Lenders to provide the Commitments and make the Loans, and (F) the Prepayment Premium represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Agents and the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Agents and the Lenders or profits lost by the Agents and the Lenders.

(iii) Nothing contained in this Section 2.06(a) shall permit any prepayment of the Loans or reduction of the Commitments not otherwise permitted by the terms of this Agreement or any other Loan Document.

(b) Fee Letter. As and when due and payable under the terms of the Fee Letter, the Borrower shall pay the fees set forth in the Fee Letter.

Section 2.07 SOFR Option.

(a) The Borrower may, at any time and from time to time, so long as no Default or Event of Default has occurred and is continuing, elect to have interest on all or a portion of the Loans be charged at a rate of interest based upon the SOFR Rate (the "SOFR Option") by notifying the Administrative Agent prior to 11:00 a.m. (New York City time) at least 3 Business Days prior to (i) the proposed borrowing date of a Loan (as provided in Section 2.02), (ii) in the case of the conversion of a Reference Rate Loan to a SOFR Rate Loan, the commencement of the Interest Period or (iii) in the case of the continuation of a SOFR Rate Loan as a SOFR Rate Loan, the last day of the then current Interest Period (the "SOFR Deadline"). Notice of the Borrower's election of the SOFR Option for a permitted portion of the Loans and an Interest Period pursuant to this Section 2.07(a) shall be made by delivery to the Administrative Agent of (A) a Notice of Borrowing (in the case of the initial making of a Loan) in accordance with Section 2.02 or (B) a SOFR Notice prior to the SOFR Deadline (or by telephonic notice received by the Administrative Agent before the SOFR Deadline (to be confirmed by delivery to the Administrative Agent of a SOFR Notice received by the Administrative Agent prior to 5:00 p.m. (New York City time) on the SOFR Deadline)). Promptly upon its receipt of each such SOFR Notice, the Administrative Agent shall provide a copy thereof to each of the Lenders. Each SOFR Notice shall be irrevocable and binding on the Borrower.

(b) Interest on SOFR Rate Loans shall be payable in accordance with Section 2.04(c). On the last day of each applicable Interest Period, unless the Borrower properly has exercised the SOFR Option with respect thereto, the interest rate applicable to such SOFR Rate Loans automatically shall convert to the rate of interest then applicable to Reference Rate Loans of the same type hereunder. At any time that an Event of Default has occurred and is continuing, the Borrower no longer shall have the option to request that any portion of the Loans bear interest at the SOFR Rate and the Administrative Agent shall have the right to convert the interest rate on all outstanding SOFR Rate Loans to the rate of interest then applicable to Reference Rate Loans of the same type hereunder on the last day of the then current Interest Period.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Borrower (i) shall have not more than two SOFR Rate Loans in effect at any given time (unless

otherwise agreed by the Administrative Agent) and (ii) only may exercise the SOFR Option for SOFR Rate Loans of at least $500,000 and integral multiples of $100,000 in excess thereof.

(d) The Borrower may prepay SOFR Rate Loans at any time; provided, however, that in the event that such Loans are prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any mandatory prepayment pursuant to Section 2.05(c) or any application of payments or proceeds of Collateral in accordance with Section 4.03 or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the Obligations pursuant to the terms hereof, the Borrower shall indemnify, defend, and hold the Agents and the Lenders and their participants harmless against any and all Funding Losses in accordance with Section 2.08 and shall pay the Prepayment Premium due under Section 2.06(a).

(e) Anything to the contrary contained herein notwithstanding, neither any Agent nor any Lender, nor any of their participants, is required actually to acquire deposits to fund or otherwise match fund any Obligation as to which interest accrues at the SOFR Rate. The provisions of this Article II shall apply as if each Lender or its participants had match funded any Obligation as to which interest is accruing at the SOFR Rate by acquiring deposits for each Interest Period in the amount of the SOFR Rate Loans.

(f) Unless and until a Replacement Rate is implemented in accordance with clause (g) below, if prior to the commencement of any Interest Period for any SOFR Rate Loan,

(i) the Administrative Agent shall have determined that adequate and reasonable means do not exist for ascertaining Term SOFR for such Interest Period, or

(ii) the Administrative Agent shall have received notice from the Required Lenders that Term SOFR does not adequately and fairly reflect the cost to such Lenders of making, funding or maintaining their SOFR Rate Loans for such Interest Period,

then the Administrative Agent shall give written notice to the Borrower and to the Lenders as soon as practicable thereafter. Until the Administrative Agent shall notify the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (A) the obligations of the Lenders to make SOFR Rate Loans, or to continue or convert outstanding Loans as or into SOFR Rate Loans, shall be suspended and (B) all such affected Loans shall be converted into Reference Rate Loans on the last day of the then current Interest Period applicable thereto.

(g) Notwithstanding anything to the contrary contained herein, if at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances described in Section 2.07(f)(i) or (f)(ii) have arisen and such circumstances are unlikely to be temporary, (ii) syndicated loans currently being executed, or that include language similar to that contained in Section 2.07(f), are being executed or amended (as applicable), to incorporate or adopt a new benchmark interest rate to replace Term SOFR or (iii) the supervisor for the administrator of SOFR Rate or a Governmental Authority has made a public statement identifying a specific date after which Term SOFR shall no longer be used for determining interest rates for loans, then the Administrative Agent, in consultation with the Borrower, shall endeavor to establish an alternate index rate (the "Replacement Rate") that gives

due consideration to the then prevailing market convention for determining a rate of interest for leveraged syndicated loans in the United States at such time, in which case the Replacement Rate shall, subject to the following provisions of this Section 2.07(g), replace such applicable interest rate for all purposes under the Loan Documents unless and until (A) an event described in Section 2.07(f)(i), (f)(ii), (g)(i), (g)(ii) or (g)(iii) occurs with respect to the Replacement Rate or (B) the Required Lenders through the Administrative Agent notify the Borrower that the Replacement Rate does not adequately and fairly reflect the cost to the Lenders of making, funding or maintaining the Loans bearing interest at the Replacement Rate. In connection with the establishment and application of the Replacement Rate, this Agreement and the other Loan Documents shall be amended solely with the consent of the Administrative Agent and the Borrower as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.07(g). Notwithstanding anything to the contrary in Section 12.02, such amendment shall become effective without any further action or consent of any Lender so long as the Administrative Agent shall not have received, within five (5) Business Days after the date notice such amendment is provided to the Lenders, a written notice from Required Lenders stating that they object to such amendment (which amendment shall not be effective prior to the end of such five (5) Business Day notice period). To the extent the Replacement Rate is adopted as contemplated hereby, the Replacement Rate shall be applied in a manner consistent with prevailing market convention; provided that, to the extent no prevailing market convention exists or such prevailing market convention is not administratively feasible for the Administrative Agent, such Replacement Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower. If the Administrative Agent makes a determination described in clause (i), (ii) or (iii) above, until a Replacement Rate has been determined and an amendment with respect thereto has become effective in accordance with the terms and conditions of this paragraph, (x) any notice from the Borrower that requests the conversion of any Reference Rate Loan to, or continuation of any SOFR Rate Loan as, a SOFR Rate Loan shall be ineffective, and (y) if any notice of borrowing requests a SOFR Rate Loan, such Loan shall be made as a Reference Rate Loan. Notwithstanding anything contained herein to the contrary, if such Replacement Rate as determined in this paragraph is determined to be less than 1.00% per annum, such rate shall be deemed to be 1.00% per annum for the purposes of this Agreement.

(h) 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 to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further consent or 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 2.08 Funding Losses. In connection with each SOFR Rate Loan, the Borrower shall indemnify, defend, and hold the Agents and the Lenders harmless against any actual loss, cost, or expense incurred by any Agent or any Lender as a result of (a) the payment of any principal of any SOFR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or any mandatory prepayment required pursuant to Section 2.05(c)), (b) the conversion of any SOFR Rate Loan other than on the last day of the Interest Period applicable thereto (including as a result of an Event of Default), or (c) the

failure to borrow, convert, continue or prepay any SOFR Rate Loan on the date specified in any Notice of Borrowing or SOFR Notice delivered pursuant hereto (such losses, costs, and expenses, collectively, "Funding Losses"). Funding Losses shall, with respect to any Agent or any Lender, be deemed to equal the amount reasonably determined by such Agent or such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such SOFR Rate Loan had such event not occurred, at the SOFR Rate that would have been applicable thereto, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period therefor), minus (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Agent or such Lender would be offered were it to be offered, at the commencement of such period, Dollar deposits of a comparable amount and period. A certificate of an Agent or a Lender delivered to the Borrower setting forth any amount or amounts that such Agent or such Lender is entitled to receive pursuant to this Section 2.08 shall be conclusive absent manifest error. For the avoidance of doubt, Funding Losses shall exclude lost profits.

Section 2.09 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any and all Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of any Withholding Agent) requires the deduction or withholding of any Taxes from or in respect of any such payment, (i) the applicable Withholding Agent shall make such deduction or withholding, (ii) the applicable Withholding Agent shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and (iii) if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased by the amount (an "Additional Amount") necessary such that after making all required deductions and withholdings (including deductions and withholdings applicable to Additional Amounts payable under this Section 2.09) the applicable Recipient receives the amount equal to the sum it would have received had no such deduction or withholding of Indemnified Taxes been made.

(b) In addition (but without duplication), each Loan Party shall pay to the relevant Governmental Authority in accordance with applicable law any Other Taxes, or at the option of the Administrative Agent timely reimburse it for the payment of any Other Taxes by any Secured Party. Each Loan Party shall deliver to each Secured Party the original or a certified copy of any official receipts (to the extent the applicable Governmental Authority makes such receipts readily available to the Loan Party) in respect of any Taxes payable by the Borrower to a Governmental Authority hereunder promptly after payment of such Taxes, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(c) The Loan Parties hereby jointly and severally indemnify and agree to hold each Secured Party harmless from and against Indemnified Taxes (including Indemnified Taxes imposed on any amounts payable under this Section 2.09) paid or payable by such Secured Party or required to be withheld or deducted from a payment to such Secured Party and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. Such indemnification shall be paid within 10 days from the date on

which any such Person makes written demand therefore specifying in reasonable detail the nature and amount of such Indemnified Taxes or Other Taxes. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Secured Party (with a copy to the Administrative Agent) or by the Administrative Agent on its own behalf or on behalf of another Secured Party shall be conclusive absent manifest error.

(d) 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 2.09(d)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the 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), copies of executed IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Lender that is not a U.S. Person (a "Foreign Lender") shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be reasonably requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the 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, copies of executed IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, copies of executed IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) copies of executed 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 Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 2.09(d)-1 hereto to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Internal Revenue Code (a "U.S. Tax Compliance Certificate") and (y) copies of executed IRS Form W-8BEN or W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, copies of executed IRS Form W-8IMY, accompanied by copies of executed IRS Form W-8ECI, IRS Form W-8BEN, W-8BEN-E or IRS Form W-9, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.09(d)-2 or Exhibit 2.09(d)-3, or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.09(d)-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be reasonably requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the 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 U.S. 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 U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender shall deliver to the 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 Internal Revenue 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, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Administrative Agent in writing of its legal inability to do so.

(e) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.07(i) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by 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) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.09 (including by the payment of additional amounts pursuant to this Section 2.09), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.09 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) The Administrative Agent, and any sub-agent and any successor or supplemental Administrative Agent, shall deliver to the Borrower (in such number of copies as it reasonably requests) on or prior to the date on which the Administrative Agent becomes the administrative agent hereunder or under any other Loan Document (and from time to time thereafter upon the reasonable request of the Borrower) copies of either (i) duly completed and properly executed IRS Form W-9 (or any successor form) or (ii) duly completed and properly executed IRS Form W-8IMY (or any successor form) evidencing its agreement with the IRS to be treated as a U.S. person with respect to amounts received on account of any Lender, and IRS Form W-8ECI with respect to amounts received on its own account, with the effect that, in either case, the Borrower will be entitled to make payments hereunder to the Administrative Agent without withholding or deduction on account of U.S. federal withholding Tax. The Administrative Agent

hereby represents and warrants to the Loan Parties that it is either (i) a "U.S. person" and a "financial institution" that will comply with its "obligation to withhold," each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii), or (ii) U.S. branch of a foreign bank treated as a U.S. person within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(iv).

(h) Each party's obligations under this Section 2.09 shall survive the termination of this Agreement, the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender and the payment of the Loans and all other amounts payable hereunder.

Section 2.10 Increased Costs and Reduced Return. If any Secured Party shall have determined that any Change in Law shall (i) subject such Secured Party, or any Person controlling such Secured Party to any tax, duty or other charge with respect to this Agreement or any Loan made by such Agent or such Lender, or change the basis of taxation of payments to such Secured Party or any Person controlling such Secured Party of any amounts payable hereunder (except for (A) Indemnified Taxes and (B) Excluded Taxes), (ii) impose, modify or deem applicable any reserve, special deposit or similar requirement against any Loan or against assets of or held by, or deposits with or for the account of, or credit extended by, such Secured Party or any Person controlling such Secured Party or (iii) impose on such Secured Party or any Person controlling such Secured Party any other condition regarding this Agreement or any Loan, and the result of any event referred to in clauses (i), (ii) or (iii) above shall be to increase the cost (excluding, in the case of clauses (ii) and (iii) above, any Taxes) to such Secured Party of making any Loan, or agreeing to make any Loan, or to reduce any amount received or receivable by such Secured Party hereunder, then, upon demand by such Secured Party, the Borrower shall pay to such Secured Party such additional amounts as will compensate such Secured Party for such increased costs or reductions in amount.

(b) If any Secured Party shall have determined that any Change in Law either (i) affects or would affect the amount of capital required or expected to be maintained by such Secured Party or any Person controlling such Secured Party, and such Secured Party determines that the amount of such capital is increased as a direct or indirect consequence of any Loans made or maintained, such Secured Party's or such other controlling Person's other obligations hereunder, or (ii) has or would have the effect of reducing the rate of return on such Secured Party's or such other controlling Person's capital to a level below that which such Secured Party or such controlling Person could have achieved but for such circumstances as a consequence of any Loans made or maintained, or any agreement to make Loans, or such Secured Party's or such other controlling Person's other obligations hereunder (in each case, taking into consideration, such Secured Party's or such other controlling Person's policies with respect to capital adequacy), then, upon demand by such Secured Party, the Borrower shall pay to such Secured Party from time to time such additional amounts as will compensate such Secured Party for such cost of maintaining such increased capital or such reduction in the rate of return on such Secured Party's or such other controlling Person's capital.

(c) All amounts payable under this Section 2.10 shall bear interest from the date that is 10 days after the date of demand by any Secured Party until payment in full to such Secured Party at the Reference Rate. A certificate of such Secured Party claiming compensation under this Section 2.10, specifying the event herein above described and the nature of such event shall be

submitted by such Secured Party to the Borrower, setting forth the additional amount due and an explanation of the calculation thereof, and such Secured Party's reasons for invoking the provisions of this Section 2.10, and shall be final and conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 2.10 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 2.10 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) The obligations of the Loan Parties under this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

Section 2.11 Changes in Law; Impracticability or Illegality.

(a) The SOFR Rate may be adjusted by the Administrative Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any deposits or increased costs due to changes in applicable law occurring subsequent to the commencement of the then applicable Interest Period, excluding changes in tax laws (such as changes of general applicability in corporate income tax laws) and including changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), excluding the Reserve Percentage, which additional or increased costs would increase the cost of funding loans bearing interest at the SOFR Rate. In any such event, the affected Lender shall give the Borrower and the Administrative Agent written notice of such a determination and adjustment and the Administrative Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, the Borrower may, by notice to such affected Lender (i) require such Lender to furnish to the Borrower a statement setting forth the basis for adjusting such SOFR Rate and the method for determining the amount of such adjustment, or (ii) repay the SOFR Rate Loans with respect to which such adjustment is made (together with any amounts due under Section).

(b) In the event that any change in market conditions or any law, regulation, treaty, or directive, or any change therein or in the interpretation of application thereof, shall at any time after the date hereof, in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain SOFR Rate Loans or to continue such funding or maintaining, or to determine or charge interest rates at the SOFR Rate, such Lender shall give notice of such changed circumstances to the Borrower and the Administrative Agent, and the Administrative Agent promptly shall transmit the notice to each other Lender and (i) in the case of any SOFR Rate Loans of such Lender that are outstanding, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such SOFR Rate Loans, and interest upon the SOFR Rate Loans of such Lender thereafter shall accrue interest at the rate then applicable to Reference Rate Loans of the same type hereunder, and (ii) the Borrower shall not be

entitled to elect the SOFR Option (including in any borrowing, conversion or continuation then being requested) until such Lender determines that it would no longer be unlawful or impractical to do so.

(c) The obligations of the Loan Parties under this Section 2.11 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

Section 2.12 Uncommitted Incremental Facilities.

(a) On one or more occasions, by written notice to the Administrative Agent, the Borrower may request the establishment of one or more New Term Loan Commitments (the "New Term Loan Commitments"); provided that (i) the aggregate amount of all the New Term Loan Commitments hereunder shall not exceed the Incremental Amount and (ii) the New Term Loan Commitments shall not be less than $10,000,000 individually (or such lesser amount as approved by the Required Lenders). Each such notice shall specify (x) the date (each, an "Increased Amount Date") on which the Borrower proposes that the New Term Loan Commitments shall be effective, which shall be a date not less than 12 Business Days (or such shorter period as may be agreed to by Required Lenders) after the Offer Deadline (defined below) and (y) the amount of the New Term Loan Commitments being requested. The Borrower shall seek New Term Loan Commitments solely from the existing Lenders. Any Lender approached to provide any New Term Loan Commitment may elect or decline, in its sole discretion, to provide such New Term Loan Commitment and if any of the existing Lenders, after the expiration of 12 Business Days commencing with the date on which such Lender is notified of the New Term Loan Commitment request (the date of such expiration, the "Offer Deadline"), decline to provide such New Term Loan Commitment or fail to respond by the Offer Deadline, then no New Term Loan Commitments shall be established.

(b) The New Term Loan Commitments shall be effected pursuant to one or more Incremental Joinder Agreements executed and delivered by the Borrower, each Lender providing such New Term Loan Commitments (such Lender, a "New Term Loan Lender") and the Administrative Agent; provided that no New Term Loan Commitments shall become effective unless (i) immediately prior to and immediately after giving effect to such New Term Loan Commitments and the making of the New Term Loans thereunder and the transactions to be made on such date, no Default or Event of Default shall have occurred and be continuing or would result therefrom, (ii) after giving effect to such New Term Loan Commitments and the making of New Term Loans thereunder and the transactions to be made on the date of effectiveness thereof and assuming that all applicable New Term Loan Commitments are fully drawn, the Borrower shall be in pro forma compliance with Section 7.03, (iii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (A) in the case of the representations and warranties qualified as to materiality, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date, (iv) the Borrower shall have delivered to the Agents and the Required Lenders such customary legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Required Lenders in connection with any such transaction,

(v) the proceeds of any New Term Loans shall be used solely as provided for in the Incremental Joinder Agreement and (vi) any fees and expenses owing in respect of such New Term Loan Commitments and New Term Loans owed to the Administrative Agent and the New Term Loan Lenders shall have been paid. Each Incremental Joinder Agreement may, without the consent of any Loan Party or any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Required Lenders, to give effect to the provisions of this Section 2.12.

(c) The terms and provisions of the New Term Loans and New Term Loan Commitments of any series shall be on terms and documentation set forth in an Incremental Joinder Agreement; provided that (i) the applicable Final Maturity Date of each series shall be the Final Maturity Date; (ii) the weighted average life to maturity of all New Term Loans shall be no shorter than the weighted average life to maturity (without giving effect to prepayments) of the Initial Term Loans; and (iii) the pricing, interest rate margins, discounts, premiums, rate floors, fees and amortization schedule applicable to any New Term Loans shall be determined by the New Term Loan Lenders thereunder.

(d) Upon the effectiveness of a New Term Loan Commitment of any New Term Loan Lender, such New Term Loan Lender shall be deemed to be a "Lender" (and a Lender in respect of Commitments and Loans of the applicable Class) hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and under the other Loan Documents.

(e) On the Increased Amount Date, subject to the terms and conditions set forth herein and in the applicable Incremental Joinder Agreement, each Lender holding a New Term Loan Commitment of such series shall make a loan to the Borrower (a "New Term Loan") in an amount equal to such Lender's New Term Loan Commitment of such series and each such Lender's New Term Loan Commitment of such series shall terminate immediately and without further action on the applicable Increased Amount Date after giving effect to the funding of such Lender's New Term Loan Commitment of such series on such date.

(f) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Borrower referred to in Section 2.12(a) and of the effectiveness of any New Term Loan Commitments, in each case advising the Lenders of the details thereof.

Section 2.13 Benchmark Replacement Setting.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event, the Administrative Agent and the Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all affected Lenders and the Borrower so long as the Administrative Agent has not received, by such time,

written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 2.13(a) will occur prior to the applicable Benchmark Transition Start Date.

(b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(c) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.13(d) and (y) the commencement 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 2.13, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.13.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will 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.

(e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) the Borrower may revoke any pending request for a SOFR borrowing of, conversion to or continuation of SOFR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of

or conversion to Reference Rate Loans and (ii) any outstanding affected SOFR Rate Loans will be deemed to have been converted into Reference Rate Loans immediately. During a Benchmark Unavailability Period, the component of the Reference Rate based upon the then-current Benchmark will not be used in any determination of the Reference Rate.

ARTICLE III

[INTENTIONALLY OMITTED]

ARTICLE IV

APPLICATION OF PAYMENTS

Section 4.01 Payments; Computations and Statements. The Borrower will make each payment under this Agreement not later than 12:00 noon (New York City time) on the day when due, in lawful money of the United States of America and in immediately available funds, to the Administrative Agent's Accounts. All payments received by the Administrative Agent after 12:00 noon (New York City time) on any Business Day will be credited to the Loan Account on the next succeeding Business Day. All payments shall be made by the Borrower without set-off, counterclaim, recoupment, deduction or other defense (other than the defense of payment-in-full) to the Agents and the Lenders. Except as provided in Section 2.02, after receipt, the Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal ratably to the Lenders in accordance with their Pro Rata Shares and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement, provided that the Administrative Agent will cause to be distributed all interest and fees received from or for the account of the Borrower not less than once each month and in any event promptly after receipt thereof. Whenever any payment to be made under any such Loan Document shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall in such case be included in the computation of interest or fees, as the case may be. All computations of fees shall be made by the Administrative Agent on the basis of a year of 360 days for the actual number of days. Each determination by the Administrative Agent of an interest rate or fees hereunder shall be conclusive and binding for all purposes in the absence of manifest error.

(b) The Administrative Agent shall provide the Borrower, promptly after the end of each calendar month, a summary statement (in the form from time to time used by the Administrative Agent) of the opening and closing daily balances in the Loan Account of the Borrower during such month, the amounts and dates of all Loans made to the Borrower during such month, the amounts and dates of all payments on account of the Loans to the Borrower during such month and the Loans to which such payments were applied, the amount of interest accrued on the Loans to the Borrower during such month, and the amount and nature of any charges to the Loan Account made during such month on account of fees, commissions, expenses and other Obligations. All entries on any such statement shall be presumed to be correct and, 30 days after the same is sent, shall be final and conclusive absent manifest error.

Section 4.02 Sharing of Payments. Except as provided in Section 2.02 hereof, if any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any

right of set-off, or otherwise) on account of any Obligation in excess of its ratable share of payments on account of similar obligations obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders such participations in such similar obligations held by them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that (a) if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and each Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's ratable share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid by the purchasing Lender in respect of the total amount so recovered and (b) the provisions of this Section shall not be construed to apply to (i) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including any payment of an amendment, consent or waiver fee to consenting Lenders pursuant to an effective amendment, consent or waiver with respect to this Agreement), or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans, other than to any Loan Party or any Subsidiary thereof (as to which the provisions of this Section shall apply). The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section may, to the fullest extent permitted by law, exercise all of its rights (including the Lender's right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

Section 4.03 Apportionment of Payments. Subject to Section 2.02 hereof:

(a) All payments of principal and interest in respect of outstanding Loans, all payments of fees (other than the fees set forth in Section 2.06 hereof) and all other payments in respect of any other Obligations, shall be allocated by the Administrative Agent among such of the Lenders as are entitled thereto, in proportion to their respective Pro Rata Shares or otherwise as provided herein or, in respect of payments not made on account of Loans, as designated by the Person making payment when the payment is made.

(b) After the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and upon the direction of the Collateral Agent or the Required Lenders shall, apply all payments in respect of any Obligations, including all proceeds of the Collateral, subject to the provisions of this Agreement, (i) first, ratably to pay the Obligations in respect of any fees, expense reimbursements, indemnities and other amounts then due and payable to the Agents until Paid in Full; (ii) second, to pay interest then due and payable in respect of the Collateral Agent Advances until Paid in Full; (iii) third, to pay principal of the Collateral Agent Advances until Paid in Full; (iv) fourth, ratably to pay the Obligations in respect of any fees (other than any Prepayment Premium), expense reimbursements, indemnities and other amounts then due and payable to the Lenders until Paid in Full; (v) fifth, ratably to pay interest then due and payable in respect of the Loans until Paid in Full; (vi) sixth, ratably to pay principal of the Loans (including the Term Loan PIK Amount) until Paid in Full; (vii) seventh, ratably to pay the Obligations in respect of any Prepayment Premium then due and payable to the Lenders until Paid in Full; (viii) eighth, to the ratable payment of all other Obligations then due and payable; and (ix) ninth, to Borrower or such other Person entitled thereto under applicable law (as determined by the Agents in their reasonable judgement or as directed by a court of competent jurisdiction).

(c) In the event of a direct conflict between the priority provisions of this Section 4.03 and other provisions contained in any other Loan Document, it is the intention of the parties hereto that both such priority provisions in such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of Section 4.03 shall control and govern.

ARTICLE V

CONDITIONS TO LOANS

Section 5.01 Conditions Precedent to Effectiveness. This Agreement shall become effective as of the Business Day (the "Effective Date") when each of the following conditions precedent shall have been satisfied (or waived) in a manner reasonably satisfactory to the Agents (in each case, subject to Section 7.01(r)):

(a) Payment of Fees, Etc. The Borrower shall have paid on or before the Effective Date all fees, costs, and expenses then payable pursuant to the Fee Letter, Section 2.06 and Section 12.04, in each case, to the extent invoiced at least one (1) Business Day prior to the Effective Date.

(b) Representations and Warranties; No Event of Default. The following statements shall be true and correct: (i) the representations and warranties contained in Article VI and in each other Loan Document, certificate or other writing delivered to any Secured Party pursuant hereto or thereto on or prior to the Effective Date are true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) on and as of the Effective Date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) on and as of such earlier date) and (ii) no Default or Event of Default shall have occurred and be continuing on the Effective Date or would result from this Agreement or the other Loan Documents becoming effective in accordance with its or their respective terms.

(c) Legality. The making of the initial Loans shall not contravene any law, rule or regulation applicable to any Secured Party.

(d) Delivery of Documents. The Collateral Agent shall have received on or before the Effective Date the following, each in form and substance reasonably satisfactory to the Collateral Agent and, unless indicated otherwise, dated the Effective Date and, if applicable, duly executed by the applicable Loan Parties party thereto:

(i) a Security Agreement;

(ii) financing statements on Form UCC-1 appropriate for the filing in such office or offices that are necessary to perfect the security interests purported to be created by

the Security Agreement (to the extent that such security interest can be perfected by the filing of a financing statement);

(iii) the results of (x) searches for any effective UCC and PPSA financing statements, tax Liens or judgment Liens filed against any Loan Party or its property, which results shall not show any such Liens (other than Permitted Liens) and (y) customary judgment, bankruptcy, tax and litigation searches;

(iv) a Perfection Certificate;

(v) the Disbursement Letter;

(vi) the Fee Letter;

(vii) the Master Intercompany Note;

(viii) [reserved];

(ix) each of the Equity Documents;

(x) the VCOC Management Rights Agreement;

(xi) a certificate of an Authorized Officer of each Loan Party, certifying (A) as to copies of the Governing Documents of such Loan Party, together with all amendments thereto (including a true and complete copy of the charter, certificate of formation, certificate of limited partnership or other publicly filed organizational document (or applicable equivalent) of each Loan Party certified as of a recent date not more than 30 days prior to the Effective Date by an appropriate official of the jurisdiction of organization of such Loan Party (other than a Canadian Loan Party) which shall set forth the same complete name of such Loan Party as is set forth herein and the organizational number of such Loan Party, if an organizational number is issued in such jurisdiction), (B) as to a copy of the resolutions or written consents of such Loan Party authorizing (1) the borrowings hereunder and the transactions contemplated by the Loan Documents to which such Loan Party is or will be a party, and (2) the execution, delivery and performance by such Loan Party of each Loan Document to which such Loan Party is or will be a party and the execution and delivery of the other documents to be delivered by such Person in connection herewith and therewith, including in the case of the Parent, the Warrants, (C) the names and true signatures of the representatives of such Loan Party authorized to sign each Loan Document (in the case of the Borrower, including Notices of Borrowing, SOFR Notices and all other notices under this Agreement and the other Loan Documents) to which such Loan Party is or will be a party and the other documents to be executed and delivered by such Loan Party in connection herewith and therewith, together with evidence of the incumbency of such authorized officers and (D) as to the matters set forth in Section 5.01(b);

(xii) a certificate of the chief financial officer of the Borrower certifying that after giving pro forma effect to the making of the Initial Term Loan on the Effective Date, Liquidity is at least $37,500,000;

(xiii) a certificate of the chief financial officer of the Parent, certifying as to the solvency of the Parent and its Subsidiaries on a consolidated basis (after giving effect to the Loans made on the Effective Date);

(xiv) a certificate of the appropriate official(s) of the jurisdiction of organization of each Loan Party, certifying as of a recent date not more than 30 days prior to the Effective Date as to the good standing of such Loan Party in such jurisdiction;

(xv) an opinion of (A) Latham and Watkins LLP, special New York and Delaware counsel to the Loan Parties, as to certain customary matters of New York and Delaware law and (B) Gowling WLG, Canadian counsel to the Loan Parties, as to certain customary matters of Canadian law, in each case, as the Administrative Agent may reasonably request;

(xvi) insurance certificates required by (and evidencing the insurance coverage required to be reflected on such insurance certificates pursuant to) Section 7.01; and

(xvii) such other agreements, instruments, approvals, opinions and other documents, each satisfactory to the Agents in form and substance, as any Agent may reasonably request.

(e) Material Adverse Effect. The Collateral Agent shall have determined, in its sole judgment, that no event or development shall have occurred since December 31, 2021 which could reasonably be expected to have a Material Adverse Effect.

(f) Approvals. All consents, authorizations and approvals of, and filings and registrations with, and all other actions in respect of, any Governmental Authority or other Person required in connection with the making of the Loans, or the conduct of the Loan Parties' business, or the consummation of any of the underlying transactions, shall have been obtained and shall be in full force and effect.

(g) Proceedings; Receipt of Documents. All proceedings in connection with the making of the initial Loans and the other transactions contemplated by this Agreement and the other Loan Documents, and all documents incidental hereto and thereto, shall be satisfactory to the Collateral Agent and its counsel, and the Collateral Agent and such counsel shall have received all such information and such counterpart originals or certified or other copies of such documents as the Collateral Agent or such counsel may reasonably request.

(h) Meeting with Management. The Collateral Agent shall have conducted an in-person or virtual meeting with management of each Loan Party.

(i) Security Interests. The Loan Documents shall create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first priority security interest in the Collateral secured thereby (subject only to Permitted Liens).

(j) Litigation. There shall exist no claim, action, suit, investigation, litigation or proceeding (including shareholder or derivative litigation) pending or threatened in writing in any court or before any arbitrator or Governmental Authority which relates to the Loans or which, in

the opinion of the Collateral Agent, is reasonably likely to be adversely determined, and that, if adversely determined, would reasonably be expected to have a Material Adverse Effect.

(k) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing pursuant to Section 2.02 hereof.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

Section 6.01 Representations and Warranties. Each Loan Party hereby represents and warrants to the Secured Parties as follows:

(a) Organization, Good Standing, Etc. Each Loan Party (i) is a corporation, limited liability company or limited partnership duly organized or incorporated, validly existing and in good standing (to the extent applicable) under the laws of the state or jurisdiction of its organization or incorporation, (ii) has all requisite power and authority to conduct its business as now conducted and as presently contemplated and, in the case of the Borrower, to make the borrowings hereunder, and to execute and deliver each Loan Document to which it is a party, and to consummate the transactions contemplated thereby, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except (solely for the purposes of this subclause (iii)) where the failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

(b) Authorization, Etc. The execution, delivery and performance by each Loan Party of each Loan Document to which it is or will be a party, (i) have been duly authorized by all necessary action, (ii) do not and will not contravene (A) any of its Governing Documents, (B) any applicable material Requirement of Law (including any Requirement of Law that limits in any respect its ability to incur Indebtedness or which may otherwise render all or a portion of the Obligations unenforceable) or (C) any material Contractual Obligation binding on or otherwise affecting it or any of its properties, (iii) do not and will not result in or require the creation of any Lien (other than pursuant to any Loan Document) upon or with respect to any of its properties, and (iv) do not and will not result in any default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to its operations or any of its properties, except, in the case of clauses (ii)(B), (ii)(C) and this clause (iv), to the extent where such contravention, default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal, as applicable, could not reasonably be expected to have a Material Adverse Effect.

(c) Governmental Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required in connection with the due execution, delivery and performance by any Loan Party of any Loan Document to which it is or will be a party other than (x) those that have been provided or obtained on or prior to the Effective Date and (y) filings and recordings with respect to Collateral to be made, or otherwise delivered to the Collateral Agent for filing or recordation, on the Effective Date (other than as set forth in Schedule 7.01(r)).

(d) Enforceability of Loan Documents. This Agreement is, and each other Loan Document to which any Loan Party is or will be a party, when delivered hereunder, will be, a legal, valid and binding obligation of such Person, enforceable against such Person in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(e) Capitalization. On the Effective Date, after giving effect to the transactions contemplated hereby to occur on the Effective Date, the authorized Equity Interests of the Borrower and each of its Subsidiaries and the issued and outstanding Equity Interests of the Borrower and each of its Subsidiaries are as set forth on Schedule 6.01(e). All of the issued and outstanding shares of Equity Interests of the Borrower and each of its Subsidiaries have been validly issued and are fully paid and nonassessable, if applicable, and the holders thereof are not entitled to any preemptive, first refusal or other similar rights. All Equity Interests of such Subsidiaries of the Parent are owned, directly or indirectly, by the Parent free and clear of all Liens (other than Permitted Specified Liens). Except as described on Schedule 6.01(e) and other than the Equity Documents, as of the Effective Date there are no outstanding debt or equity securities of Parent or any of its Subsidiaries and no outstanding obligations of Parent or any of its Subsidiaries convertible into or exchangeable for, or warrants, options or other rights (other than stock options granted to employees or directors and director's qualifying shares or similar nominal shares to the extent required under applicable legal requirements) for the purchase or acquisition from Parent or any of its Subsidiaries, or other obligations of Parent or any of its Subsidiaries to issue, directly or indirectly, any shares of Equity Interests of Parent or any of its Subsidiaries.

(f) Litigation. Except as set forth in Schedule 6.01(f), as of the Effective Date there is no pending or, to the best knowledge of any Loan Party, threatened, in writing, action, suit or proceeding affecting any Loan Party or any of its properties before any court or other Governmental Authority or any arbitrator that (i) if adversely determined, could reasonably be expected to have a Material Adverse Effect or (ii) relates to this Agreement or any other Loan Document or any transaction contemplated hereby or thereby.

(g) Financial Statements.

(i) The Financial Statements, copies of which have been delivered to each Agent and each Lender, fairly present the consolidated financial condition of the Parent and its Subsidiaries as at the respective dates thereof and the consolidated results of operations of the Parent and its Subsidiaries for the fiscal periods ended on such respective dates, all in accordance with GAAP. All material indebtedness and other liabilities (including Indebtedness, liabilities for taxes, long-term leases and other unusual forward or long-term commitments), direct or contingent, of the Parent and its Subsidiaries with respect to the periods covered by the Financial Statements are set forth in the applicable Financial Statements. Since December 31, 2021 no event or development has occurred that has had or could reasonably be expected to have a Material Adverse Effect.

(ii) The Borrower has heretofore furnished to each Agent and each Lender projected consolidated quarterly balance sheets, and related consolidated statements of operations and cash flows of the Parent and its Subsidiaries for the period from the Effective Date,

through December 31, 2024, which projected financial statements shall be updated from time to time pursuant to Section 7.01(a)(vi).

(h) Compliance with Law, Etc. No Loan Party or any of its Subsidiaries is in violation of (i) any of its Governing Documents, (ii) any Requirement of Law, except where any such violation could not reasonably be expected to have a Material Adverse Effect, or (iii) any term of any Contractual Obligation (including any Material Contract) binding on or otherwise affecting it or any of its properties, and no default or event of default has occurred and is continuing thereunder, except where such violation, default or event of default could not reasonably be expected to have a Material Adverse Effect.

(i) ERISA. Except as set forth on Schedule 6.01(i) or, in the case of succeeding clauses (i) and (ii), where any applicable non-compliance or occurrence could not reasonably be expected to have a Material Adverse Effect, (i) each Loan Party and each Employee Plan is in compliance with all Requirements of Law in all material respects, including ERISA, the Internal Revenue Code and the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, (ii) no ERISA Event has occurred nor is reasonably expected to occur with respect to any Employee Plan or Multiemployer Plan, (iii) the most recent annual report (Form 5500 Series) with respect to each Pension Plan, including any required Schedule SB (Actuarial Information) thereto, copies of which have been filed with the Internal Revenue Service and delivered to the Agents, is complete and correct and fairly presents the funding status of such Pension Plan, and since the date of such report, there has been no material adverse change in such funding status, (iv) copies of each agreement entered into with the PBGC, the U.S. Department of Labor or the Internal Revenue Service with respect to any Employee Plan have been delivered to the Agents, and (v) each Employee Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Internal Revenue Code. No Loan Party or any of its ERISA Affiliates has incurred any liability to the PBGC which remains outstanding other than the payment of premiums, and there are no premium payments which have become due which are unpaid, except where such liability or non-payment could not reasonably be expected to have a Material Adverse Effect. There are no pending or, to the best knowledge of any Loan Party, threatened claims, actions, proceedings or lawsuits (other than claims for benefits in the normal course) asserted or instituted in writing against (A) any Employee Plan or its assets, (B) any fiduciary with respect to any Employee Plan, or (C) any Loan Party or any of its ERISA Affiliates with respect to any Employee Plan which, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(j) Taxes, Etc. (i) All Tax returns and other reports required by applicable Requirements of Law to be filed by any Loan Party have been timely filed (or extensions have been obtained) and (ii) all Taxes imposed upon any Loan Party or any property of any Loan Party which have become due and payable on or prior to the date hereof have been paid.

(k) Regulations T, U and X. No Loan Party is or will be engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X), and no proceeds of any Loan will be used to purchase or carry any margin

stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U and X.

(l) Nature of Business.

(i) No Loan Party is engaged in any business other than as set forth on Schedule 6.01(l) and any business that is complementary thereto, or a reasonable extension thereof.

(ii) Except to the extent permitted by Section 7.02(d)(ii), the Parent does not have any material liabilities (other than liabilities arising under the Loan Documents), own any material assets (other than the Equity Interests of its Subsidiaries) or engage in any operations or business (other than the ownership of its Subsidiaries and the fulfillment of its obligations under the Loan Documents).

(m) Adverse Agreements, Etc. No Loan Party or any of its Subsidiaries is a party to any Contractual Obligation or subject to any restriction or limitation in any Governing Document or any judgment, order, regulation, ruling or other requirement of a court or other Governmental Authority, which (either individually or in the aggregate) has, or in the future could reasonably be expected (either individually or in the aggregate) to have, a Material Adverse Effect.

(n) Permits, Etc. Each Loan Party has, and is in compliance with, all permits, licenses, authorizations, approvals, entitlements and accreditations, required for such Person lawfully to own, lease, manage or operate, or to acquire, each business and Facility currently owned, leased, managed or operated, or to be acquired, by such Person, except to the extent the failure to have or be in compliance therewith could not reasonably be expected to have a Material Adverse Effect. No condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such permit, license, authorization, approval, entitlement or accreditation, and there is no claim that any of the foregoing is not in full force and effect, except in each case, to the extent where such contravention, default, noncompliance, suspension, revocation, impairment, forfeiture, nonrenewal or failure to be in full force and effect could not reasonably be expected to have a Material Adverse Effect.

(o) Properties. Each Loan Party has valid title to, valid leasehold interests in, or valid licenses to use, all property and assets material to its business, free and clear of all Liens, except Permitted Liens and, solely as to leasehold interests, except to the extent the failure to have such valid leasehold interests could not reasonably be expected to have a Material Adverse Effect. All such properties and assets are in good working order and condition, ordinary wear and tear, casualty and condemnation excepted, in each case, except where failure could not reasonably be expected to have a Material Adverse Effect.

(p) Employee and Labor Matters. Except as set forth on Schedule 6.01(p), (i) each Loan Party and its Subsidiaries is in compliance with all Requirements of Law in all material respects pertaining to employment and employment practices, terms and conditions of employment, wages and hours, and occupational safety and health, (ii) no Loan Party or any Subsidiary is party to any collective bargaining agreement, nor has any labor union been recognized as the representative of the employees of any Loan Party of Subsidiary with respect to

their employment with such Loan Party or Subsidiary, (iii) there is no unfair labor practice complaint pending or, to the knowledge of any Loan Party, threatened in writing against any Loan Party or any Subsidiary before any Governmental Authority and no grievance or arbitration proceeding pending or threatened in writing against any Loan Party or any Subsidiary which arises out of or under any collective bargaining agreement, in each case, that could reasonably be expected to result in a Material Adverse Effect, (iv) there is no strike, work stoppage, slowdown, lockout, or other labor dispute pending or, to the best knowledge of any Loan Party, threatened in writing against any Loan Party or any Subsidiary, that could reasonably be expected to result in a Material Adverse Effect, and (v) to the knowledge of each Loan Party, no labor organization or group of employees has made a pending demand for recognition or certification as the bargaining unit representative of any employee of any Loan Party or Subsidiary with respect to their employment with such Loan Party or Subsidiary, and, to the best knowledge of each Loan Party, there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or threatened to be brought or filed, with the National Labor Relations Board or any other labor relations tribunal or authority. No Loan Party or Subsidiary has incurred any material liability or obligation under the Worker Adjustment and Retraining Notification Act ("WARN") or any similar Requirement of Law, which remains unpaid or unsatisfied. All payments due from any Loan Party or Subsidiary on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of such Loan Party or Subsidiary, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(q) Environmental Matters. Except as set forth on Schedule 6.01(q) hereto, (i) no Loan Party or any of its Subsidiaries is in violation of any Environmental Law except where any such non-compliance could not reasonably be expected to have a Material Adverse Effect; (ii) each Loan Party and each of its Subsidiaries has, and is in compliance with, all Environmental Permits for its respective operations and businesses, except to the extent any failure to have or be in compliance therewith could not reasonably be expected to have a Material Adverse Effect; (iii) there has been no Release or threatened Release of Hazardous Materials on, in, at, under or from any properties currently or to the knowledge of the Borrower formerly owned, leased or operated by any Loan Party, its Subsidiaries or a respective predecessor in interest or at any disposal or treatment facility which received Hazardous Materials generated by any Loan Party, its Subsidiaries or, to the knowledge of the Borrower, any respective predecessor in interest, which in any case of the foregoing could reasonably be expected to have a Material Adverse Effect; (iv) there are no pending or threatened Environmental Claims against, or Environmental Liability of, any Loan Party, its Subsidiaries or, to the knowledge of the Borrower, any respective predecessor in interest that could reasonably be expected to have a Material Adverse Effect; (v) neither any Loan Party nor any of its Subsidiaries is performing or responsible for any Remedial Action that could reasonably be expected to have a Material Adverse Effect; and (vi) the Loan Parties have made available to the Collateral Agent and Lenders true and complete copies of all material environmental reports, audits and investigations in the possession or control of any Loan Party or any of its Subsidiaries with respect to the operations and business of the Loan Parties and its Subsidiaries.

(r) Insurance. Each Loan Party maintains all insurance required by Section 7.01(h).

(s) Use of Proceeds. The proceeds of the Initial Term Loan shall be used solely (a) for general corporate purposes of the Borrower and its Subsidiaries and (b) to pay fees and expenses in connection with the transactions contemplated hereby.

(t) Solvency. After giving effect to the transactions contemplated by this Agreement and before and after giving effect to each Loan, each Loan Party is, and the Loan Parties on a consolidated basis are, Solvent. No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.

(u) Intellectual Property. Except as set forth on Schedule 6.01(u), each Loan Party owns or licenses or otherwise has the right to use all Intellectual Property rights that are necessary for the operation of its business, without infringement upon, misappropriation of or conflict with the rights of any other Person with respect thereto, except for any infringement, misappropriation or conflict which, individually or in the aggregate, could not reasonable be expected to have a Material Adverse Effect. Set forth on Schedule 6.01(u) is a complete and accurate list as of the Effective Date of each item of Registered Intellectual Property owned by each Loan Party whereby, as of the Effective Date, no such Registered Intellectual Property is subject to any ongoing, or threatened in writing, challenges or enforcement proceedings or written allegations that such Registered Intellectual Property is not valid or enforceable except as set forth on Schedule 6.01(u).

(v) Material Contracts. Set forth on Schedule 6.01(v) is a complete and accurate list as of the Effective Date of all Material Contracts of each Loan Party, showing the parties and subject matter thereof and amendments and modifications thereto. As of the Effective Date, each such Material Contract (i) is in full force and effect and is binding upon and enforceable against each Loan Party that is a party thereto and, to the best knowledge of such Loan Party, all other parties thereto in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, (ii) has not been otherwise amended or modified, and (iii) is not in default due to the action of any Loan Party or, to the best knowledge of any Loan Party, any other party thereto.

(w) Investment Company Act. None of the Loan Parties is required to be registered as an "investment company" or an "affiliated person" or "promoter" of, or "principal underwriter" of or for, an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended.

(x) Customers and Suppliers. Except as could not reasonably be expected to result in a Material Adverse Effect, there exists no actual or, to the knowledge of the Loan Parties, threatened in writing termination, cancellation or limitation of, or modification to or change in, the business relationship between (i) any Loan Party, on the one hand, and any customer or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate material to the business or operations of such Loan Party, or (ii) any Loan Party, on the one hand, and any supplier or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate material to the business or operations of such Loan

Party; and there exists no present state of facts or circumstances that could reasonably be expected to give rise to or result in any such termination, cancellation, limitation, modification or change.

(y) Sanctions and Anti-Money Laundering Laws. No Loan Party or any Subsidiary thereof or any of the respective directors, officers or, to the knowledge of any Loan Party, employees, agents or controlled Affiliates of any Loan Party or any of its Subsidiaries, (i) is a Sanctioned Person or is otherwise currently the subject or target of any Sanctions, (ii) has assets located in a Sanctioned Country, (ii) has conducted, in the past five (5) years, any business with or for the benefit of any Sanctioned Person, or (iv) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons. Each Loan Party and its Subsidiaries, and each of the respective Affiliates, directors, officers, employees and agents (in each case in acting on behalf of any Loan Party) of the Loan Parties and their Subsidiaries is, and has been for the past five (5) years, in compliance in all respects with all applicable Sanctions and in all material respects with all applicable Anti-Money Laundering Laws.

(z) Anti-Bribery and Corruption.

(i) No Loan Party or any of its Subsidiaries or any director, officer or, to the knowledge of any Loan Party, employee of, or any other Person acting on behalf of, any Loan Party or any of its Subsidiaries, has offered, promised, paid, given or authorized the payment or giving of any money or other thing of value, directly or indirectly, to or for the benefit of any Person, including any employee, official or other Person acting on behalf of any Governmental Authority, or has otherwise engaged in any activity that would violate any Anti-Corruption Law.

(ii) No Loan Party or any of its Subsidiaries, or any director, officer or, to the knowledge of any Loan Party, employee of, or any other Person acting on behalf of, any Loan Party or any of its Subsidiaries, has engaged in any activity that would breach any Anti-Corruption Laws.

(iii) There is no actual or pending or, to the knowledge of any Loan Party, threatened, action, suit, proceeding or investigation before any court or other Governmental Authority against any Loan Party or any of its Subsidiaries, or any of the respective directors, officers or employees of, or any other Persons acting on behalf of, any of the Loan Parties or their Subsidiaries, that relates to any actual or alleged violation of any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(iv) The Loan Parties will not directly or indirectly use, lend or contribute the proceeds of the Loans in any manner that would give rise to (x) a violation of any applicable Anti-Corruption Laws or Anti-Money Laundering Laws or (y) a violation of Sanctions by any Person (including by any Person participating in any Loan, whether as underwriter, advisor, investor or otherwise).

(aa) Full Disclosure.

(i) None of the written reports, financial statements, certificates or other written information concerning the Loan Parties furnished by or on behalf of any Loan Party to the Agents (other than forward-looking information and projections and information of a general

economic nature and general information about Borrower's industry) in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, when taken as a whole, in the light of the circumstances under which it was made, not misleading in any material respect; provided that, with respect to the projected financial information (including the projected financial information described in other sections herein), each Loan Party represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at that time.

(ii) The Projections have been prepared on a reasonable basis and in good faith based on assumptions, estimates, methods and tests that are believed by the Loan Parties to be reasonable at the time such Projections were prepared and information believed by the Loan Parties to have been accurate based upon the information available to the Loan Parties at the time such Projections were furnished to the Lenders, and Parent is not aware of any facts or information that would lead it to believe that such Projections were not prepared in good faith or were based on unreasonable assumptions; it being understood that (A) Projections are by their nature subject to significant uncertainties and contingencies, many of which are beyond the Loan Parties' control, (B) actual results may differ materially from the Projections and such variations may be material and no assurances are being given that the results in the Projections will be achieved and (C) the Projections are not a guarantee of performance.

(bb) Canadian Pension Plans. No Loan Party sponsors, administers, contributes to, participates in or has any other actual or contingent liability in respect of a Canadian Defined Benefit Plan. (i) Each Canadian Pension Plan is duly registered under the Income Tax Act and applicable pension standards legislation and has been administered in all material respects in accordance with Requirements of Law and the terms of such plan, (ii) all material obligations of each Loan Party (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans and the funding agreements thereunder have been performed on a timely basis, and (iii) all employee and employer contributions (including special payments and any other payments in respect of any funding deficiencies or shortfalls) or premiums required to have been remitted to the pension plans under the terms of the applicable plan and Requirements of Law have been properly withheld and remitted to the funding arrangement for the plan in a timely manner.

ARTICLE VII

COVENANTS OF THE LOAN PARTIES AND OTHER COLLATERAL MATTERS

Section 7.01 Affirmative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party will, unless the Required Lenders shall otherwise consent in writing:

(a) Reporting Requirements. Furnish to each Agent and each Lender:

(i) within 30 days after the end of each fiscal month (or 45 days with respect to the last month of any Fiscal Year) of the Parent and its Subsidiaries commencing with the first

fiscal month of the Parent and its Subsidiaries ending after the Effective Date, internally prepared consolidated balance sheets, statements of operations, statements of cash flows and KPI Metrics Reports of the Parent and its Subsidiaries, on a consolidated basis, as at the end of such fiscal month, and for the period commencing at the end of the immediately preceding Fiscal Year and ending with the end of such fiscal month, setting forth in each case in comparative form the figures for the corresponding date or period set forth in (A) the statement of operations for the immediately preceding Fiscal Year and (B) the Projections (limited to the statement of operations therein), all in reasonable detail and certified by an Authorized Officer of the Parent as fairly presenting, in all material respects, the financial position of the Parent and its Subsidiaries as at the end of such fiscal month and the results of operations and cash flows of the Parent and its Subsidiaries for such fiscal month and for such year-to-date period, in accordance with GAAP applied in a manner consistent with that of the most recent audited financial statements furnished to the Agents and the Lenders, subject to the absence of footnotes and normal year-end adjustments;

(ii) within 45 days after the end of each fiscal quarter of the Parent and its Subsidiaries commencing with the first fiscal quarter of the Parent and its Subsidiaries ending after the Effective Date, consolidated balance sheets, statements of operations and stockholders' equity and statements of cash flows of the Parent and its Subsidiaries, on a consolidated basis, as at the end of such quarter, and for the period commencing at the end of the immediately preceding Fiscal Year and ending with the end of such quarter, setting forth in each case in comparative form the figures for the corresponding date or period set forth in (A) the financial statements for the immediately preceding Fiscal Year and (B) the Projections (limited to the statement of operations therein), all in reasonable detail and certified by an Authorized Officer of the Parent as fairly presenting, in all material respects, the financial position of the Parent and its Subsidiaries as of the end of such quarter and the results of operations and cash flows of the Parent and its Subsidiaries for such quarter and for such year-to-date period, in accordance with GAAP applied in a manner consistent with that of the most recent audited financial statements of the Parent and its Subsidiaries furnished to the Agents and the Lenders, subject to the absence of footnotes and normal year-end adjustments;

(iii) within 120 days after the end of each Fiscal Year of the Parent and its Subsidiaries, consolidated balance sheets, statements of operations and stockholders' equity and statements of cash flows of the Parent and its Subsidiaries, on a consolidated basis, as at the end of such Fiscal Year, setting forth in each case in comparative form the figures for the corresponding date or period set forth in (A) the financial statements for the immediately preceding Fiscal Year and (B) the Projections (limited to the statement of operations therein), all in reasonable detail and prepared in accordance with GAAP, and accompanied by a report and an opinion, prepared in accordance with generally accepted auditing standards, of Ernst & Young or another independent certified public accountants of nationally recognized standing selected by the Borrower or any other certified public accountants reasonably satisfactory to the Agents (which report and opinion shall not include any qualification, exception or explanatory paragraph expressing substantial doubt about the ability of the Borrower or any of its Subsidiaries to continue as a going concern or any qualification or exception as to the scope of such audit, in each case, other than resulting from (x) an upcoming maturity date with respect to the Obligations or (y) an anticipated breach of any financial covenant set forth in Section 7.03);

(iv) simultaneously with the delivery of the financial statements of the Parent and its Subsidiaries required by clauses (ii) and (iii) of this Section 7.01(a), a Compliance Certificate:

(A) stating that such Authorized Officer has reviewed the provisions of this Agreement and the other Loan Documents and has made or caused to be made under his or her supervision a review of the condition and operations of the Parent and its Subsidiaries during the period covered by such financial statements with a view to determining whether the Parent and its Subsidiaries were in compliance with all of the provisions of this Agreement and such Loan Documents at the times such compliance is required hereby and thereby, and that such review has not disclosed, and such Authorized Officer has no knowledge of, the occurrence and continuance during such period of an Event of Default or Default or, if an Event of Default or Default had occurred and continued or is continuing, describing the nature and period of existence thereof and the action which the Parent and its Subsidiaries propose to take or have taken with respect thereto,

(B) in the case of the delivery of the financial statements of the Parent and its Subsidiaries required by clauses (ii) and (iii) of this Section 7.01(a), attaching a schedule showing the calculation of the financial covenants specified in Section 7.03, and

(C) in the case of the delivery of the financial statements of the Parent and its Subsidiaries required by clause (iii) of this Section 7.01(a), attaching (1) a summary of all material insurance coverage maintained as of the date thereof by any Loan Party, (2) the calculation of the Excess Cash Flow in accordance with the terms of Section 2.05(c)(i) and (3) confirmation that there have been no changes to the information contained in each of the Perfection Certificates delivered on the Effective Date or the date of the most recently updated Perfection Certificate delivered pursuant to this clause (iv) and/or attaching an updated Perfection Certificate identifying any such changes to the information contained therein,

(v) not later than Thursday of each week after the Effective Date, a report on the Borrower's Liquidity;

(vi) (1) not later than 60 days after the start of each Fiscal Year, preliminary Projections for the Parent and its Subsidiaries and (2) as soon as available and in any event not later than 90 days after approval of such Projections by the Applicable Board, a certificate of an Authorized Officer of the Parent (A) attaching final Projections for the Parent and its Subsidiaries, supplementing and superseding the Projections previously required to be delivered pursuant to this Agreement, prepared on a quarterly basis and in form substantially consistent with the form of the Projections delivered on or prior to the Effective Date to the Agents), for the immediately succeeding Fiscal Year for the Parent and its Subsidiaries and (B) certifying that the representations and warranties set forth in Section 6.01(aa)(ii) are true and correct in all material respects with respect to the Projections;

(vii) promptly after submission to any Governmental Authority, to the extent permitted by applicable law, all documents and information furnished to such Governmental Authority in connection with any material investigation of any Loan Party other than routine inquiries by such Governmental Authority;

(viii) as soon as possible, and in any event within 3 Business Days after the occurrence of an Event of Default or Default or the occurrence of any event or development that could reasonably be expected to have a Material Adverse Effect, the written statement of an Authorized Officer of the Borrower setting forth the details of such Event of Default or Default or other event or development having a Material Adverse Effect and the action which the affected Loan Party proposes to take with respect thereto;

(ix) upon the occurrence and during the continuance of a Liquidity Trigger Event, as soon as available and in any event not later than (i) 5:00 p.m. New York City time on the first Wednesday after the occurrence of such Liquidity Trigger Event, the Borrower shall deliver to the Administrative Agent and the Lenders an Initial Budget and (ii) 5:00 p.m. New York City time on Wednesday of every other week, the Borrower shall deliver to the Agent and the Lenders a supplement to the Initial Budget (or the previously supplemented Updated Budget, as the case may be), covering the 13-week period that commences with the week immediately following, consistent with the form and level of detail set forth in the Initial Budget and otherwise in form and substance satisfactory to the Required Lenders (each such supplement, an "Updated Budget"). Upon (and subject to) the approval of any such Updated Budget by the Required Lenders in their sole and absolute discretion, such Updated Budget shall constitute the then-approved Updated Budget;

(x) upon the occurrence and during the continuance of a Liquidity Trigger Event, as soon as available, and in any event not later than 5:00 p.m. New York City time on Wednesday of every other week, the Borrower shall deliver to the Agent and the Lenders a line-by-line variance report (each, a "Variance Report") setting forth, in reasonable detail, any differences between actual receipts and disbursements for each such line item for the prior two weeks versus projected receipts and disbursements set forth in the Updated Budget for each such line item for such prior weeks. The Variance Report shall also provide a reasonably detailed explanation for any variance;

(xi) as soon as possible and in any event: (A) at least 10 days prior to any event or development that could reasonably be expected to result in or constitute an ERISA Event, and, to the extent not reasonably expected, within 5 days after the occurrence of any ERISA Event, notice of such ERISA Event (in reasonable detail), (B) within three days after receipt thereof by any Loan Party or any of its ERISA Affiliates from the PBGC, copies of each notice received by any Loan Party or any of its ERISA Affiliates of the PBGC's intention to terminate any Pension Plan or to have a trustee appointed to administer any Pension Plan, (C) upon request, within 10 days after the filing thereof with the Internal Revenue Service, copies of each Schedule SB (Actuarial Information) to the annual report (Form 5500 Series) with respect to each Pension Plan, (D) within 3 days after receipt thereof by any Loan Party or any of its ERISA Affiliates from a sponsor of a Multiemployer Plan or from the PBGC, a copy of each notice received by any Loan Party or any of its ERISA Affiliates concerning the imposition or amount of withdrawal liability under Section 4202 of ERISA or indicating that such Multiemployer Plan may enter reorganization status under Section 4241 of ERISA, and (E) within 10 days after any Loan Party sends notice of a plant closing or mass layoff (as defined in WARN) to employees, copies of each such notice sent by such Loan Party;

(xii) promptly after the commencement thereof but in any event not later than 5 Business Days after service of process with respect thereto on, or the obtaining of knowledge thereof by, any Loan Party, notice of each action, suit or proceeding before any court or other Governmental Authority or other regulatory body or any arbitrator which, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(xiii) as soon as possible and in any event within 5 Business Days after receipt, copies of notices of default that any Loan Party receives in connection with any Material Contract;

(xiv) as soon as possible and in any event within 5 Business Days after execution, receipt or delivery thereof, copies of any material notices that any Loan Party executes or receives in connection with the sale or other Disposition of the Equity Interests of, or all or substantially all of the assets of, any Loan Party;

(xv) (A) participate in quarterly conference calls with the Administrative Agent and the Lenders, such calls to be held at such time as may be agreed to by the Borrower and the Administrative Agent or (B) deliver a management discussion and analysis of the financial condition and results of operations of the Parent and its Subsidiaries for the portion of the Fiscal Year then elapsed and discuss the reasons for any significant variations from the Projections for such period and the figures for the corresponding period in the previous Fiscal Year, in each case, not later than the date which is 10 Business Days after the quarterly financial statements are to be delivered pursuant to clause (ii) of this Section 7.01(a);

(xvi) promptly after (A) the sending or filing thereof, copies of all material statements, reports and other information any Loan Party sends to any holders of its material Indebtedness or its securities or files with the SEC or any national (domestic or foreign) securities exchange and (B) the receipt thereof, a copy of any material notice received from any holder of its material Indebtedness;

(xvii) promptly upon receipt thereof, copies of all financial reports (including management letters), if any, submitted to any Loan Party by its auditors in connection with any annual or interim audit of the books thereof, in each case subject to confidentiality obligations and attorney client privilege or other privilege;

(xviii) promptly upon request, any certification or other evidence requested from time to time by any Lender in its sole discretion, confirming the Borrower's compliance with Section 7.02(r);

(xix) simultaneously with the delivery of the financial statements of the Parent and its Subsidiaries required by clauses (i), (ii) and (iii) of this Section 7.01(a), if, as a result of any change in accounting principles and policies from those used in the preparation of the Financial Statements that is permitted by Section 7.02(q), the consolidated financial statements of the Parent and its Subsidiaries delivered pursuant to clauses (i), (ii) and (iii) of this Section 7.01(a) will differ from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more

statements of reconciliation for all such prior financial statements in form and substance reasonably satisfactory to the Agents; and

(xx) promptly upon written request, such other information concerning the financial condition or operations of any Loan Party (including (A) any Environmental, Social, and Corporate Governance information and (B) a flash report of the Borrower's Liquidity) as any Agent may from time to time reasonably request, in each case subject to confidentiality obligations and attorney client privilege or other privilege.

Notwithstanding the foregoing, the obligations in paragraphs (a)(ii) and (a)(iii) of this Section 7.01 may be satisfied with respect to financial information of the Parent and its Subsidiaries by furnishing the Parent's Form 10-K or 10-Q, as applicable, filed with the SEC.

(b) Additional Guarantors and Collateral Security. Cause:

(i) each Subsidiary of any Loan Party (other than any Excluded Subsidiary) not in existence on the Effective Date, to execute and deliver to the Collateral Agent promptly and in any event within 10 Business Days (or such longer period as the Collateral Agent may agree in its reasonable discretion) after the formation, acquisition or change in status thereof, (A) a Joinder Agreement, pursuant to which such Subsidiary shall be made a party to this Agreement as a Guarantor, (B) a supplement to the Security Agreement or the Canadian Security Agreement, as applicable, together with (1) certificates evidencing all of the Equity Interests of any Person owned by such Subsidiary required to be pledged under the terms of the Security Agreement or Canadian Security Agreement, as applicable, (2) undated stock powers for such Equity Interests executed in blank, and (3) such customary opinions of counsel (limited to one (1) per applicable jurisdiction) as the Collateral Agent may reasonably request, (C) to the extent required under the terms of this Agreement, one or more Mortgages creating on the owned real property of such Subsidiary a perfected, first priority Lien (in terms of priority, subject only to Permitted Specified Liens) on such owned real property and such other Real Property Deliverables as may be reasonably required by the Collateral Agent with respect to each such owned real property and (D) such other agreements, instruments, approvals or other documents reasonably requested by the Collateral Agent in order to create, perfect, establish the first priority (subject to Permitted Liens) of or otherwise protect any Lien purported to be covered by any such Security Agreement, Canadian Security Agreement or Mortgage or otherwise to effect the intent that such Subsidiary shall become bound by all of the terms, covenants and agreements contained in the Loan Documents and that substantially all property and assets of such Subsidiary (other than Excluded Property) shall become Collateral for the Obligations other than exclusions and exceptions expressly set forth in this Agreement, the Security Agreement or the Canadian Security Agreement; and

(ii) each owner of the Equity Interests of any such Subsidiary to execute and deliver promptly and in any event within 10 Business Days (or such longer period as the Collateral Agent may agree in its reasonable discretion) after the formation or acquisition of such Subsidiary a Pledge Amendment (as defined in the Security Agreement or the Canadian Security Agreement, as applicable), together with (A) certificates evidencing all of the Equity Interests of such Subsidiary required to be pledged under the terms of the Security Agreement or the Canadian Security Agreement, as applicable, (B) undated stock powers or other appropriate instruments of assignment for such Equity Interests executed in blank with signature guaranteed, (C) such

customary opinions of counsel (limited to one (1) per applicable jurisdiction) as the Collateral Agent may reasonably request and (D) such other agreements, instruments, approvals or other documents reasonably requested by the Collateral Agent.

Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become (or continue to be) a Guarantor hereunder (and, as such, shall not be required to deliver the documents required by clause (i) above).

(c) Compliance with Laws; Payment of Taxes.

(i) Comply, and cause each of its Subsidiaries to comply, with all Requirements of Law, judgments and awards (including any settlement of any claim that, if breached, could give rise to any of the foregoing), except to the extent the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

(ii) Pay, and cause each of its Subsidiaries to pay, discharge or otherwise satisfy as the same shall become due and payable all of its obligations and liabilities, including Tax liabilities, except (i) unpaid Taxes in an aggregate amount at any one time not in excess of $500,000, and (ii) Taxes contested in good faith by proper proceedings diligently conducted which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP.

(d) Preservation of Existence, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, its existence (other than pursuant to a transaction permitted by Section 7.02(c)), rights and privileges, and become or remain, and cause each of its Subsidiaries to become or remain, duly qualified and in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except where the failure to maintain and preserve such rights and privileges or to the extent that the failure to be in good standing or so qualified could not reasonably be expected to have a Material Adverse Effect.

(e) Keeping of Records and Books of Account. Keep, and cause each of its Subsidiaries to keep, adequate records and books of account, with complete entries made to permit the preparation of financial statements in accordance with GAAP.

(f) Inspection Rights. Permit, and cause each of its Subsidiaries to permit, the agents and representatives of any Agent at any time and from time to time during normal business hours, and in the absence of an Event of Default with reasonable advance notice, at the expense of the Borrower, to examine and make copies of and abstracts from its records and books of account, to visit and inspect its properties, to verify materials, leases, notes, accounts receivable, deposit accounts and its other assets, to conduct audits, physical counts, valuations, appraisals or examinations and to discuss its affairs, finances and accounts with any of its directors, officers, managerial employees, independent accountants or any of its other representatives; provided, that, neither the Agents nor any of their representatives shall be permitted to inspect, examine, make copies of, or summarize, any information that is subject to attorney client privilege, confidentiality obligations or is a trade secret; provided, further, however, so long as no Event of Default has

occurred and is continuing, the Agents shall not be permitted to conduct more than two (2) (and the Loan Parties shall not be required to reimburse the Agents for, more than one (1)) such visits, audits, physical counts, or valuations during any calendar year. In furtherance of the foregoing, each Loan Party hereby authorizes its independent accountants, and the independent accountants of each of its Subsidiaries, to discuss the affairs, finances and accounts of such Person (independently or together with representatives of such Person) with the agents and representatives of any Agent in accordance with this Section 7.01(f).

(g) Maintenance of Properties, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its tangible properties which are necessary in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted, and comply, and cause each of its Subsidiaries to comply, at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except to the extent the failure to so maintain and preserve or so comply could not reasonably be expected to have a Material Adverse Effect.

(h) Maintenance of Insurance. Maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations (including comprehensive general liability, hazard, flood, rent, worker's compensation and business interruption insurance) with respect to the Collateral and its other properties (including all real property leased or owned by it) and business, in such amounts and covering such risks as is (i) carried generally in accordance with sound business practice by companies in similar businesses similarly situated, (ii) required by any Requirement of Law, (iii) required by any Material Contract and (iv) in any event in amount, adequacy and scope reasonably satisfactory to the Collateral Agent. All U.S. and Canadian, as applicable, general liability and U.S. and Canadian, as applicable, general property policies and business interruption insurance policies (which, for the avoidance of doubt, shall not include any directors and officers policies, workers compensation or cyber policies) maintained by a Loan Party and covering the Collateral are to be made payable to the Collateral Agent for the benefit of the Agents and the Lenders, as their interests may appear, in case of loss, under a standard "loss payee" or "additional insured" clause; provided, however, that each Agent hereby agrees that the terms of the Loan Parties' insurance certificates (and not the endorsements) in effect on the Effective Date are satisfactory to each Agent; provided further that endorsements shall not be required to be delivered to the Agents with respect to business interruption insurance policies of the Loan Parties if after the Loan Parties' use of commercially reasonable efforts to cause such endorsements to be delivered to the Agents the Loan Parties are unable to cause the insurance brokers in respect of such business insurance policies to deliver such endorsements to the Agents. All certificates of insurance with respect to U.S. and Canadian, as applicable, general liability, U.S. and Canadian, as applicable, general property policies and business interruption insurance policies are to be delivered to the Collateral Agent and the policies are to be premium prepaid, with the lender's loss payable and additional insured endorsement in favor of the Collateral Agent for the benefit of the Agents and the Lenders, as their respective interests may appear, and such other Persons as the Collateral Agent may designate from time to time, and the Loan Parties shall use commercially reasonable efforts to ensure that such policies provide for not less than 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent of the exercise of any right of cancellation. If any Loan Party or any of its Subsidiaries fails to maintain such insurance, the Collateral Agent may arrange for such insurance,

but at the Borrower's expense and without any responsibility on the Collateral Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Subject to Section 2.05(c)(vi), (A) all proceeds from insurance policies shall be paid to the Borrower or the applicable Subsidiary, (B) to the extent any Agent receives any proceeds, such Agent shall promptly turn over to the Borrower any amounts received by it as an additional insured or loss payee under any insurance maintained by the Borrowers and their Subsidiaries and (C) each Agent agrees that the Borrowers and/or their applicable Subsidiaries shall have the sole right to adjust or settle any claims under such insurance. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have the sole right, in the name of the Lenders, any Loan Party and its Subsidiaries, to file claims under any insurance policies, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

(i) Obtaining of Permits, Etc. Obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all permits, licenses, authorizations, approvals, entitlements and accreditations that are necessary or useful in the proper conduct of its business, in each case, except to the extent the failure to obtain, maintain, preserve or take such action could not reasonably be expected to have a Material Adverse Effect.

(j) Environmental.

(i) Keep the Collateral free of any Environmental Lien, other than Permitted Liens;

(ii) Obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all Environmental Permits that are necessary or useful in the proper conduct of its business, and comply, and cause each of its Subsidiaries to comply, with all Environmental Laws and Environmental Permits, except to the extent the failure to so obtain, maintain, preserve or comply could not reasonably be expected to have a Material Adverse Effect;

(iii) Take all commercially reasonable steps to prevent any Release or threatened Release of Hazardous Materials in violation of any Environmental Law or Environmental Permit at, in, on, under or from any property owned, leased or operated by any Loan Party or its Subsidiaries that could reasonably be expected to result in a Material Adverse Effect;

(iv) Provide the Collateral Agent with written notice within ten (10) days of any of the following: (A) discovery of any Release of a Hazardous Material or environmental condition at, in, on, under or from any property currently or formerly owned, leased or operated by any Loan Party, Subsidiary or predecessor in interest or any violation of Environmental Law or Environmental Permit that in any case could reasonably be expected to result in a Material Adverse Effect; (B) notice that an Environmental Lien has been filed against any Collateral; or (C) an Environmental Claim or Environmental Liabilities that could reasonably

be expected to result in a Material Adverse Effect; and provide such reports, documents and information that are in the possession, custody or control of any Loan Party as the Collateral Agent may reasonably request from time to time with respect to any of the foregoing.

(k) Fiscal Year. Cause the Fiscal Year of the Parent and its Subsidiaries to end on December 31 of each calendar year unless the Agents consent to a change in such Fiscal Year (and appropriate related changes to this Agreement).

(l) Landlord Waivers; Collateral Access Agreements. At any time any Collateral with a book value in excess of $2,000,000 (when aggregated with all other Collateral at the same location) is located on any real property of a Loan Party (whether such real property is now existing or acquired after the Effective Date) which is not owned by a Loan Party, or is stored on the premises of a bailee, warehouseman, or similar party, use commercially reasonable efforts to obtain written subordinations or waivers or collateral access agreements, as the case may be, in form and substance reasonably satisfactory to the Collateral Agent no later than forty-five (45) days after the Effective Date (or with respect to any such location opened or acquired after the Effective Date, not later than forty-five (45) days after such opening or acquisition), or in each case such later date as Administrative Agent may agree to in its reasonable discretion.

(m) Real Property. The Borrower shall, within such time period as is set forth on Schedule 7.01(r), furnish a Mortgage and any other Real Property Deliverables with respect to the owned Facility identified on Schedule 1.01(B) as of the Effective Date, and all related parcels. Upon the acquisition by it or any of its Subsidiaries after the date hereof of any interest in any owned real property (wherever located) (each such interest being a "New Facility") with a Current Value (as defined below) in excess of $2,500,000, promptly so notify the Collateral Agent, setting forth with specificity a description of the interest acquired, the location of the real property, any structures or improvements thereon and either an appraisal or such Loan Party's good-faith estimate of the current value of such real property (for purposes of this Section, the "Current Value"). The Collateral Agent shall promptly notify such Loan Party whether it intends to require a Mortgage (and any other Real Property Deliverables) with respect to such New Facility. Upon receipt of such notice requesting a Mortgage (and any other Real Property Deliverables), the Person that has acquired such New Facility shall within ninety (90) days (or such later period as may be agreed to by the Collateral Agent in its sole discretion) furnish the same to the Collateral Agent. The Borrower shall pay all fees and expenses, including reasonable and documented out-of-pocket attorneys' fees and expenses, and all title insurance charges and premiums, in connection with each Loan Party's obligations under this Section 7.01(m).

(n) Anti-Corruption Laws; Anti-Money Laundering Laws; Sanctions.

(i) Implement and maintain, and cause each of its Subsidiaries to implement and maintain, policies and procedures designed to promote and achieve compliance by each Loan Party and its Subsidiaries, and the respective directors, officers, employees and agents, with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(ii) Comply, and cause each of its Subsidiaries to comply, with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(iii) [Reserved].

(iv) Promptly notify the Administrative Agent of any action, suit or investigations by any court or Governmental Authority in relation to an actual or alleged breach of Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(v) [Reserved].

(vi) [Reserved].

(i) In order to comply with the "know your customer/borrower" requirements of the Anti-Money Laundering Laws, promptly provide to the Administrative Agent upon its reasonable request from time to time (A) information relating to individuals and entities affiliated with any Loan Party that maintain a business relationship with the Administrative Agent, and (B) such identifying information and documentation as may be available for such Loan Party in order to enable the Administrative Agent or any Lender to comply with Anti-Money Laundering Laws.

(o) Lender Meetings. Upon the request of any Agent or the Required Lenders (which request, so long as no Event of Default shall have occurred and be continuing, shall not be made more than once during each Fiscal Year), participate in a meeting with the Agents and the Lenders at the Borrower's corporate office (or at such other location (including by teleconference) as may be agreed to by the Borrower and such Agent or the Required Lenders) at such time as may be agreed to by the Borrower and such Agent or the Required Lenders.

(p) Board Information Rights. Provide the Administrative Agent with copies of the definitive versions (but not copies of any drafts that have not been approved and adopted by the Applicable Board) of the "decks" or similar presentation materials provided to the Applicable Board and minutes of any Applicable Board meetings within five Business Days from the time definitive materials "decks" or minutes are presented at such meeting to the members of the Applicable Board. The Applicable Board shall not be obligated to provide the Administrative Agent with any information (x) that is subject to any attorney-client privilege, (y) if the Parent determines in good faith that the delivery would reasonably result in a breach of confidentiality obligations to third parties notwithstanding the confidentiality obligations of the Administrative Agent under this Agreement or (z) that relates to the strategy, negotiating positions or similar matters relating to the relationship of the Parent and/or any of its respective Affiliates, on the one hand, with the Lenders and/or any of its respective Affiliates (in each case, in the capacity as a holder of Indebtedness pursuant to any Loans), on the other hand.

(q) Further Assurances. Subject to the thresholds, deadlines and exceptions contained in this Agreement and the other Loan Documents, take such action and execute, acknowledge and deliver, and cause each of its Subsidiaries to take such action and execute, acknowledge and deliver, at its sole cost and expense, such agreements, instruments or other documents as any Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement and the other Loan Documents, (ii) to subject to valid and perfected first priority Liens (subject to Permitted Liens) any of the Collateral, (iii) to establish and maintain the validity and effectiveness of any of the Loan Documents and the validity,

perfection and priority of the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer and confirm unto each Secured Party the rights now or hereafter intended to be granted to it under this Agreement or any other Loan Document. In furtherance of the foregoing, to the maximum extent permitted by applicable law, to the extent a Loan Party fails to comply with this Section 7.01(s), after a written request therefor and a reasonable time for performance of such request, each Loan Party (i) authorizes each Agent to execute any such agreements, instruments or other documents in such Loan Party's name and to file such agreements, instruments or other documents in any appropriate filing office, (ii) authorizes each Agent to file any financing statement required hereunder or under any other Loan Document, and any continuation statement or amendment with respect thereto, in any appropriate filing office without the signature of such Loan Party, and (iii) ratifies the filing of any financing statement, and any continuation statement or amendment with respect thereto, filed without the signature of such Loan Party prior to the date hereof.

(r) Post-Closing Obligations. Satisfy the requirements set forth on Schedule 7.01(r) on or before the date specified for such requirement or such later date to be determined by the Administrative Agent.

Section 7.02 Negative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party shall not, and shall not permit any of its Subsidiaries to, unless the Required Lenders shall otherwise consent in writing:

(a) Liens, Etc. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Lien upon or with respect to any of its properties, whether now owned or hereafter acquired; file or suffer to exist under the Uniform Commercial Code, the PPSA or any Requirement of Law of any jurisdiction, a financing statement (or the equivalent thereof) that names it or any of its Subsidiaries as debtor; sign or suffer to exist any security agreement authorizing any secured party thereunder to file such financing statement (or the equivalent thereof) other than, as to all of the above, Permitted Liens.

(b) Indebtedness. Create, incur, assume, guarantee or suffer to exist, or otherwise become or remain liable with respect to, or permit any of its Subsidiaries to create, incur, assume, guarantee or suffer to exist or otherwise become or remain liable with respect to, any Indebtedness other than Permitted Indebtedness.

(c) Fundamental Changes; Dispositions.

(i) Wind-up, liquidate or dissolve, or merge, consolidate or amalgamate with any Person, including by means of a "plan of division" under the Delaware Limited Liability Company Act or any comparable transaction under any similar law, or permit any of its Subsidiaries to do (or agree to do) any of the foregoing; provided, however, that any wholly-owned Subsidiary of any Loan Party (other than the Borrower) may be merged into such Loan Party or another wholly-owned Subsidiary of such Loan Party, or may consolidate or amalgamate with another wholly-owned Subsidiary of such Loan Party, so long as (A) no other provision of this Agreement would be violated thereby, (B) such Loan Party gives the Agents at least 30 days' prior

written notice (or such shorter period as the Administrative Agent may agree) of such merger, consolidation or amalgamation accompanied by true, correct and complete copies of all material agreements, documents and instruments relating to such merger, consolidation or amalgamation, including the certificate or certificates of merger or amalgamation to be filed with each appropriate Secretary of State (with a copy as filed promptly after such filing), (C) no Default or Event of Default shall have occurred and be continuing either before or after giving effect to such transaction, (D) the Lenders' rights in any material Collateral, including the existence, perfection and priority of any Lien thereon, are not adversely affected by such merger, consolidation or amalgamation and (E) the surviving Subsidiary, if any, if not already a Loan Party, is joined as a Loan Party hereunder pursuant to a Joinder Agreement and is a party to a Security Agreement or the Canadian Security Agreement, as applicable, and the Equity Interests of such Subsidiary is the subject of a Security Agreement or the Canadian Security Agreement, as applicable, in each case, which is in full force and effect on the date of and immediately after giving effect to such merger, consolidation or amalgamation; and

(ii) Make any Disposition, whether in one transaction or a series of related transactions, of all or any part of its business, property or assets, whether now owned or hereafter acquired, or permit any of its Subsidiaries to do any of the foregoing; provided, however, that any Loan Party and its Subsidiaries may make Permitted Dispositions.

(d) Change in Nature of Business.

(i) Make, or permit any of its Subsidiaries to make, any change in the nature of its business as described in Section 6.01(l).

(ii) Permit the Parent to (A) engage in any business or other commercial activities, (B) own any assets or property, (C) incur any Indebtedness, guaranty obligations or other contractual obligations, or (D) grant any Liens over any of its assets or property, other than: (1) ownership of the Equity Interests of its Subsidiaries; (2) the maintenance of its corporate existence, and activities and contractual rights incidental thereto; (3) assets and liabilities customary of and incidental to the conduct of its business as a holding company and as a public reporting company; (4) participation in tax, accounting and other administrative activities (including preparing reports and financial statements); (5) liabilities arising under the Loan Documents and performance of its obligations as a guarantor under any Permitted Indebtedness to which it is a party; (6) the issuance of its own Equity Interests; (7) holding cash and Cash Equivalents and the making, owning and holding of Permitted Investments; (8) Permitted Restricted Payments; (9) the incurrence of liabilities and the performance of obligations and any other actions otherwise expressly permitted to be performed by Parent under this Agreement and the other Loan Documents to which it is a party; and (10) obligations and activities incidental to the business or activities described above, including providing indemnification of officers, directors, shareholders and employees.

(e) Loans, Advances, Investments, Etc. Make, or permit any of its Subsidiaries to make, any Investment in any other Person except for Permitted Investments.

(f) Sale and Leaseback Transactions. Enter into, or permit any of its Subsidiaries to enter into, any Sale and Leaseback Transaction.

(g) [Reserved].

(h) Restricted Payments. Make or permit any of its Subsidiaries to make any Restricted Payment other than Permitted Restricted Payments.

(i) Federal Reserve Regulations. Permit any Loan or the proceeds of any Loan under this Agreement to be used for any purpose that would cause such Loan to be a margin loan under the provisions of Regulation T, U or X of the Board.

(j) Transactions with Affiliates. Enter into, renew, extend or be a party to, or permit any of its Subsidiaries to enter into, renew, extend or be a party to, any transaction or series of related transactions (including the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any Affiliate, except (i) transactions consummated in the ordinary course of business in a manner and to an extent consistent with past practice and necessary or desirable for the prudent operation of its business, for fair consideration and on terms no less favorable to it or its Subsidiaries than would be obtainable in a comparable arm's length transaction with a Person that is not an Affiliate thereof (provided, that a transaction is deemed to be on arm's length terms if approved by the Board of Directors (not including such Affiliate) of the applicable Loan Party or Subsidiary), and, if they involve one or more payments by the Parent or any of its Subsidiaries in excess of $1,000,000 for any single transaction or series of related transactions, that are fully disclosed to the Agents prior to the consummation thereof, (ii) transactions with another Loan Party or any of its Subsidiaries, (iii) transactions permitted by Section 7.02(h), (iv) sales or issuances of Qualified Equity Interests of the Parent to Affiliates of the Parent not otherwise prohibited by the Loan Documents and the granting of registration and other customary rights in connection therewith, (v) reasonable and customary director and officer compensation (including bonuses and stock option programs), benefits and indemnification arrangements, in each case approved by the Board of Directors (or a committee thereof) of such Loan Party or such Subsidiary, and (vi) any transaction described on Schedule 7.02(j).

(k) Limitations on Dividends and Other Payment Restrictions Affecting Subsidiaries. Create or otherwise cause, incur, assume, suffer or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of any Loan Party (i) to pay dividends or to make any other distribution on any shares of Equity Interests of such Subsidiary owned by any Loan Party or any of its Subsidiaries, (ii) to pay or prepay or to subordinate any Indebtedness owed to any Loan Party or any of its Subsidiaries, (iii) to make loans or advances to any Loan Party or any of its Subsidiaries or (iv) to transfer any of its property or assets to any Loan Party or any of its Subsidiaries, or permit any of its Subsidiaries to do any of the foregoing; provided, however, that nothing in any of clauses (i) through (iv) of this Section 7.02(k) shall prohibit or restrict compliance with:

(A) this Agreement and the other Loan Documents;

(B) any agreement in effect on the date of this Agreement and described on Schedule 7.02(k), or any extension, replacement or continuation of any such agreement; provided, that, any such encumbrance or restriction contained in such extended,

replaced or continued agreement is no less favorable to the Agents and the Lenders than the encumbrance or restriction under or pursuant to the agreement so extended, replaced or continued;

(C) any applicable law, rule or regulation (including applicable currency control laws and applicable state corporate statutes restricting the payment of dividends in certain circumstances);

(D) in the case of clause (iv), (1) customary restrictions on the subletting, assignment or transfer of any specified property or asset set forth in a lease, license, asset sale agreement or similar contract for the conveyance of such property or asset and (2) instrument or other document evidencing a Permitted Lien (or the Indebtedness secured thereby) from restricting on customary terms the transfer of any property or assets subject thereto;

(E) customary restrictions on dispositions of real property interests in reciprocal easement agreements;

(F) customary restrictions in agreements for the sale of assets on the transfer or encumbrance of such assets during an interim period prior to the closing of the sale of such assets; or

(G) customary restrictions in contracts that prohibit the assignment of such contract.

(l) Limitations on Negative Pledges. Enter into, incur or permit to exist, or permit any Subsidiary to enter into, incur or permit to exist, directly or indirectly, any agreement, instrument, deed, lease or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Loan Party or any Subsidiary of any Loan Party to create, incur or permit to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired, or that requires the grant of any security for an obligation if security is granted for another obligation, except the following: (i) this Agreement and the other Loan Documents, (ii) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by Section 7.02(b) of this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (iii) any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets or of a Subsidiary pending such sale or other disposition; provided that such restrictions and conditions apply only to the assets or Subsidiary to be sold or disposed of and such sale or disposition is permitted hereunder, and (iv) customary provisions in leases restricting the assignment or sublet thereof.

(m) Modifications of Indebtedness, Organizational Documents and Certain Other Agreements; Etc.

(i) Amend, modify or otherwise change (or permit the amendment, modification or other change in any manner of) any of the provisions of any of its or its Subsidiaries' Indebtedness or of any instrument or agreement (including any purchase agreement, indenture, loan agreement or security agreement) relating to any such Indebtedness if such amendment, modification or change would be materially adverse to the Lenders;

(ii) except for (x) the Obligations, or, with respect to Subordinated Indebtedness (including Indebtedness constituting Permitted Intercompany Investments), as otherwise expressly permitted below, and (y) Indebtedness pursuant to clauses (c), (h), (s) (solely in respect of clauses (c) and (h) of the definition of "Permitted Indebtedness") and (w) of the definition of "Permitted Indebtedness", (A) make any voluntary or optional payment (including any payment of interest in cash that, at the option of the issuer, may be paid in cash or in kind), prepayment, redemption, defeasance, sinking fund payment or other acquisition for value of any of its or its Subsidiaries' Indebtedness (including by way of depositing money or securities with the trustee therefor before the date required for the purpose of paying any portion of such Indebtedness when due), (B) refund, refinance, replace or exchange any other Indebtedness for any such Indebtedness (other than with respect to Permitted Refinancing Indebtedness), (C) make any payment, prepayment, redemption, defeasance, sinking fund payment or repurchase of any Subordinated Indebtedness (including Indebtedness constituting Permitted Intercompany Investments) in violation of the subordination provisions thereof or any subordination agreement with respect thereto, or (D) make any payment, prepayment, redemption, defeasance, sinking fund payment or repurchase of any Indebtedness as a result of any asset sale, change of control, issuance and sale of debt or equity securities or similar event;

(iii) amend, modify or otherwise change any of its Governing Documents (including by the filing or modification of any certificate of designation, or any agreement or arrangement entered into by it) with respect to any of its Equity Interests (including any shareholders' agreement), or enter into any new agreement with respect to any of its Equity Interests, except any such amendments, modifications or changes or any such new agreements or arrangements pursuant to this clause (iii) that either individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect, provided that no such amendment, modification or change or new agreement or arrangement shall provide for any plan of division pursuant to Section 18-217 of the Delaware Limited Liability Company Act (or any similar statute or provision under applicable law);

(iv) agree to any amendment, modification or other change to or waiver of any of its rights under any Material Contract if such amendment, modification, change or waiver would be adverse in any material respect to any Loan Party or any of its Subsidiaries or the Agents and the Lenders; or

(v) change its registered office, chief executive office or its domicile (within the meaning of the *Civil Code of Québec*) without 30 days' prior written notice to the Collateral Agent or move any of its tangible property to a jurisdiction within Canada in which the Collateral Agent does not have perfected Liens without 30 days' prior written notice to Agent.

(n) Investment Company Act of 1940. Engage in any business, enter into any transaction, use any securities or take any other action or permit any of its Subsidiaries to do any of the foregoing, that would cause it or any of its Subsidiaries to become subject to the registration requirements of the Investment Company Act of 1940, as amended, by virtue of being an "investment company" or a company "controlled" by an "investment company" not entitled to an exemption within the meaning of such Act.

(o) ERISA and Canadian Defined Benefit Plan. Except to the extent it could not reasonable be expected to have a Material Adverse Effect, (i) cause or fail to prevent, or permit any of its ERISA Affiliates to cause or fail to prevent, an ERISA Event, (ii) adopt, or permit any of its ERISA Affiliates to adopt, any employee welfare benefit plan within the meaning of Section 3(1) of ERISA that provides benefits to employees after termination of employment other than as required by Section 601 of ERISA or other Requirements of Law or (iii) establish, sponsor, administer, contribute to, participate in, or assume any liability (including any contingent liability) under any Canadian Defined Benefit Plan.

(p) Environmental. Permit the use, handling, generation, storage, treatment, Release or disposal of Hazardous Materials on, in, at, under or from any property owned, leased or operated by it or any of its Subsidiaries, except in compliance with Environmental Laws (other than any noncompliance that could not reasonably be expected to have a Material Adverse Effect).

(q) Accounting Methods. Modify or change, or permit any of its Subsidiaries to modify or change, its method of accounting or accounting principles from those utilized in the preparation of the Financial Statements (other than as may be required to conform to GAAP).

(r) Sanctioned Persons; Anti-Corruption Laws; Anti-Money Laundering Laws.

(i) Conduct any business or engage in any transaction or dealing with or for the benefit of any Sanctioned Person, including the making or receiving of any contribution of funds, goods or services to, from or for the benefit of any Sanctioned Person; or

(ii) Use, directly or indirectly, any of the proceeds of any Loan, (A) to fund any activities or business of or with any Sanctioned Person or in any other manner that would give rise to a violation of any applicable Sanctions by any Person (including by any Person participating in any Loan, whether as underwriter, advisor, investor or otherwise), or (B) for the purpose of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in any manner that would give rise to a violation of any applicable Anti-Corruption Law.

(s) Use of Proceeds. Use the proceeds of the Loans for any purpose not explicitly permitted by Section 6.01(s).

(t) Pari Passu. Fail to take all actions necessary to cause all Obligations to rank at all times at least pari passu in priority in right of payment and in all other respects with all other Indebtedness of any Loan Party.

Section 7.03 Financial Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party shall not, unless the Required Lenders shall otherwise consent in writing:

(a) Minimum Revenue. Permit Revenues of the Parent and its Subsidiaries for any period of 4 consecutive fiscal quarters (unless a shorter period is set forth below) of the Parent and its Subsidiaries ending on the last day of a fiscal quarter of the Parent set forth below,

calculated as of the last day of such fiscal quarter, to be less than the amount set forth opposite such date:

Quarter Ending	Minimum Revenues
September 30, 2022 (for the fiscal quarter then ended)	$133,000,000
December 31, 2022 (for the two consecutive fiscal quarter period then ended)	$263,000,000
March 31, 2023 (for the three consecutive fiscal quarter period then ended)	$386,000,000
June 30, 2023	$521,000,000
September 30, 2023	$545,000,000
December 31, 2023	$576,000,000
March 31, 2024	$626,000,000
June 30, 2024	$650,000,000
September 30, 2024	$675,000,000
December 31, 2024	$675,000,000
March 31, 2025	$685,000,000
June 30, 2025	$695,000,000
September 30, 2025	$705,000,000
December 31, 2025	$707,000,000
March 31, 2026	$707,000,000
June 30, 2026	$707,000,000

(b) Liquidity. Permit Liquidity to be less than (i) at any time from the period commencing on the Effective Date through and including December 31, 2022, $10,000,000, (ii) at any time from the period commencing January 1, 2023 through and including June 30, 2023, $12,500,000 and (iii) at any time from the period commencing July 1, 2023 through and including the Final Maturity Date, $15,000,000.

ARTICLE VIII

CASH MANAGEMENT ARRANGEMENTS AND OTHER COLLATERAL MATTERS

Section 8.01 Cash Management Arrangements. The Loan Parties shall (i) establish and maintain cash management services of a type and on terms reasonably satisfactory to the Agents at one or more of the banks set forth on Schedule 8.01 (each a "Cash Management Bank") (it being agreed and acknowledged that the type and terms of cash management services in effect as of the Effective Date are deemed satisfactory to the Agents) and (ii) except as otherwise provided under Section 8.01(b), deposit or cause to be deposited promptly, and in any event no later than the next Business Day after the date of receipt thereof, all proceeds in respect of any Collateral, all Collections (of a nature susceptible to a deposit in a bank account) and all other amounts received by any Loan Party (including payments made by Account Debtors directly to any Loan Party into a Cash Management Account). Notwithstanding anything herein to the contrary, in connection with a Permitted Acquisition, any newly acquired Loan Party shall, within 60 days (or 120 days for each Cash Management Account located outside of the United States or such later date, in each case, as agreed by the Collateral Agent in its sole discretion) after the closing of such Permitted Acquisition, comply with this Section 8.01(a).

(b) Within 45 days after the Effective Date (or such longer date as agreed to in writing by the Collateral Agent in its sole discretion), the Loan Parties shall, with respect to each Cash Management Account (other than Excluded Accounts), deliver to the Collateral Agent a Control Agreement with respect to such Cash Management Account. From and after the date that is 45 days following the Effective Date, the Loan Parties shall not maintain, and shall not permit any of their Subsidiaries to maintain, cash, Cash Equivalents or other amounts in any deposit account or securities account, unless the Collateral Agent shall have received a Control Agreement in respect of each such Cash Management Account (other than Excluded Accounts) in accordance and with and within the time periods set forth in clause (d) below.

(c) Upon the terms and subject to the conditions set forth in a Control Agreement with respect to a Cash Management Account, all amounts received in such Cash Management Account shall at the Administrative Agent's direction be wired each Business Day into the Administrative Agent's Accounts, except that, so long as no Event of Default has occurred and is continuing, the Administrative Agent will not direct the Cash Management Bank to transfer funds in such Cash Management Account to the Administrative Agent's Accounts and the Loan Parties may direct, and shall have control over, the manner of disposition of funds in the Cash Management Accounts.

(d) So long as no Default or Event of Default has occurred and is continuing, the Borrower may open or acquire new deposit accounts, trust accounts, customer accounts, petty cash accounts, futures accounts, securities accounts and commodity accounts (and in connection therewith, if requested by the Administrative Agent, amend Schedule 8.01 to add or replace the applicable Cash Management Bank or Cash Management Account); provided, however, that unless such account is an Excluded Account, within thirty (30) days after opening or acquisition of such account (or such later date as Administrative Agent may agree to in its reasonable

discretion) (i) such prospective Cash Management Bank shall be reasonably satisfactory to the Collateral Agent and the Collateral Agent shall have consented in writing in advance to the opening of such Cash Management Account with the prospective Cash Management Bank, and (ii) prior to the time of the opening of such Cash Management Account, each Loan Party and such prospective Cash Management Bank shall have executed and delivered to the Collateral Agent a Control Agreement. Each Loan Party shall close any of its Cash Management Accounts (and establish replacement cash management accounts in accordance with the foregoing sentence) promptly and in any event within 30 days of notice from the Collateral Agent that the creditworthiness of any Cash Management Bank (other than the Cash Management Banks set forth on Schedule 8.01 as of the Effective Date) is no longer acceptable in the Collateral Agent's reasonable judgment.

ARTICLE IX

EVENTS OF DEFAULT

Section 9.01 Events of Default. Each of the following events shall constitute an event of default (each, an "Event of Default"):

(a) the Borrower shall fail to pay, when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), (i) any interest on any Loan, or any fee, indemnity, premium (including the Prepayment Premium) or other amount payable under this Agreement (other than any portion thereof constituting principal of the Loans) or any other Loan Document, and such failure continues for a period of three Business Days or (ii) all or any portion of the principal of the Loans;

(b) any representation or warranty made or deemed made by or on behalf of any Loan Party or by any officer of the foregoing under or in connection with any Loan Document or under or in connection with any certificate or other writing delivered to any Secured Party pursuant to any Loan Document shall have been incorrect in any material respect (or in any respect if such representation or warranty is qualified or modified as to materiality or "Material Adverse Effect" in the text thereof) when made or deemed made;

(c) any Loan Party shall fail to perform or comply with any covenant or agreement contained in Section 7.01(a) (other than Section 7.01(a)(i), (ii), (iii) and (iv)), Section 7.01(c)(i), Section 7.01(d), Section 7.01(f), Section 7.01(k), Section 7.01(m), Section 7.01(o), Section 7.01(r), Section 7.02 or Section 7.03 or Article VIII;

(d) any Loan Party shall fail to perform or comply with any other term, covenant or agreement contained in (1) Section 7.01(a)(i), (ii), (iii) and (iv), and such failure shall remain unremedied for two Business Days, (2) Section 7.01(p), and such failure shall remain unremedied for three Business Days, or (3) any Loan Document to be performed or observed by it and, except as set forth in subsections (a), (b), (c), (d)(1) and (d)(2) of this Section 9.01, such failure, if capable of being remedied, shall remain unremedied for 30 days after the earlier of the date a senior officer of any Loan Party has knowledge of such failure and the date written notice of such default shall have been given by any Agent to such Loan Party;

(e) any Loan Party shall fail to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount payable in respect of Indebtedness (excluding Indebtedness evidenced by this Agreement) having an aggregate amount outstanding in excess of $1,500,000, and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness, or any other default under any agreement or instrument relating to any such Indebtedness, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or any such Indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case, prior to the stated maturity thereof;

(f) any Loan Party (i) shall institute any proceeding or voluntary case seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for any such Person or for any substantial part of its property, (ii) shall be generally not paying its debts as such debts become due or shall admit in writing its inability to pay its debts generally, (iii) shall make a general assignment for the benefit of creditors, or (iv) shall take any action to authorize or effect any of the actions set forth above in this subsection (f);

(g) any proceeding shall be instituted against any Loan Party seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for any such Person or for any substantial part of its property, and either such proceeding shall remain undismissed or unstayed for a period of 30 days or any of the actions sought in such proceeding (including the entry of an order for relief against any such Person or the appointment (either through a court or privately) of a receiver, trustee, receiver/manager, monitor, conservator, custodian or other similar official for it or for any substantial part of its property) shall occur;

(h) any material provision of any Loan Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against any Loan Party intended to be a party thereto, or the validity or enforceability thereof shall be contested by any Loan Party that is a party thereto, or a proceeding shall be commenced by any Loan Party or any Governmental Authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or any Loan Party shall deny in writing that it has any liability or obligation purported to be created under any Loan Document;

(i) any Security Agreement, any Canadian Security Agreement, any Mortgage or any other security document entered into by a Loan Party to secure the Obligations, after delivery thereof pursuant hereto, shall for any reason (other than the failure of the Agents or any Lender to make required filings, take required actions based on accurate information timely provided by the Loan Parties or to maintain “control” over possessory collateral in accordance with applicable law)

fail or cease to create a valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien in favor of the Collateral Agent for the benefit of the Agents and the Lenders on any Collateral purported to be covered thereby with a value in excess of $1,500,000;

(j) one or more judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, could result in such a judgment, order or award) for the payment of money exceeding $1,500,000 in the aggregate (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer has been notified and has not denied coverage) shall be rendered against any Loan Party and remain unsatisfied or unpaid and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order, award or settlement or (ii) there shall be a period of 20 consecutive days after entry thereof during which (A) a stay of enforcement thereof is not be in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

(k) any Loan Party is enjoined, restrained or in any way prevented by the order of any court or any Governmental Authority from conducting, or otherwise ceases to conduct for any reason whatsoever, all or a material part of its business for more than 30 days;

(l) the loss, suspension or revocation of, or failure to renew, any license or permit now held or hereafter acquired by any Loan Party, if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect;

(m) the indictment of any Loan Party or any senior officer thereof under any criminal statute, or commencement of criminal or civil proceedings against any Loan Party or any senior officer thereof, pursuant to which statute or proceedings the penalties or remedies sought include forfeiture to any Governmental Authority of any material portion of the Collateral;

(n) there shall occur one or more ERISA Events that individually or in the aggregate results in, or could reasonably be expected to result in, a Material Adverse Effect;

(o) (i) there shall occur and be continuing (or unwaived) any "Event of Default" (or any comparable term) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (ii) any of the Obligations for any reason shall cease to be "Senior Indebtedness" or "Designated Senior Indebtedness" (or any comparable terms) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (iii) any Indebtedness other than the Obligations shall constitute "Designated Senior Indebtedness" (or any comparable term) under, and as defined in, the documents evidencing or governing any Subordinated Indebtedness, (iv) any holder of Subordinated Indebtedness shall fail to perform or comply with any of the subordination provisions of the documents evidencing or governing such Subordinated Indebtedness, or (v) the subordination provisions of the documents evidencing or governing any Subordinated Indebtedness shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or

(p) a Change of Control shall have occurred;

then, and in any such event, the Collateral Agent may, and shall at the request of the Required Lenders, by notice to the Borrower, (i) terminate or reduce all Commitments, whereupon all Commitments shall immediately be so terminated or reduced, (ii) declare all or any portion of the Loans then outstanding to be accelerated and due and payable, whereupon all or such portion of the aggregate principal of all Loans, all accrued and unpaid interest thereon, all fees and all other amounts payable under this Agreement and the other Loan Documents shall become due and payable immediately, together with the payment of the Prepayment Premium with respect to the Commitments so terminated and the Loans so repaid, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by each Loan Party and (iii) exercise any and all of its other rights and remedies under applicable law, hereunder and under the other Loan Documents; provided, however, that upon the occurrence of any Event of Default described in subsection (f) or (g) of this Section 9.01 with respect to any Loan Party, without any notice to any Loan Party or any other Person or any act by any Agent or any Lender, all Commitments shall automatically terminate and all Loans then outstanding, together with all accrued and unpaid interest thereon, all fees and all other amounts due under this Agreement and the other Loan Documents, including the Prepayment Premium, shall be accelerated and become due and payable automatically and immediately, without presentment, demand, protest or notice of any kind, all of which are expressly waived by each Loan Party.

ARTICLE X

AGENTS

Section 10.01 Appointment. Each Lender (and each subsequent maker of any Loan by its making thereof) hereby irrevocably appoints, authorizes and empowers the Administrative Agent and the Collateral Agent to perform the duties of each such Agent as set forth in this Agreement and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including: (i) to receive on behalf of each Lender any payment of principal of or interest on the Loans outstanding hereunder and all other amounts accrued hereunder for the account of the Lenders and paid to such Agent, and, subject to Section 2.02 of this Agreement, to distribute promptly to each Lender its Pro Rata Share of all payments so received; (ii) to distribute to each Lender copies of all material notices and agreements received by such Agent and not required to be delivered to each Lender pursuant to the terms of this Agreement, provided that the Agents shall not have any liability to the Lenders for any Agent's inadvertent failure to distribute any such notices or agreements to the Lenders; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Agreement or any other Loan Document; (v) to make the Loans and Collateral Agent Advances, for such Agent or on behalf of the applicable Lenders as provided in this Agreement or any other Loan Document; (vi) to perform, exercise, and enforce any and all other rights and remedies of the Lenders with respect to the Loan Parties, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by such Agent of the rights and remedies specifically authorized to be exercised by such Agent by the terms of this Agreement or

any other Loan Document; (vii) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Agreement or any other Loan Document; (viii) subject to Section 10.03, to take such action as such Agent deems appropriate on its behalf to administer the Loans and the Loan Documents and to exercise such other powers delegated to such Agent by the terms hereof or the other Loan Documents (including the power to give or to refuse to give notices, waivers, consents, approvals and instructions and the power to make or to refuse to make determinations and calculations); and (ix) to act with respect to all Collateral under the Loan Documents, including for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations. As to any matters not expressly provided for by this Agreement and the other Loan Documents (including enforcement or collection of the Loans), the Agents shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), and such instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) shall be binding upon all Lenders and all makers of Loans; provided, however, the Agents shall not be required to take any action which, in the reasonable opinion of any Agent, exposes such Agent to liability or which is contrary to this Agreement or any other Loan Document or applicable law.

Section 10.02 Nature of Duties; Delegation. The Agents shall have no duties or responsibilities except those expressly set forth in this Agreement or in the other Loan Documents. The duties of the Agents shall be mechanical and administrative in nature. The Agents shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender. Nothing in this Agreement or any other Loan Document, express or implied, is intended to or shall be construed to impose upon the Agents any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein. Each Lender shall make its own independent investigation of the financial condition and affairs of the Loan Parties in connection with the making and the continuance of the Loans hereunder and shall make its own appraisal of the creditworthiness of the Loan Parties and the value of the Collateral without reliance upon the Administrative Agent or any other Lender or any of their Related Parties, and neither the Agents nor any of their Related Parties shall have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into their possession before the initial Loan hereunder or at any time or times thereafter, provided that, upon the reasonable request of a Lender, each Agent shall provide to such Lender any documents or reports delivered to such Agent by the Loan Parties pursuant to the terms of this Agreement or any other Loan Document. If any Agent seeks the consent or approval of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) to the taking or refraining from taking any action hereunder, such Agent shall send notice thereof to each Lender. Each Agent shall promptly notify each Lender any time that 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) have instructed such Agent to act or refrain from acting pursuant hereto.

(b) Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other

action with respect to, any Loan Document by or through any of its Related Parties or any other trustee, co-agent or other Person (including any Lender). Any such Related Party, trustee, co-agent or other Person shall benefit from this Article X to the extent provided by the applicable Agent.

Section 10.03 Rights, Exculpation, Etc. The Agents and their Related Parties shall not be liable for any action taken or omitted to be taken by them under or in connection with this Agreement or the other Loan Documents, except for their own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, the Agents (i) may treat the payee of any Loan as the owner thereof until the Collateral Agent receives written notice of the assignment or transfer thereof, pursuant to Section 12.07 hereof, signed by such payee and in form satisfactory to the Collateral Agent; (ii) may consult with legal counsel (including counsel to any Agent or counsel to the Loan Parties), independent public accountants, and other experts selected by any of them and shall not be liable for any action taken or omitted to be taken in good faith by any of them in accordance with the advice of such counsel or experts; (iii) make no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, certificates, warranties or representations made in or in connection with this Agreement or the other Loan Documents; (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Loan Documents on the part of any Person, the existence or possible existence of any Default or Event of Default, or to inspect the Collateral or other property (including the books and records) of any Person; (v) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto; and (vi) shall not be deemed to have made any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. The Agents shall not be liable for any apportionment or distribution of payments made in good faith pursuant to Section 4.03, and if any such apportionment or distribution is subsequently determined to have been made in error, and the sole recourse of any Lender to whom payment was due but not made shall be to recover from other Lenders any payment in excess of the amount which they are determined to be entitled. The Agents may at any time request instructions from the Lenders with respect to any actions or approvals which by the terms of this Agreement or of any of the other Loan Documents the Agents are permitted or required to take or to grant, and if such instructions are promptly requested, the Agents shall be absolutely entitled to refrain from taking any action or to withhold any approval under any of the Loan Documents until they shall have received such instructions from the Required Lenders. Without limiting the foregoing, no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents).

Section 10.04 Reliance. Each Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper

Person, and with respect to all matters pertaining to this Agreement or any of the other Loan Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

Section 10.05 Indemnification. To the extent that any Agent or any Related Party of the foregoing is not reimbursed and indemnified by any Loan Party, and whether or not such Agent has made demand on any Loan Party for the same, the Lenders will, within five days of written demand by such Agent, reimburse such Agent and such Related Parties for and indemnify such Agent and such Related Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including client charges and expenses of counsel or any other advisor to such Agent and such Related Parties), advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against such Agent and the Related Parties in any way relating to or arising out of this Agreement or any of the other Loan Documents or any action taken or omitted by such Agent and such Related Parties under this Agreement or any of the other Loan Documents, in proportion to each Lender's Pro Rata Share, including advances and disbursements made pursuant to Section 10.08; provided, however, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements for which there has been a final non-appealable judicial determination that such liability resulted from such Agent's or such Related Party's gross negligence or willful misconduct. The obligations of the Lenders under this Section 10.05 shall survive the payment in full of the Loans and the termination of this Agreement.

Section 10.06 Agents Individually. With respect to its Pro Rata Share of the Total Commitment hereunder and the Loans made by it, each Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or maker of a Loan. The terms "Lenders" or "Required Lenders" or any similar terms shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity as a Lender or one of the Required Lenders. Each Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with the Borrower as if it were not acting as an Agent pursuant hereto without any duty to account to the other Lenders.

Section 10.07 Successor Agent. Any Agent may at any time give at least 30 days prior written notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor Agent with the consent of the Borrower (such consent not to be unreasonably withheld or delayed and shall not be required during the continuance of an Event of Default). If no such successor Agent shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Agent. Whether or not a successor Agent has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by such Agent on behalf of the Lenders under any

of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through such retiring Agent shall instead be made by or to each Lender directly, until such time, if any, as a successor Agent shall have been appointed as provided for above. Upon the acceptance of a successor's Agent's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article, Section 12.04 and Section 12.15 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by it while the retiring Agent was acting as Agent.

Section 10.08 Collateral Matters.

(a) The Collateral Agent may from time to time make such disbursements and advances ("Collateral Agent Advances") which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrower of the Loans and other Obligations or to pay any other amount chargeable to the Borrower pursuant to the terms of this Agreement, including costs, fees and expenses as described in Section 12.04. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Reference Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder which may be charged to the Loan Account in accordance with Section 4.01. The Collateral Agent shall notify each Lender and the Borrower in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Without limitation to its obligations pursuant to Section 10.05, each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Pro Rata Share of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days and thereafter at the Reference Rate.

(b) The Lenders hereby irrevocably authorize and direct the Collateral Agent, to release any Lien granted to or held by the Collateral Agent upon any Collateral (i) upon Payment in Full of the Obligations in accordance with the terms hereof; or (ii) constituting property being sold or disposed of in the ordinary course of any Loan Party's business or otherwise in compliance with the terms of this Agreement and the other Loan Documents; or (iii) constituting property in which the Loan Parties owned no interest at the time the Lien was granted or at any time thereafter; or (iv) constituting cash to the extent utilized by a Loan Party for the purposes of clauses (q) or (v) of the definition of "Permitted Liens"; or (v) if approved, authorized or ratified in writing by the Lenders in accordance with Section 12.02. Upon request by the Collateral Agent at any time, the Lenders will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to this Section 10.08(b).

(c) Without in any manner limiting the Collateral Agent's authority to act without any specific or further authorization or consent by the Lenders (as set forth in Section 10.08(b)), each Lender agrees to confirm in writing, upon request by the Collateral Agent, the authority to release Collateral conferred upon the Collateral Agent under Section 10.08(b). Upon receipt by the Collateral Agent of confirmation from the Lenders of its authority to release any particular item or types of Collateral, and upon prior written request by any Loan Party, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Agents and the Lenders upon such Collateral; provided, however, that (i) the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent's opinion, would expose the Collateral Agent to liability or create any obligations or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) except in connection with a Payment in Full of the Obligations, such release shall not in any manner discharge, affect or impair the Obligations or any Lien upon (or obligations of any Loan Party in respect of) all interests in the Collateral retained by any Loan Party.

(d) Anything contained in any of the Loan Documents to the contrary notwithstanding, the Loan Parties, each Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral under any Loan Document or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof, (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale, the Administrative Agent, the Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and (iii) the Collateral Agent, as agent for and representative of the Agents and the Lenders (but not any other Agent or any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled (either directly or through one or more acquisition vehicles) for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral to be sold (A) at any public or private sale, (B) at any sale conducted by the Collateral Agent under the provisions of the Uniform Commercial Code (including pursuant to Sections 9-610 or 9-620 of the Uniform Commercial Code) or the PPSA, as applicable, (C) at any sale or foreclosure conducted by the Collateral Agent (whether by judicial action or otherwise) in accordance with applicable law or (D) any sale conducted pursuant to the provisions of any Debtor Relief Law (including Section 363 of the Bankruptcy Code), to use and apply all or any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale.

(e) The Collateral Agent shall have no obligation whatsoever to any Lender to assure that the Collateral exists or is owned by the Loan Parties or is cared for, protected or insured or has been encumbered or that the Lien granted to the Collateral Agent pursuant to this Agreement or any other Loan Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Collateral Agent in this Section 10.08 or in any other Loan Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its sole discretion, given the Collateral Agent's own interest in the Collateral as one

of the Lenders and that the Collateral Agent shall have no duty or liability whatsoever to any other Lender, except as otherwise provided herein.

Section 10.09 Agency for Perfection. Each Agent and each Lender hereby appoints each other Agent and each other Lender as agent and bailee for the purpose of perfecting the security interests in and liens upon the Collateral in assets which, in accordance with Article 9 of the Uniform Commercial Code and the PPSA, as applicable, can be perfected only by possession or control (or where the security interest of a secured party with possession or control has priority over the security interest of another secured party) and each Agent and each Lender hereby acknowledges that it holds possession of or otherwise controls any such Collateral for the benefit of the Agents and the Lenders as secured party. Should the Administrative Agent or any Lender obtain possession or control of any such Collateral, the Administrative Agent or such Lender shall notify the Collateral Agent thereof, and, promptly upon the Collateral Agent's request therefor shall deliver such Collateral to the Collateral Agent or in accordance with the Collateral Agent's instructions. In addition, the Collateral Agent shall also have the power and authority hereunder to appoint such other sub-agents as may be necessary or required under applicable state law or otherwise to perform its duties and enforce its rights with respect to the Collateral and under the Loan Documents. Each Loan Party by its execution and delivery of this Agreement hereby consents to the foregoing.

Section 10.10 No Reliance on any Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on any Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other requirements imposed by the USA PATRIOT Act or the regulations issued thereunder, including the regulations set forth in 31 C.F.R. §§ 1010.100(yy), (iii), 1020.100, and 1020.220 (formerly 31 C.F.R. § 103.121), as hereafter amended or replaced ("CIP Regulations"), or any other Anti-Money Laundering Laws, including any programs involving any of the following items relating to or in connection with any of the Loan Parties, their Affiliates or their agents, the Loan Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any recordkeeping, (3) comparisons with government lists, (4) customer notices or (5) other procedures required under the CIP Regulations or other regulations issued under the USA PATRIOT Act. Each Lender, Affiliate, participant or assignee subject to Section 326 of the USA PATRIOT Act will perform the measures necessary to satisfy its own responsibilities under the CIP Regulations.

Section 10.11 No Third Party Beneficiaries. The provisions of this Article are solely for the benefit of the Secured Parties (except with respect to (i) the Borrower's consent right to the appointment of successor Agents under Section 10.07, (ii) the retiring Agent's obligation to continue to hold Collateral as set forth in Section 10.07(b), and (iii) the Collateral Agent's obligation to release liens under Section 10.08(b)) and, other than as set forth herein, and no Loan Party shall have rights as a third-party beneficiary of any of such provisions.

Section 10.12 No Fiduciary Relationship. It is understood and agreed that the use of the term "agent" herein or in any other Loan Document (or any other similar term) with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a

matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 10.13 Reports; Confidentiality; Disclaimers. By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that each Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report with respect to the Parent or any of its Subsidiaries (each, a "Report") prepared by or at the request of such Agent, and each Agent shall so furnish each Lender with each such Report,

(b) expressly agrees and acknowledges that the Agents (i) do not make any representation or warranty as to the accuracy of any Reports, and (ii) shall not be liable for any information contained in any Reports,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that any Agent or other party performing any audit or examination will inspect only specific information regarding the Parent and its Subsidiaries and will rely significantly upon the Parent's and its Subsidiaries' books and records, as well as on representations of their personnel,

(d) agrees to keep all Reports and other material, non-public information regarding the Parent and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 12.19, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold any Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of the Borrower, and (ii) to pay and protect, and indemnify, defend and hold any Agent and any other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, attorneys' fees and costs) incurred by any such Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

Section 10.14 Collateral Custodian. Upon the occurrence and during the continuance of any Event of Default, the Collateral Agent or its designee may at any time and from time to time employ and maintain on the premises of any Loan Party a custodian selected by the Collateral Agent or its designee who shall have full authority to do all acts necessary to protect the Agents' and the Lenders' interests. Each Loan Party hereby agrees to, and to cause its Subsidiaries to, cooperate with any such custodian and to do whatever the Collateral Agent or its designee may reasonably request to preserve the Collateral. All costs and expenses incurred by the Collateral Agent or its designee by reason of the employment of the custodian shall be the responsibility of the Borrower and charged to the Loan Account.

Section 10.15 Quebec Security. For the purposes of the grant of security under the laws of the Province of Quebec which may now or in the future be required to be provided by any Loan Party, the Collateral Agent is hereby irrevocably authorized and appointed by each of the Lenders hereto to act as hypothecary representative (within the meaning of Article 2692 of the *Civil Code of Québec*) for all present and future Lenders (in such capacity, the "Hypothecary Representative") in order to hold any hypothec granted under the laws of the Province of Quebec and to exercise such rights and duties as are conferred upon the Hypothecary Representative under the relevant deed of hypothec and applicable law (with the power to delegate any such rights or duties). The execution prior to the date hereof by the Collateral Agent in its capacity as the Hypothecary Representative of any deed of hypothec or other security documents made pursuant to the laws of the Province of Quebec, is hereby ratified and confirmed. Any Person who becomes a Lender or successor Collateral Agent shall be deemed to have consented to and ratified the foregoing appointment of the Collateral Agent as the Hypothecary Representative on behalf of all Secured Parties, including such Person and any Affiliate of such Person designated above as a Lender. For greater certainty, the Collateral Agent, acting as the Hypothecary Representative, shall have the same rights, powers, immunities, indemnities and exclusions from liability as are prescribed in favor of the Collateral Agent in this Agreement, which shall apply mutatis mutandis. In the event of the resignation of the Collateral Agent (which shall include its resignation as the Hypothecary Representative) and appointment of a successor Collateral Agent, such successor Collateral Agent shall also act as the Hypothecary Representative, as contemplated above.

Section 10.16 Collateral Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Collateral Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on the 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 Loan and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties (including any claim for the compensation, expenses, disbursements and advances of the Secured Parties and their respective agents and counsel and all other amounts due to the Secured Parties hereunder and under the other Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Secured Party to make such payments to the Collateral Agent and, in the event that the Collateral Agent shall consent to the making of such payments directly to the Secured Parties, to pay to the Collateral Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Collateral Agent and its agents and counsel, and any other amounts due to the Collateral Agent hereunder and under the other Loan Documents.

Section 10.17 Erroneous Distribution. If all or any part of any payment or other distribution by or on behalf of the Administrative Agent to the Borrower, Lender, or other Person is determined by the Administrative Agent in its sole discretion to have been made in error as determined by the Administrative Agent (any such distribution, an "Erroneous Distribution"), then the Borrower, Lender, or other Person who received such Erroneous Distribution shall forthwith on written demand (accompanied by a reasonably detailed calculation of such Erroneous Distribution) repay to the Administrative Agent the amount of such Erroneous Distribution received by such Person. Any determination by the Administrative Agent, in its sole discretion, that all or a portion of any distribution to a Borrower, Lender, or other Person was an Erroneous Distribution shall be conclusive absent manifest error. The Borrower, Lender, and other potential recipient of an Erroneous Distribution hereunder waives any claim of discharge for value and any other claim of entitlement to, or in respect of, any Erroneous Distribution.

ARTICLE XI

GUARANTY

Section 11.01 Guaranty. Each Guarantor hereby jointly and severally and unconditionally and irrevocably guarantees the punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all Obligations of the Borrower now or hereafter existing under any Loan Document, whether for principal, interest (including all interest that accrues after the commencement of any Insolvency Proceeding of the Borrower, whether or not a claim for post-filing interest is allowed in such Insolvency Proceeding), fees, commissions, expense reimbursements, indemnifications or otherwise (such obligations, to the extent not paid by the Borrower, being the "Guaranteed Obligations"), and agrees to pay any and all expenses (including reasonable counsel fees and expenses) incurred by the Secured Parties in enforcing any rights under the guaranty set forth in this Article XI. Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by the Borrower to the Secured Parties under any Loan Document but for the fact that they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving the Borrower. Notwithstanding any of the foregoing, Guaranteed Obligations shall not include any Excluded Swap Obligations. In no event shall the obligation of any Guarantor hereunder exceed the maximum amount such Guarantor could guarantee under any Debtor Relief Law.

Section 11.02 Guaranty Absolute. Each Guarantor jointly and severally guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Secured Parties with respect thereto. Each Guarantor agrees that this Article XI constitutes a guaranty of payment when due and not of collection and waives any right to require that any resort be made by any Agent or any Lender to any Collateral. The obligations of each Guarantor under this Article XI are independent of the Guaranteed Obligations, and a separate action or actions may be brought and prosecuted against each Guarantor to enforce such obligations, irrespective of whether any action is brought against any Loan Party or whether any Loan Party is joined in any such action or actions. The liability of each Guarantor under this Article XI shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses it may now or hereafter have in

any way relating to, any or all of the following (in each case, other than the defense of Payment in Full of the Obligations):

(a) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from any Loan Document, including any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Loan Party or otherwise;

(c) any taking, exchange, release or non-perfection of any Collateral, or any taking, release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;

(d) the existence of any claim, set-off, defense or other right that any Guarantor may have at any time against any Person, including any Secured Party;

(e) any change, restructuring or termination of the corporate, limited liability company or partnership structure or existence of any Loan Party; or

(f) any other circumstance (including any statute of limitations) or any existence of or reliance on any representation by the Secured Parties that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any other guarantor or surety.

This Article XI shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Secured Parties or any other Person upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

Section 11.03 Waiver. Each Guarantor hereby waives (i) promptness and diligence, (ii) notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and this Article XI and any requirement that the Secured Parties exhaust any right or take any action against any Loan Party or any other Person or any Collateral, (iii) any right to compel or direct any Secured Party to seek payment or recovery of any amounts owed under this Article XI from any one particular fund or source or to exhaust any right or take any action against any other Loan Party, any other Person or any Collateral, (iv) any requirement that any Secured Party protect, secure, perfect or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any Loan Party, any other Person or any Collateral, and (v) any other defense available to any Guarantor (other than Payment in Full of the Obligations). Each Guarantor agrees that the Secured Parties shall have no obligation to marshal any assets in favor of any Guarantor or against, or in payment of, any or all of the Obligations. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated herein and that the waiver set forth in this Section 11.03 is knowingly made in contemplation of such benefits. Each Guarantor hereby waives any right to revoke this Article XI, and acknowledges that this Article XI is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

Section 11.04 Continuing Guaranty; Assignments. This Article XI is a continuing guaranty and shall (a) remain in full force and effect until the later of the cash payment in full of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and the Final Maturity Date, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by the Secured Parties and their successors, pledgees, transferees and assigns. Without limiting the generality of the foregoing clause (c), any Lender may pledge, assign or otherwise transfer all or any portion of its rights and obligations under this Agreement (including all or any portion of its Commitments and its Loans owing to it) to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted such Lender herein or otherwise, in each case as provided in Section 12.07.

Section 11.05 Subrogation. No Guarantor will exercise any rights that it may now or hereafter acquire against any Loan Party or any other guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's obligations under this Article XI, including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Secured Parties against any Loan Party or any other guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any Loan Party or any other guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI shall have been paid in full in cash and the Final Maturity Date shall have occurred. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and the Final Maturity Date, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Secured Parties to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Article XI, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under this Article XI thereafter arising. If (i) any Guarantor shall make payment to the Secured Parties of all or any part of the Guaranteed Obligations, (ii) all of the Guaranteed Obligations and all other amounts payable under this Article XI shall be paid in full in cash and (iii) the Final Maturity Date shall have occurred, the Secured Parties will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment by such Guarantor.

Section 11.06 Contribution. All Guarantors desire to allocate among themselves, in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor under this Guaranty such that its Aggregate Payments exceeds its Fair Share as of such date, such Guarantor shall be entitled to a contribution from each of the other Guarantors in an amount sufficient to cause each Guarantor's Aggregate Payments to equal its Fair Share as of such date. "Fair Share" means, with respect to any Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Guarantor, to (ii) the aggregate of the Fair

Share Contribution Amounts with respect to all Guarantors multiplied by, (b) the aggregate amount paid or distributed on or before such date by all Guarantors under this Guaranty in respect of the obligations Guaranteed. "Fair Share Contribution Amount" means, with respect to any Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Guarantor under this Guaranty that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state or other foreign law; provided, solely for purposes of calculating the "Fair Share Contribution Amount" with respect to any Guarantor for purposes of this Section 11.06, any assets or liabilities of such Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Guarantor. "Aggregate Payments" means, with respect to any Guarantor as of any date of determination, an amount equal to (A) the aggregate amount of all payments and distributions made on or before such date by such Guarantor in respect of this Guaranty (including in respect of this Section 11.06), minus (B) the aggregate amount of all payments received on or before such date by such Guarantor from the other Guarantors as contributions under this Section 11.06. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Guarantor. The allocation among Guarantors of their obligations as set forth in this Section 11.06 shall not be construed in any way to limit the liability of any Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this Section 11.06.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Notices, Etc.

(a) Notices Generally. All notices and other communications provided for hereunder shall be in writing and shall be delivered by hand, sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, or telecopier. In the case of notices or other communications to any Loan Party, Administrative Agent or the Collateral Agent, as the case may be, they shall be sent to the respective address set forth below (or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties complying as to delivery with the terms of this Section 12.01):

c/o The Beachbody Company, Inc.
400 Continental Blvd, Suite 400
El Segundo, CA 90245
Attention: Marc Suidan, Chief Financial Officer
Telephone: (408) 607-5852
Email: msuidan@beachbody.com

with a copy to:

Latham & Watkins LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560
Attention: Mark Morris
Telephone: (213) 891-7546
Email: mark.morris@lw.com

if to the Administrative Agent or the Collateral Agent, to it at the following address:

Blue Torch Finance, LLC
c/o Blue Torch Capital LP
150 East 58th Street, 18th Floor
New York, New York 10155
Email: BlueTorchAgency@alterdomus.com

with a copy to:

SEI – Blue Torch Capital Loan Ops
1 Freedom Valley Drive
Oaks, Pennsylvania 19456
Telecopier: (469) 709-1839
Email: bluetorch.loanops@seic.com

in each case, with a copy to:

Milbank LLP
55 Hudson Yards
New York, New York 10001
Attention: Albert Pisa
Email: apisa@milbank.com
Telephone: 212-530-5319

All notices or other communications sent in accordance with this Section 12.01, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (i) notices sent by overnight courier service shall be deemed to have been given when received and (ii) notices by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient), provided, further that notices to any Agent pursuant to Article II shall not be effective until received by such Agent.

(b) Electronic Communications.

(i) Each Agent and 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. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e mail and Internet or intranet websites) pursuant to procedures approved by the Agents, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agents that it is incapable of receiving notices under such Article by electronic communication.

(ii) Unless the Administrative Agent otherwise prescribes, (A) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (B) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (A), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (A) and (B) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

Section 12.02 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document (excluding the Fee Letter), and no consent to any departure by any Loan Party therefrom, shall in any event be effective unless the same shall be in writing and signed (x) in the case of an amendment, consent or waiver to cure any ambiguity, omission, defect or inconsistency or granting a new Lien for the benefit of the Agents and the Lenders or extending an existing Lien over additional property, by the Agents and the Borrower, (y) in the case of any other waiver or consent, by the Required Lenders (or by the Collateral Agent with the consent of the Required Lenders) and (z) in the case of any other amendment, by the Required Lenders (or by the Collateral Agent with the consent of the Required Lenders) and the Borrower, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall:

(i) increase the Commitment of any Lender, reduce the principal of, or interest on, the Loans payable to any Lender, reduce the amount of any fee payable for the account of any Lender, or postpone or extend any scheduled date fixed for any payment of principal of, or interest or fees on, the Loans payable to any Lender, in each case, without the written consent of such Lender;

(ii) increase the Total Commitment without the written consent of each Lender;

(iii) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans that is required for the Lenders or any of them to take any action hereunder without the written consent of each Lender;

(iv) amend the definition of "Required Lenders" or "Pro Rata Share" without the written consent of each Lender;

(v) release all or a substantial portion of the Collateral (except as otherwise provided in this Agreement and the other Loan Documents), subordinate any Lien granted in favor of the Collateral Agent for the benefit of the Agents and the Lenders, or release the Borrower or any Guarantor (except in connection with a Disposition of the Equity Interests thereof permitted by Section 7.02(c)(ii)), in each case, without the written consent of each Lender; provided, that the Required Lenders may elect to release all or a substantial portion of the Collateral without the requirement to obtain the written consent of each Lender if such release is in connection with (x) an exercise of remedies by the Collateral Agent at the direction of the Required Lenders pursuant to Section 9.01 or (y) any Disposition of all or a substantial portion of the Collateral by one or more of the Loan Parties with the consent of the Required Lenders after the occurrence and during the continuance of an Event of Default so long as such Disposition is conducted in a commercially reasonable manner as if such Disposition were a disposition of collateral by a secured creditor in accordance with Article 9 of the UCC; or

(vi) amend, modify or waive Section 4.02, Section 4.03 or this Section 12.02 of this Agreement without the written consent of each Lender.

(b) Notwithstanding anything to the contrary in Section 12.02(a):

(i) no amendment, waiver or consent shall, unless in writing and signed by an Agent, affect the rights or duties of such Agent (but not in its capacity as a Lender) under this Agreement or the other Loan Documents;

(ii) any amendment, waiver or consent to any provision of this Agreement (including Sections 4.01 and 4.02) that permits any Loan Party, any Permitted Holder or any of their respective Affiliates to purchase Loans on a non-pro rata basis, become an eligible assignee pursuant to Section 12.07 and/or make offers to make optional prepayments on a non-pro rata basis shall require the prior written consent of the Required Lenders rather than the prior written consent of each Lender of any Class directly affected thereby;

(iii) any Control Agreement, Guaranty, Mortgage, Security Agreement, Canadian Security Agreement, collateral access agreement, landlord waiver or other agreement or document purporting to create or perfect a security interest in any of the Collateral (a "Collateral Document") may be amended, waived or otherwise modified with the consent of the applicable Agent and the applicable Loan Party without the need to obtain the consent of any Lender or any other Person if such amendment, modification, supplement or waiver is delivered in order (A) to comply with local Requirements of Law (including foreign law or regulatory requirements) or advice of local counsel, (B) to cure any ambiguity, inconsistency, omission, mistake or defect or (C) to cause such Collateral Document to be consistent with this Agreement and the other Loan Documents, and if the Administrative Agent and the Borrower shall have jointly identified an ambiguity, inconsistency, omission, mistake or defect, in each case, in any provision of any Loan Document (other than a Collateral Document), then the Administrative Agent and the Borrower shall be permitted to amend such provision; any amendment, waiver or modification pursuant to this paragraph shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof;

(iv) no consent of any Loan Party shall be required to change any order of priority set forth in Section 2.05(d) and Section 4.03;

(v) the Administrative Agent and the Borrower may enter into an amendment to this Agreement pursuant to Section 2.07(g) to reflect an alternate service or index rate and such other related changes to this Agreement as may be applicable; and

(vi) no Loan Party, Permitted Holder or any of their respective Affiliates that is a Lender shall have any right to approve or disapprove any amendment, waiver or consent under the Loan Documents and any Loans held by such Person for purposes hereof shall be automatically deemed to be voted pro rata according to the Loans of all other Lenders in the aggregate (other than such Loan Party, Permitted Holder or Affiliate).

(c) If any action to be taken by the Lenders hereunder requires the consent, authorization, or agreement of all of the Lenders or any Lender of a Class affected thereby, and a Lender other than the Collateral Agent and the Administrative Agent and their respective Affiliates and Related Funds (the "Holdout Lender") fails to give its consent, authorization, or agreement, then the Collateral Agent, upon at least 5 Business Days prior irrevocable notice to the Holdout Lender, may permanently replace the Holdout Lender with one or more substitute lenders (each, a "Replacement Lender"), and the Holdout Lender shall have no right to refuse to be replaced hereunder. Such notice to replace the Holdout Lender shall specify an effective date for such replacement, which date shall not be later than 12 Business Days after the date such notice is given. Prior to the effective date of such replacement, the Holdout Lender and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Holdout Lender being repaid its share of the outstanding Obligations without any premium or penalty of any kind whatsoever. If the Holdout Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, the Holdout Lender shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Holdout Lender shall be made in accordance with the terms of Section 12.07. Until such time as the Replacement Lenders shall have acquired all of the Obligations, the Commitments, and the other rights and obligations of the Holdout Lender hereunder and under the other Loan Documents, the Holdout Lender shall remain obligated to make its Pro Rata Share of Loans.

Section 12.03 No Waiver; Remedies, Etc. No failure on the part of any Agent or any Lender to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right under any Loan Document preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agents and the Lenders provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Agents and the Lenders under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Agents and the Lenders to exercise any of their rights under any other Loan Document against such party or against any other Person.

Section 12.04 Expenses; Taxes; Attorneys' Fees. The Borrower agrees to pay or reimburse all reasonable and documented out-of-pocket costs and expenses incurred by or on behalf of each Agent (and, in the case of clauses (b) through (m) below, each Lender), regardless

of whether the transactions contemplated hereby are consummated, including (i) reasonable and documented out-of-pocket fees, costs, client charges and expenses of counsel for the Agents (limited to the reasonable and documented out-of-pocket fees and expenses of one (1) primary outside counsel to the Agents and, if necessary, one (1) local counsel for the Agents and Lenders (taken as a whole) in each relevant jurisdiction material to the interests of the Lenders (which may include a single special counsel acting in multiple jurisdictions), any regulatory or other special counsel to the Agents reasonably deemed necessary by the Agents and, in the event of any actual conflict of interest, one (1) additional counsel in each relevant jurisdiction to each group of affected parties that are similarly situated (taken as a whole)) and (ii) reasonable and documented out-of-pocket fees, costs, client charges and expenses of counsel for each Agent (and, in the case of clauses (b) through (m) below, each Lender), accounting, due diligence, periodic field audits, physical counts, valuations, investigations, searches and filings, monitoring of assets, appraisals of Collateral, the rating of the Loans, title searches and reviewing environmental assessments (subject to the restrictions set forth herein), miscellaneous disbursements, examination, travel, lodging and meals, arising from or relating to: (a) the negotiation, preparation, execution, delivery, performance and administration of this Agreement and the other Loan Documents (including the preparation of any additional Loan Documents pursuant to Section 7.01(b) or the review of any of the agreements, instruments and documents referred to in Section 7.01(f)), (b) any requested amendments, waivers or consents to this Agreement or the other Loan Documents whether or not such documents become effective or are given, (c) the preservation and protection of the Agents' or any of the Lenders' rights under this Agreement or the other Loan Documents, (d) the defense of any claim or action asserted or brought against any Agent or any Lender by any Person that arises from or relates to this Agreement, any other Loan Document, the Agents' or the Lenders' claims against any Loan Party, or any and all matters in connection therewith, (e) the commencement or defense of, or intervention in, any court proceeding arising from or related to this Agreement or any other Loan Document, (f) the filing of any petition, complaint, answer, motion or other pleading by any Agent or any Lender, or the taking of any action in respect of the Collateral or other security, in connection with this Agreement or any other Loan Document, (g) the protection, collection, lease, sale, taking possession of or liquidation of, any Collateral or other security in connection with this Agreement or any other Loan Document, (h) any attempt to enforce any Lien or security interest in any Collateral or other security in connection with this Agreement or any other Loan Document, (i) any attempt to collect from any Loan Party, (j) any Environmental Claim, Environmental Liability or Remedial Action arising from or in connection with the past, present or future operations of, or any property currently, formerly or in the future owned, leased or operated by, any Loan Party, any of its Subsidiaries or any predecessor in interest, (k) any Environmental Lien, (l) the rating of the Loans by one or more rating agencies in connection with any Lender's Securitization, or (m) the receipt by any Agent or any Lender of any advice from professionals with respect to any of the foregoing. Without limitation of the foregoing or any other provision of any Loan Document: (x) the Borrower agrees to pay all broker fees that may become due in connection with the transactions contemplated by this Agreement and the other Loan Documents and (y) if the Borrower fails to perform any covenant or agreement contained herein or in any other Loan Document, any Agent may itself perform or cause performance of such covenant or agreement, and the expenses of such Agent incurred in connection therewith shall be reimbursed on demand by the Borrower. The obligations of the Borrower under this Section 12.04 shall survive the repayment of the Obligations and discharge of any Liens granted under the Loan Documents.

Section 12.05 Right of Set-off. Upon the occurrence and during the continuance of any Event of Default, any Agent or any Lender may, and is hereby authorized to, at any time and from time to time, without notice to any Loan Party (any such notice being expressly waived by the Loan Parties) and to the fullest extent permitted by law, set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by such Agent or such Lender or any of their respective Affiliates to or for the credit or the account of any Loan Party against any and all obligations of the Loan Parties either now or hereafter existing under any Loan Document, irrespective of whether or not such Agent or such Lender shall have made any demand hereunder or thereunder and although such obligations may be contingent or unmatured. Each Agent and each Lender agrees to notify such Loan Party promptly after any such set-off and application made by such Agent or such Lender or any of their respective Affiliates provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Agents and the Lenders under this Section 12.05 are in addition to the other rights and remedies (including other rights of set-off) which the Agents and the Lenders may have under this Agreement or any other Loan Documents of law or otherwise.

Section 12.06 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.07 Assignments and Participations.

(a) This Agreement and the other Loan Documents shall be binding upon and inure to the benefit of each Loan Party and each Agent and each Lender and their respective permitted successors and assigns; provided, however, that none of the Loan Parties may assign or transfer any of its rights hereunder or under the other Loan Documents without the prior written consent of each Lender and any such assignment without the Lenders' prior written consent shall be null and void.

(b) Subject to the conditions set forth in clause (c) below, each Lender may assign to one or more other lenders or other entities all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Initial Term Loan Commitment and any Initial Term Loan made by it with the written consent of the Collateral Agent, provided, however, that no written consent of the Collateral Agent or the Administrative Agent shall be required (A) in connection with any assignment by a Lender to a Lender, an Affiliate of such Lender or a Related Fund of such Lender or (B) if such assignment is in connection with any merger, consolidation, sale, transfer, or other disposition of all or any substantial portion of the business or loan portfolio of such Lender; provided, further, that the consent of Borrower shall be required (such consent not to be unreasonably withheld, conditioned or delayed, and shall be deemed consented to the extent Borrower shall have failed to respond to a request for same within seven (7) Business Days) for any such sale, assignment or transfer by a Lender unless an Event of Default has occurred under clauses (a) (solely with respect to non-payment of principal or interest), (c) (solely with respect to a breach of any financial covenant set forth in Section 7.03), (d)(1), (d)(2), (f), or (g) of Section 9.01, and such Event of Default is continuing at the time of such assignment.

(c) Assignments shall be subject to the following additional conditions:

(i) Each such assignment shall be in an amount which is at least $5,000,000 or a multiple of $1,000,000 in excess thereof (or the remainder of such Lender's Commitment) (except such minimum amount shall not apply to an assignment by a Lender to (A) a Lender, an Affiliate of such Lender or a Related Fund of such Lender or (B) a group of new Lenders, each of whom is an Affiliate or Related Fund of each other to the extent the aggregate amount to be assigned to all such new Lenders is at least $5,000,000 or a multiple of $1,000,000 in excess thereof);

(ii) The parties to each such assignment shall execute and deliver to the Collateral Agent (and the Administrative Agent, if applicable), for its acceptance, an Assignment and Acceptance, together with any promissory note subject to such assignment and such parties shall deliver to the Collateral Agent, for the benefit of the Collateral Agent, a processing and recordation fee of $5,000 (except the payment of such fee shall not be required in connection with an assignment by a Lender to a Lender, an Affiliate of such Lender or a Related Fund of such Lender) and all documentation and other information that such Lender reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering or terrorist financing rules and regulations, including the USA PATRIOT Act; and

(iii) No such assignment shall be made (A) to any Loan Party or any of their respective Affiliates, or (B) any Disqualified Institution in the absence of an Event of Default under clauses (a) (solely with respect to non-payment of principal or interest), (c) (solely with respect to a breach of any financial covenant set forth in Section 7.03), (d)(1), (d)(2), (f), or (g) of Section 9.01.

(d) Upon such execution, delivery and acceptance, from and after the effective date specified in each Assignment and Acceptance and recordation on the Register, which effective date shall be at least 3 Business Days after the delivery thereof to the Collateral Agent (or such shorter period as shall be agreed to by the Collateral Agent and the parties to such assignment), (A) the assignee thereunder shall become a "Lender" hereunder and, in addition to the rights and obligations hereunder held by it immediately prior to such effective date, have the rights and obligations hereunder that have been assigned to it pursuant to such Assignment and Acceptance and (B) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto).

(e) By executing and delivering an Assignment and Acceptance, the assigning Lender and the assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any other Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto; (ii) the assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Loan Party or any of its Subsidiaries or the performance or observance by any Loan Party of any of its obligations under this Agreement or any other Loan

Document furnished pursuant hereto; (iii) such assignee confirms that it has received a copy of this Agreement and the other Loan Documents, together with such other documents and information it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (iv) such assignee will, independently and without reliance upon the assigning Lender, any Agent or any Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents; (v) such assignee appoints and authorizes the Agents to take such action as agents on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Agents by the terms hereof and thereof, together with such powers as are reasonably incidental hereto and thereto; and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement and the other Loan Documents are required to be performed by it as a Lender.

(f) The Administrative Agent shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain, or cause to be maintained at the Payment Office, a copy of each Assignment and Acceptance delivered to and accepted by it and a register (the "Register") for the recordation of the names and addresses of the Lenders and the Commitments of, and the principal amount of the Loans (and stated interest thereon) (the "Registered Loans") owing to each Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior written notice. This Section 12.07(f) shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Internal Revenue Code and any related Treasury Regulations (or any other relevant, successor or amended provisions of the Code or of such Treasury Regulations).

(g) Upon receipt by the Administrative Agent of a completed Assignment and Acceptance, and subject to any consent required from the Administrative Agent or the Collateral Agent pursuant to Section 12.07(b) (which consent of the applicable Agent must be evidenced by such Agent's execution of an acceptance to such Assignment and Acceptance), the Administrative Agent shall accept such assignment, record the information contained therein in the Register (as adjusted to reflect any principal payments on or amounts capitalized and added to the principal balance of the Loans and/or Commitment reductions made subsequent to the effective date of the applicable assignment, as confirmed in writing by the corresponding assignor and assignee in conjunction with delivery of the assignment to the Administrative Agent) and provide to the Collateral Agent a copy of the fully executed Assignment and Acceptance.

(h) A Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide). Any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon,

at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s).

(i) If any Lender sells participations in a Registered Loan, such Lender shall, acting for this purpose as a non-fiduciary agent on behalf of the Borrower, maintain, or cause to be maintained, a register, on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan (and the registered note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice. This Section 12.07(i) shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Internal Revenue Code and any related Treasury Regulations (or any other relevant, successor or amended provisions of the Code or of such Treasury Regulations).

(j) Each Lender may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitments and the Loans made by it); provided, that (i) such Lender's obligations under this Agreement (including its Commitments hereunder) and the other Loan Documents shall remain unchanged; (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents; (iii) a participant shall not be entitled to require such Lender to take or omit to take any action hereunder except (A) action directly effecting an extension of the maturity dates or decrease in the principal amount of the Loans, (B) action directly effecting an extension of the due dates or a decrease in the rate of interest payable on the Loans or the fees payable under this Agreement, or (C) actions directly effecting a release of all or a substantial portion of the Collateral or any Loan Party (except as set forth in Section 10.08 of this Agreement or any other Loan Document) and (iv) no such participation shall be made to any Disqualified Institution; provided that the Lenders may sell participations to Disqualified Institutions on the date of the occurrence of an Event of Default and thereafter if such Event of Default is continuing. The Loan Parties agree that each participant shall be entitled to the benefits of Section 2.09 and Section 2.10 (subject to the requirements and limitations therein, including the requirements under Section 2.09(d), it being understood that the documentation required under Section 2.09(d) shall be delivered to the participating Lender) of this Agreement with respect to its participation in any portion of the Commitments and the Loans as if it was a Lender.

(k) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or loans made to, or other indebtedness issued by, such Lender pursuant to a securitization transaction (including any structured warehouse credit facility, collateralized loan obligation transaction or similar facility or

transaction, and including any further securitization of the indebtedness or equity issued under such a transaction) (a "Securitization"); provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. The Loan Parties shall cooperate with such Lender and its Affiliates to effect a Securitization, including by providing such information as may be reasonably requested by such Lender in connection with the rating of its Loans or any Securitization.

Section 12.08 Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telecopier or electronic mail shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telecopier or electronic mail also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

Section 12.09 GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

Section 12.10 CONSENT TO JURISDICTION; SERVICE OF PROCESS AND VENUE.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK IN THE COUNTY OF NEW YORK OR OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. EACH PARTY HERETO HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS AND IN ANY SUCH ACTION OR PROCEEDING BY ANY MEANS PERMITTED BY APPLICABLE LAW, INCLUDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ITS ADDRESS FOR NOTICES AS SET FORTH IN SECTION 12.01, SUCH SERVICE TO BECOME EFFECTIVE 10 DAYS AFTER SUCH MAILING. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY HERETO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY LOAN PARTY IN ANY OTHER JURISDICTION. EACH PARTY HERETO HEREBY EXPRESSLY AND

IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HERETO HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

(b) Each party hereto irrevocably and unconditionally agrees that it will not commence any action or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any other party hereto 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.

Section 12.11 WAIVER OF JURY TRIAL, ETC. EACH LOAN PARTY, EACH AGENT AND EACH LENDER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH LOAN PARTY CERTIFIES THAT NO OFFICER, REPRESENTATIVE, AGENT OR ATTORNEY OF ANY AGENT OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ANY AGENT OR ANY LENDER WOULD NOT, IN THE EVENT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM, SEEK TO ENFORCE THE FOREGOING WAIVERS. EACH PARTY HERETO HEREBY ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OTHER PARTIES HERETO TO ENTER INTO THIS AGREEMENT.

Section 12.12 Consent by the Agents and Lenders. Except as otherwise expressly set forth herein to the contrary or in any other Loan Document, if the consent, approval, satisfaction, determination, judgment, acceptance or similar action (an "Action") of any Agent or any Lender shall be permitted or required pursuant to any provision hereof or any provision of any other agreement to which any Loan Party is a party and to which any Agent or any Lender has succeeded thereto, such Action shall be required to be in writing and may be withheld or denied by such Agent or such Lender, in its sole discretion, with or without any reason, and without being subject to question or challenge on the grounds that such Action was not taken in good faith.

Section 12.13 No Party Deemed Drafter. Each of the parties hereto agrees that no party hereto shall be deemed to be the drafter of this Agreement.

Section 12.14 Reinstatement; Certain Payments. If any claim is ever made upon any Secured Party for repayment or recovery of any amount or amounts received by such Secured Party in payment or on account of any of the Obligations, such Secured Party shall give prompt notice of such claim to each other Agent and Lender and the Borrower, and if such Secured Party repays all or part of such amount by reason of (i) any judgment, decree or order of any court or administrative body having jurisdiction over such Secured Party or any of its property, or (ii) any good faith settlement or compromise of any such claim effected by such Secured Party with any such claimant, then and in such event each Loan Party agrees that (A) any such judgment, decree, order, settlement or compromise shall be binding upon it notwithstanding the cancellation of any Indebtedness hereunder or under the other Loan Documents or the termination of this Agreement or the other Loan Documents, and (B) it shall be and remain liable to such Secured Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Secured Party.

Section 12.15 Indemnification; Limitation of Liability for Certain Damages.

(a) In addition to each Loan Party's other Obligations under this Agreement, each Loan Party agrees to, jointly and severally, defend, protect, indemnify and hold harmless each Secured Party and all of their respective Related Parties (collectively called the "Indemnitees") from and against any and all losses, damages, liabilities, obligations, penalties, fees, reasonable and documented out of pocket costs and expenses (including reasonable and documented out-of-pocket attorneys' fees and expenses limited to the reasonable and documented out-of-pocket fees and expenses of one (1) primary outside counsel to the Indemnitees taken as a whole, and, if necessary, one (1) local counsel in each relevant jurisdiction material to the interests of the Indemnitees (taken as a whole) (which may include a single special counsel acting in multiple jurisdictions), any regulatory or other special counsel to the Agents reasonably deemed necessary by the Agents and, in the event of any actual conflict of interest, one (1) conflicts counsel in each relevant jurisdiction to each group of affected parties that are similarly situated (taken as a whole)) incurred by such Indemnitees, whether prior to or from and after the Effective Date, whether direct, indirect or consequential, as a result of or arising from or relating to or in connection with any of the following: (i) the negotiation, preparation, execution or performance or enforcement of this Agreement, any other Loan Document, of any Environmental Claim or any other document executed in connection with the transactions contemplated by this Agreement, (ii) any Agent's or any Lender's furnishing of funds to the Borrower under this Agreement or the other Loan Documents, including the management of any such Loans or the Borrower's use of the proceeds thereof, (iii) the Agents and the Lenders relying on any instructions of the Borrower or the handling of the Loan Account and Collateral of the Borrower as herein provided, (iv) any matter relating to the financing transactions contemplated by this Agreement or the other Loan Documents or by any document executed in connection with the transactions contemplated by this Agreement or the other Loan Documents, (v) any claim, including any Environmental Claim, investigation or proceeding relating to or arising out of any of the foregoing, whether or not any Indemnitee is a party thereto and (vi) any Environmental Claim, Environmental Liability or Remedial Action arising from or in connection with the past, present or future operations of, or any property currently, formerly or in the future owned, leased or operated by, any Loan Party, any of its

Subsidiaries or any predecessor in interest (collectively, the "Indemnified Matters"); provided, however, that the Loan Parties shall not have any obligation to any Indemnitee under this subsection (a) for any Indemnified Matter caused by (x) the gross negligence or willful misconduct of such Indemnitee, as determined by a final non-appealable judgment of a court of competent jurisdiction or (y) any dispute that is among Indemnitees (other than any dispute involving claims against the Agents in their respective capacities as such) that a court of competent jurisdiction has determined in a final non-appealable judgment did not involve actions or omissions of any Loan Party or any of their respective Affiliates.

(b) The indemnification for all of the foregoing losses, damages, fees, costs and expenses of the Indemnitees set forth in this Section 12.15 are chargeable against the Loan Account. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 12.15 may be unenforceable because it is violative of any law or public policy, each Loan Party shall, jointly and severally, contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all Indemnified Matters incurred by the Indemnitees.

(c) No party hereto shall, to the extent permitted by applicable law, assert, and each party hereto hereby waives, any claim against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each party hereto hereby waives, releases and agrees not to sue upon any such claim or seek any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(d) The indemnities and waivers set forth in this Section 12.15 shall survive the repayment of the Obligations and discharge of any Liens granted under the Loan Documents. This Section 12.15 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

Section 12.16 Records. The unpaid principal of and interest on the Loans, the interest rate or rates applicable to such unpaid principal and interest, the duration of such applicability, the Commitments, and the accrued and unpaid fees payable pursuant to Section 2.06 hereof, shall at all times be ascertained from the records of the Agents, which shall be conclusive and binding absent manifest error.

Section 12.17 Binding Effect. This Agreement shall become effective when it shall have been executed by each Loan Party, each Agent and each Lender and when the conditions precedent set forth in Section 5.01 hereof have been satisfied or waived in writing by the Agents, and thereafter shall be binding upon and inure to the benefit of each Loan Party, each Agent and each Lender, and their respective successors and permitted assigns, except that the Loan Parties shall not have the right to assign their rights hereunder or any interest herein without the prior

written consent of each Agent and each Lender, and any assignment by any Lender shall be governed by Section 12.07 hereof.

Section 12.18 Highest Lawful Rate. It is the intention of the parties hereto that each Agent and each Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other Loan Document would be usurious as to any Agent or any Lender under laws applicable to it (including the laws of the United States of America and the State of New York, Canada or any other jurisdiction whose laws may be mandatorily applicable to such Agent or such Lender notwithstanding the other provisions of this Agreement), then, in that event, notwithstanding anything to the contrary in this Agreement or any other Loan Document or any agreement entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to any Agent or any Lender that is contracted for, taken, reserved, charged or received by such Agent or such Lender under this Agreement or any other Loan Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by such Agent or such Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be Paid in Full, refunded by such Agent or such Lender, as applicable, to the Borrower); and (ii) in the event that the maturity of the Obligations is accelerated by reason of any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest under law applicable to any Agent or any Lender may never include more than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall, subject to the last sentence of this Section 12.18, be canceled automatically by such Agent or such Lender, as applicable, as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited by such Agent or such Lender, as applicable, on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be Paid in Full, refunded by such Agent or such Lender to the Borrower). All sums paid or agreed to be paid to any Agent or any Lender for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to such Agent or such Lender, be amortized, prorated, allocated and spread throughout the full term of the Loans until payment in full so that the rate or amount of interest on account of any Loans hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (x) the amount of interest payable to any Agent or any Lender on any date shall be computed at the Highest Lawful Rate applicable to such Agent or such Lender pursuant to this Section 12.18 and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to such Agent or such Lender would be less than the amount of interest payable to such Agent or such Lender computed at the Highest Lawful Rate applicable to such Agent or such Lender, then the amount of interest payable to such Agent or such Lender in respect of such subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to such Agent or such Lender until the total amount of interest payable to such Agent or such Lender shall equal the total amount of interest which would have been payable to such Agent or such Lender if the total amount of interest had been computed without giving effect to this Section 12.18.

For purposes of this Section 12.18, the term “applicable law” shall mean that law in effect from time to time and applicable to the loan transaction between the Borrower, on the one

hand, and the Agents and the Lenders, on the other, that lawfully permits the charging and collection of the highest permissible, lawful non-usurious rate of interest on such loan transaction and this Agreement, including laws of the State of New York and, to the extent controlling, laws of the United States of America.

Section 12.19 Confidentiality. Each Agent and each Lender agrees (on behalf of itself and its Related Parties) to use reasonable precautions to keep confidential, in accordance with its customary procedures for handling confidential information of this nature and in accordance with safe and sound practices of comparable commercial finance companies, any non-public information supplied to it by the Loan Parties pursuant to this Agreement or the other Loan Documents which is identified in writing by the Loan Parties as being confidential at the time the same is delivered to such Person (and which at the time is not, and does not thereafter become, publicly available or available to such Person from another source not known to be subject to a confidentiality obligation to such Person not to disclose such information), provided that nothing herein shall limit the disclosure by any Agent or any Lender of any such information (i) to its Affiliates, its Related Parties or the Related Parties of any Person described in clause (ii) or (iii) below (it being understood that the Persons to whom such disclosure is made either will be informed of the confidential nature of such information and instructed to keep such information confidential in accordance with this Section 12.19 or is subject to other customary confidentiality obligations); (ii) to any other party hereto; (iii) to any assignee or participant (or prospective assignee or participant) or any party to a Securitization, so long as such assignee or participant (or prospective assignee or participant) or party to a Securitization agrees, in writing, to be bound by or is otherwise subject to customary confidentiality obligations (including confidentiality provisions similar in substance to this Section 12.19); (iv) to the extent required by any Requirement of Law or judicial process or as otherwise requested by any Governmental Authority; (v) to the National Association of Insurance Commissioners or any similar organization, any examiner, auditor or accountant or any nationally recognized rating agency; (vi) in connection with any litigation to which any Agent or any Lender is a party; (vii) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (viii) to any other Person if such information is general portfolio information that does not identity the Loan Parties, or (ix) with the consent of the Borrower. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to any Agent or any Lender in connection with the administration of this Agreement, the other Loan Documents and the Commitments; provided that such information is limited to the principal amount of the facility and the name of the Borrower unless the Borrower provides its prior written consent (not to be unreasonably withheld or delayed).

Section 12.20 Public Disclosure. Each Loan Party agrees that neither it nor any of its Affiliates will now or in the future issue any press release or other public disclosure using the name of an Agent, any Lender or any of their respective Affiliates or referring to this Agreement or any other Loan Document without the prior written consent of such Agent or such Lender, except to the extent that such Loan Party or such Affiliate is required to do so under applicable law (in which event, such Loan Party or such Affiliate will consult with such Agent or such Lender before issuing such press release or other public disclosure). Each Loan Party hereby authorizes each Agent and each Lender, with the Borrower's prior written consent (such consent

not to be unreasonably withheld or delayed), to advertise the closing of the transactions contemplated by this Agreement, and to make appropriate announcements of the financial arrangements entered into among the parties hereto, as such Agent or such Lender shall deem appropriate, including on a home page or similar place for dissemination of information on the Internet or worldwide web, or in announcements commonly known as tombstones, in such trade publications, business journals, newspapers of general circulation and to such selected parties as such Agent or such Lender shall deem appropriate.

Section 12.21 Integration. This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

Section 12.22 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the entities composing the Borrower, which information includes the name and address of each such entity and other information that will allow such Lender to identify the entities composing the Borrower in accordance with the USA PATRIOT Act. Each Loan Party agrees to take such action and execute, acknowledge and deliver at its sole cost and expense, such instruments and documents as any Lender may reasonably require from time to time in order to enable such Lender to comply with the USA PATRIOT Act.

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

BORROWER:

BEACHBODY, LLC

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

PARENT:

THE BEACHBODY COMPANY, INC.

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

GUARANTORS:

MYX FITNESS, LLC
OPENFIT, LLC
LADDER, LLC
TEAM BEACHBODY CANADA, LLC

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

TEAM BEACHBODY CANADA, LTD.

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

OPENFIT CANADA, INC.

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

TEAM BEACHBODY CANADA LIMITED PARTNERSHIP
by its general partner,
TEAM BEACHBODY CANADA LTD.

By: /s/ Carl Daikeler
Name: Carl Daikeler
Title: Chief Executive Officer

COLLATERAL AGENT AND ADMINISTRATIVE AGENT:

BLUE TORCH FINANCE, LLC

By: /s/ Kevin Genda
Kevin Genda
Managing Member

LENDERS:

BTC HOLDINGS SBAF FUND LLC

By: Blue Torch Credit Opportunities SBAF Fund LP, its sole member

By: Blue Torch Credit Opportunities SBAF GP LLC,
its general partner

By: KPG BTC Management LLC, its sole member

By: /s/ Kevin Genda
Kevin Genda
Managing Member

BTC HOLDINGS FUND II LLC

By: Blue Torch Credit Opportunities Fund II LP, its
sole member

By: Blue Torch Credit Opportunities GP II LLC, its
general partner

By: KPG BTC Management LLC, its sole member

By: /s/ Kevin Genda
Kevin Genda
Managing Member

BTC HOLDINGS KRS FUND LLC

By: Blue Torch Credit Opportunities KRS Fund LP,
its sole member

By: Blue Torch Credit Opportunities KRS GP LLC,
its general partner

By: KPG BTC Management LLC, its sole member

By: /s/ Kevin Genda
Kevin Genda
Managing Member

BLUE TORCH CREDIT OPPORTUNITIES FUND II LP

By: Blue Torch Credit Opportunities GP II LLC, its general partner

By: KPG BTC Management LLC, its sole member

By: /s/ Kevin Genda
Kevin Genda
Managing Member

BLUE TORCH CREDIT OPPORTUNITIES FUND III LP

By: Blue Torch Credit Opportunities GP III LLC, its general partner

By: KPG BTC Management LLC, its sole member

By: /s/ Kevin Genda
Kevin Genda
Managing Member

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.4 AND 5.5 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE STOCK

Company: The Beachbody Company, Inc., a Delaware corporation

Number of Shares: [●], subject to adjustment as provided herein

Class: Class A Common Stock, $0.0001 par value per share

Warrant Price: $[●] per Share, subject to adjustment as provided herein

Issue Date: [●], 2022

Expiration Date: [●], 2029 **See also Section 5.1(c).**

THIS WARRANT TO PURCHASE STOCK ("**WARRANT**") CERTIFIES THAT, for good and valuable consideration, [●] (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase up to the number set forth above, of fully paid and non-assessable shares (subject to adjustment as provided herein, the "**Shares**") of Class A Common Stock ("**Class A Common Stock**") of The Beachbody Company, Inc., a Delaware corporation (the "**Company**") at a purchase price per share of $[●] ("**Warrant Price**"), all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

SECTION 1EXERCISE.

1.1Method of Exercise. Holder may at any time and from time to time exercise this Warrant, for all or any part of the unexercised Vested Shares (as defined below), by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in

substantially the form attached hereto as Appendix 1 via delivery in accordance with Section 5.9 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Vested Shares equal to the value of this Warrant, or portion thereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

X = the number of Vested Shares to be issued to the Holder;

Y = the number of Vested Shares with respect to which this Warrant is being exercised (inclusive of the Vested Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3Fair Market Value. Except in the event of an exercise in connection with an Acquisition, if shares of Class A Common Stock are then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a "**Trading Market**"), the "Fair Market Value" of a Share shall be (i) the closing price or last sale price of a share of Class A Common Stock reported for the Business Day immediately before the date of determination (which, for the avoidance of doubt, in the case of a cashless exercise pursuant to Section 1.2, shall be the date on which the Holder delivers this Warrant together with its Notice of Exercise to the Company) or (ii) solely for purposes of Section 2.1, in the case of an underwritten public offering, the price per share in such offering. If shares of Class A Common Stock are not then traded in a Trading Market, the "Fair Market Value" of a Share shall be determined in good faith by the Board of Directors of the Company (the "**Board**"); provided, that if Holder disagrees with the Fair Market Value as determined by the Board, Holder may require a determination of the Fair Market Value to be made by a nationally recognized investment banking, accounting or valuation firm that is not affiliated with Holder, in which case, the determination of such firm shall be final and conclusive. The documented out-of-pocket fees and expenses incurred in obtaining such valuation shall be borne by the Company. In the event that this Warrant is exercised in connection with an Acquisition, the Fair Market Value per Share shall be the consideration to be paid or distributed in respect of each share of Class A Common Stock of the Company in connection with such Acquisition.

1.4Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, the Company shall issue a new warrant representing the Shares not so acquired, and such new warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 1.5, the Shares designated by the Holder which, when added to the number of shares of Common Stock underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issue Date, and (iv) shall have the same rights and conditions as this Warrant.

1.5Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company; (ii) any merger, business combination or consolidation of the Company into or with another Person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization (or, if such Company stockholders beneficially own a majority of the outstanding voting power of the surviving or successor entity as of immediately after such merger, consolidation or reorganization, such surviving or successor entity is not the Company); or (iii) the acquisition by any person or group of related persons (as defined in Rule 13d-5(b)(1) promulgated under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) of beneficial ownership (as defined in Rule 13d-3 of the Exchange Act) of shares representing a majority of the Company's then-total outstanding combined voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the fair market value of one Share as determined in accordance with Section 1.3 above (assuming for such purposes that this Warrant and the Notice of Exercise were delivered to the Company on the date of the closing of such Cash/Public Acquisition) would be greater than the an amount equal to lesser of (i) the Warrant Price and (ii) the Black-Scholes Adjusted Warrant Price (as defined below), in each case in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be a cashless exercise pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition, with such number of shares of Class A Common Stock which would have been so issuable to be determined by (i) subtracting B from A, (ii) dividing the result by A, and (iii) multiplying the quotient by C as set forth in the following equation:

$$X=A-B\times CA$$

where:

X = the number of shares of Class A Common Stock issuable upon exercise pursuant to this Section 1.6(b).

A = the amount of Sale Consideration payable per share of Class A Common Stock of the Acquisition, (i) with such amount expressed in U.S. dollars and, if applicable, rounded to the nearest whole cent, and (ii) with any non-cash portion of such Sale Consideration valued at the value attributed thereto in the Acquisition.

B = the lesser of (i) the Warrant Price and (ii) the Black-Scholes Adjusted Warrant Price.

C = the number of shares of Class A Common Stock as to which this Warrant is exercisable after giving effect to Section 5.1(a)(2) (prior to payment of the Warrant Price).

In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise. In the event of a Cash/Public Acquisition where the fair market value of one Share as determined in accordance with the Section 1.3 above would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant (after giving effect to Section 5.1(a)(2)) as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant.

(d) As used in this Warrant:

(1) "**Black-Scholes Adjusted Warrant Price**" means if the Black-Scholes Value Per Share is greater than the Current Value, the result of (A) the then current Warrant Price less (B) the result of (i) the Black-Scholes Value Per Share less (ii) the Current Value, provided that in no event shall the Black-Scholes Adjusted Warrant Price be less than the then current par value per share of Class A Common Stock. If the Black-Scholes Value Per Share is equal to or less than the Current Value, there shall be no Black-Scholes Adjusted Warrant Price.

(2) "**Black-Scholes Value**" means the fair market value of this Warrant on the date of consummation of the applicable Acquisition in accordance with the Black-Scholes model for valuing options, using (A) a risk free rate equal to the annual yield on the U.S. Treasury security with a maturity date closest to the Expiration Date, as the yield on that security exists as of such date, (B) a term equal to the time in years (rounded to the nearest 1/1000th of a year) from such date until the Expiration Date, (C) an assumed volatility based on the 90-day volatility obtained from the HVT function on Bloomberg determined as of the trading day immediately prior to the day of the announcement of the applicable event, (D) an underlying security price for the Class A Common Stock equal to the value of the consideration received in such Acquisition in respect of each outstanding share of Class A Common Stock and (E) the aggregate number of shares of Class A Common Stock for which such Warrant is then exercisable after giving effect to Section 5.1(a)(2).

(3) "**Black-Scholes Value Per Share**" means with respect to this Warrant, the Black-Scholes Value divided by the number of shares of Class A Common Stock for which this Warrant is then exercisable (without giving effect to any reduction due to cashless exercise).

(4) "**Common Stock**" means any class of common stock of the Company.

(5) "**Current Value**" means the difference between (A) sum of the price per share of Common Stock being offered in cash in the applicable Acquisition (if any) plus the fair market value of the non-cash consideration being offered with respect to each share of Class A Common Stock in the applicable Acquisition (if any); and (B) the then current Warrant Price

(6) "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in a

Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

(e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Shares, the Company shall promptly issue to the Holder the number of Shares that are not disputed and resolve such dispute in accordance with Sections 5.14, 5.15, and 5.16.

SECTION 2ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1Adjustment to Number of Shares Upon Issuance of Common Stock. Except in the case of (x) Common Stock issued by the Company in connection with any Excluded Securities and (y) an event described in either Sections 2.4 or 2.5, if the Company shall, at any time or from time to time after the Issue Date, issue or sell any shares of Common Stock or is deemed to have issued or sold any shares of Common Stock pursuant to Section 2.1(c), in each case without consideration or for consideration or having a combined purchase and conversion, exchange or exercise price of less than the Fair Market Value (as determined in accordance with Section 1.3 above) of such Common Stock in effect immediately prior to such issuance or sale, then immediately upon such issuance or sale (or deemed issuance or sale), the number of Shares issuable upon exercise of this Warrant immediately prior to any such issuance or sale (or deemed issuance or sale) shall be increased to a number of Shares equal to the product obtained by multiplying the number of Shares issuable upon exercise of this Warrant immediately prior to such issuance or sale (or deemed issuance or sale) by a fraction (which shall in no event be less than one): (x) the numerator of which shall be the Common Stock Deemed Outstanding as of immediately after such issuance or sale (or deemed issuance or sale); and (y) the denominator of which shall be the sum of (A) the Common Stock Deemed Outstanding as of immediately prior to such issuance or sale (or deemed issuance or sale) plus (B) the aggregate number of number of shares of Common Stock which the aggregate amount of consideration, if any, received by the Company upon such issuance or sale (or deemed issuance or sale) would purchase at the Warrant Price in effect immediately prior to such issuance or sale. For the purposes of any adjustment of the number of shares of Common Stock issuable upon exercise of a Warrant pursuant to this Section 2, the following provisions shall be applicable:

(a) In the case of the issuance or sale of shares of Common Stock, Options or Convertible Securities for cash, the amount of the consideration received by the Company shall be deemed to be the amount of the gross cash proceeds received by the Company for such securities before deducting from such amount any discounts or commissions allowed, paid or incurred by the Company for any underwriting or otherwise in connection with the issuance and sale of such Common Stock, Options or Convertible Securities.

(b) In the case of the issuance or sale of shares of Common Stock, Options or Convertible Securities (other than upon the conversion of units or other securities of the Company) for consideration in whole or in part other than cash, including securities acquired in exchange for such shares of Common Stock, Options or Convertible Securities (other than securities by their terms so exchangeable), the consideration other than cash shall be deemed to be the fair market value thereof.

(c) In the case of the issuance of Convertible Securities or Options (in each case, whether or not at the time so convertible, exchangeable or exercisable): (A) the aggregate maximum number of shares of Common Stock deliverable upon conversion, exchange or exercise of such Convertible Securities or Options shall be deemed to have been issued at the time such Convertible Securities or Options are issued and for consideration equal to the consideration (determined in the manner provided in this Section 2.1), if any, received by the Company upon the issuance or sale of such Convertible Securities or Options plus the minimum purchase price provided in such Convertible Securities or Options for shares of Common Stock issuable upon conversion,

exchange or exercise by such Convertible Securities or Options; and (B) if the number of shares of Common Stock issuable upon exercise of a Warrant shall have been adjusted upon the issuance or sale of any Convertible Securities or Options, no further adjustment of the number of shares of Common Stock issuable upon exercise of a Warrant shall be made for the actual issuance of shares of Common Stock upon the exercise, conversion or exchange of such Convertible Securities or Options.

2.2Record Date. For purposes of any adjustment to the Warrant Price or the number of Shares in accordance with this Section 2, in case the Company shall take a record of the holders of its Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (B) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

2.3Adjustments for Dividends or Distributions. Subject to the provisions of this Section 2.3, if the Company shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or any other distribution payable in securities of the Company (other than a dividend or distribution of shares of Common Stock, Options or Convertible Securities in respect of outstanding shares of Common Stock), cash or other property, then, and in each such event, provision shall be made so that the Holder shall receive upon exercise of this Warrant, in addition to the number of Shares receivable thereupon, the kind and amount of securities of the Company, cash or other property which the Holder would have been entitled to receive had this Warrant been exercised in full into Shares on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the date on which the Holder delivers this Warrant together with its Notice of Exercise to the Company, retained such securities, cash or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 2 with respect to the rights of the Holder; provided, that no such provision shall be made if the Holder receives, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities, cash or other property in an amount equal to the amount of such securities, cash or other property as the Holder would have received if this Warrant had been exercised in full into Shares on the date of such event.

2.4Adjustment to Warrant Price and Shares Upon Stock Dividend, Splits. If the Company declares or pays a dividend or distribution on the outstanding shares of Class A Common Stock payable in additional shares of Class A Common Stock or other securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of Class A Common Stock by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of Class A Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.5Adjustment to Warrant Price and Shares Upon Reorganization, Reclassification or Similar Transaction. Subject to Section 1.6, in the event of any (i) capital reorganization of the Company, (ii) reclassification of the stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of a stock dividend or subdivision, split-up or combination of shares), (iii) Acquisition or (iv) other similar transaction (other than any such transaction covered by Section 2.4, in each case which entitles the holders of Common Stock to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, each Warrant shall, immediately after such reorganization, reclassification, Acquisition or similar transaction, remain outstanding and shall thereafter, in lieu of or in addition to (as the case may be) the number of Shares then exercisable under this Warrant, be exercisable for the kind and

number of shares of stock or other securities or assets of the Company or of the successor Person resulting from such transaction to which the Holder would have been entitled upon such reorganization, reclassification, Acquisition or similar transaction if the Holder had exercised this Warrant in full immediately prior to the time of such reorganization, reclassification, Acquisition or similar transaction and acquired the applicable number of Shares then issuable hereunder as a result of such exercise (without taking into account any limitations or restrictions on the exercisability of this Warrant, including the vesting provisions set forth in Section 5.1(a)); and, in such case, appropriate adjustment (in form and substance satisfactory to the Holder) shall be made with respect to the Holder's rights under this Warrant to insure that the provisions of this Section 2 shall thereafter be applicable, as nearly as possible, to this Warrant in relation to any shares of stock, securities or assets thereafter acquirable upon exercise of this Warrant (including, in the case of any Acquisition or similar transaction in which the successor or purchasing Person is other than the Company, an immediate adjustment in the Warrant Price to the value per share for the Common Stock reflected by the terms of such Acquisition or similar transaction, and a corresponding immediate adjustment to the number of Shares acquirable upon exercise of this Warrant without regard to any limitations or restrictions on exercise, if the value so reflected is less than the Warrant Price in effect immediately prior to such Acquisition or similar transaction). The provisions of this Section 2.5 shall similarly apply to successive reorganizations, reclassifications, Acquisitions or similar transactions. The Company shall not effect any such reorganization, reclassification, Acquisition or similar transaction unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such reorganization, reclassification, Acquisition or similar transaction, shall assume, by written instrument substantially similar in form and substance to this Warrant and satisfactory to the Holder, the obligation to deliver to the Holder such shares of stock, securities or assets which, in accordance with the foregoing provisions, such Holder shall be entitled to receive upon exercise of this Warrant.

2.6No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of this Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (a) the Fair Market Value (as determined in accordance with Section 1.3 above) of a full Share, less (b) the then-effective Warrant Price.

2.7Certain Repurchases of Common Stock. In case the Company effects a Pro Rata Repurchase of shares of the Class A Common Stock, then:

(a) the Warrant Price shall be adjusted to the price determined by multiplying the Warrant Price in effect immediately prior to the effective date of such Pro Rata Repurchase by a fraction of which the numerator shall be (x) the product of (1) the number of shares of the Class A Common Stock outstanding immediately before such Pro Rata Repurchase and (2) the Fair Market Value of a share of the Class A Common Stock, as determined in accordance with Section 1.3 above (assuming for such purposes that this Warrant and the Notice of Exercise were delivered on the date of the first public announcement by the Company or any of its affiliates of the intent to effect such Pro Rata Repurchase), minus (y) the aggregate purchase price of the Pro Rata Repurchase, and of which the denominator shall be the product of (1) the number of shares of the Class A Common Stock outstanding immediately prior to such Pro Rata Repurchase minus the number of shares of the Class A Common Stock so repurchased and (2) the Fair Market Value per share of the Class A Common Stock, as determined in accordance with Section 1.3 above (assuming for such purposes that this Warrant and the Notice of Exercise were delivered on the date of the first public announcement by the Company or any of its affiliates of the intent to effect such Pro Rata Repurchase); and

(b) the number of Vested Shares issuable upon the exercise of the Warrant shall be adjusted to the number obtained by dividing (x) the product of (1) the number of Vested Shares issuable upon the exercise of the Warrant before such adjustment, and (2) the Warrant Price in effect immediately prior to the Pro Rata Repurchase giving rise to this adjustment by (y) the new Warrant Price determined in accordance with Section 2.7(a).

2.8Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, class and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, Class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, Class and number of Shares in effect upon the date of such adjustment.

SECTION 3REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The Company is duly organized and validly existing and in good standing as a corporation under the laws of the State of Delaware.

(b) The Company has all corporate power and authority to execute this Warrant and to perform its obligations hereunder. The execution, delivery and performance by the Company of this Warrant, and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Company, and assuming due authorization, execution and delivery of this Warrant by the Holder, constitutes a legal, valid and binding obligation of the Company, enforceable in accordance with its respective terms, subject, as to enforcement, to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(c) None of the execution and delivery of this Warrant, the consummation of the transactions contemplated herein or the performance of and compliance with the terms and provisions hereof will: (i) violate or conflict with any provision of the Company's certificate of incorporation or bylaws; (ii) violate any law, regulation, order, writ, judgment, injunction, decree or permit applicable to it; (iii) violate or conflict with any material contractual provisions of, or cause an event of default or give rise to any right of acceleration under any agreement, instrument or contract the breach of which or default thereunder is reasonably likely to result in a material adverse effect to the Company; or (iv) result in or require the creation of any lien, security interest or other charge or encumbrance upon or with respect to its properties.

(d) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or other Person (or group of Persons) is required in connection with the execution, delivery or performance of this Warrant, except for any notices of sale required to be filed with the Securities and Exchange Commission under Regulation D of the Securities Act or such filings as may be required under state securities laws.

(e) All Shares which may be issued upon the exercise of this Warrant shall, upon issuance in accordance with the terms hereof (including, without limitation, payment of the aggregate Warrant Price in the manner described in Sections 1.1 or 1.2 above), be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein, or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of Class A Common Stock and other securities as will be sufficient to permit the exercise in full of this Warrant.

3.2Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Class, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares of the Class any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Class; or

(d) effect an Acquisition or agreement to liquidate, dissolve or wind up;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in clauses (a) and (b) above, at least five (5) Business Days prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Class will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in clauses (c) and (d) above, at least five (5) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Class will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice).

SECTION 4REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act, except pursuant to sales registered or exempted under the Act.

4.2Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6No Voting Rights. Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5MISCELLANEOUS.

5.1Vesting; Term; Automatic Cashless Exercise Upon Expiration.

(a) Vesting.

(1) Subject to clause (2) of this Section 5.1(a), the Shares shall vest on a monthly basis as follows:

a. On [●], 2022, this Warrant shall vest as to and may be exercised for [●] Shares; and on the [●] day of each of the following eleven months, this Warrant shall vest as to and may be exercised for an additional [●] Shares;

b. On [●], 2023 and on the [●] day of each of the following eleven months, this Warrant shall vest as to and may be exercised for an additional [●] Shares;

c. On [●], 2024 and on the [●] day of each of the following eleven months, this Warrant shall vest as to and may be exercised for an additional [●] Shares; and

d. On [●], 2025 and on the [●] day of each month thereafter, this Warrant shall vest as to and may be exercised for an additional [●] Shares, until fully vested.

(2) If prior to the date on which this Warrant is fully vested, the Company consummates an Acquisition (the date of such Acquisition, the "**Acceleration Date**"), then effective immediately prior to the Acceleration Date, this Warrant shall be deemed to have vested fully and be exercisable for the maximum number of Shares described in Section 1.

(b) Term. Subject to the provisions of Section 1.6, this Warrant is exercisable for all or any part of the unexercised Vested Shares at any time and from time to time on or before 6:00 PM, Pacific time, on the Expiration Date and shall be void thereafter.

(c) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the Fair Market Value of one Share as determined in accordance with Section 1.3 is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 as to all Shares for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares issued upon such exercise to Holder.

5.2Withholding. Notwithstanding anything in this Warrant or the Financing Agreement dated as of even date herewith by and among Beachbody, LLC, the Company as a Guarantor, the other Guarantors party thereto from time to time, the Lenders party thereto from time to time, and Blue Torch Finance, LLC, as Administrative Agent and Collateral Agent (the "**Financing Agreement**") to the contrary, the Company shall be entitled to deduct and

withhold (or cause to be deducted and withheld) from any amounts or property payable or deliverable to the Holder pursuant to this Warrant such amounts as are required to be deducted or withheld under applicable law with respect to the Warrant (and the Company shall be entitled to withhold, for the avoidance of doubt, from any amounts or property that are payable or deliverable with respect to the Warrant that are subsequent to the payment or delivery or other circumstance that gave rise to the requirement to deduct or withhold under applicable law).

5.3Legends. Each certificate evidencing Shares shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE STOCK ISSUED BY THE ISSUER TO [●] DATED [●], 2022, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR, IN THE OPINION OF LEGAL COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.4Compliance with Securities Laws on Transfer. This Warrant and the Shares may be transferred or assigned in whole or in part by the Holder at any time without the consent of the Company, provided that (i) such transfer is in compliance with applicable federal and state securities laws by the transferor; and (ii) any holder with respect to the Warrant shall deliver (and shall at all times be eligible to deliver) a duly executed and valid IRS Form W-9, W-8BEN, W-8BEN E, W-8ECI, W-8IMY (with necessary attachments) or W-8EXP (in each case, as applicable) (and any transfer not in compliance with this Section 5.4 shall be void ab initio). Any transferee of this Warrant or any portion hereof, by their acceptance of this Warrant, is deemed to agree to be bound by the terms and conditions of this Warrant, including, without limitation, the representations and warranties of the Holder in Section 4. The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder, provided that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.5Transfer Procedure. Subject to the provisions of Section 5.4 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant or the Shares to any transferee, provided, however, in connection with any such transfer, Holder will give the Company notice of the portion of this Warrant and/or Shares being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); provided, further, that the transferee shall agree in writing with the Company to be bound by all of the terms and conditions of this Warrant.

5.6Certain Definitions. For purposes of this Warrant, the following terms shall have the following meanings:

(a) "**Common Stock Deemed Outstanding**" means, at any given time, the sum of (a) the number of shares of Common Stock actually outstanding at such time, plus (b) the number of shares of Common Stock issuable upon exercise of Options actually outstanding at such time, plus (c) the number of shares of Common Stock issuable upon conversion or exchange of Convertible Securities actually outstanding at such time (treating as actually outstanding any Convertible Securities issuable upon exercise of Options actually outstanding at such time), in each case, regardless of whether the Options or Convertible Securities are actually exercisable at such time; provided, that Common Stock Deemed Outstanding at any given time shall not include shares owned or held by or for the account of the Company or any of its wholly owned subsidiaries.

(b) "**Convertible Securities"** means any securities (directly or indirectly) convertible into or exchangeable for Common Stock, but excluding Options.

(c) "**Excluded Securities**" means any shares of Common Stock issued or issuable, or deemed issued or issuable pursuant to Section 2.1: (i) to officers, employees or directors of, or consultants to, the Company or any of its subsidiaries pursuant to an employee benefit or stock purchase plan or agreement which is in effect on the date of this agreement or has been approved by a majority of the non-employee members of the Board, pursuant to which the Company's securities may be issued or sold to any employee, officer, consultant or director, (ii) upon exercise of this Warrant, (iii) upon conversion, exercise or exchange of any Options or Convertible Securities (as any adjustment will be made at the time of issuance or amendment of such Options or Convertible Securities pursuant to Section 2.1); and (iv) as consideration in connection with the acquisition of all or a controlling interest in another business (whether by merger, purchase of stock or assets or otherwise) if such issuance is approved by the Board.

(d) "**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock or Convertible Securities.

(e) "**Person**" means any individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, trust, incorporated organization or government or department or agency thereof.

(f) "**Pro Rata Repurchase**" means any purchase of shares of the Class by the Company or any affiliate thereof pursuant to (i) any tender offer or exchange offer subject to Section 13(e) or 14(e) of the Exchange Act or Regulation 14E promulgated thereunder or (ii) any other offer available to substantially all holders of shares of the Class A Common Stock, in the case of both of the foregoing clauses (i) or (ii), whether for cash, shares of the Class A Common Stock, other securities of the Company, evidences of indebtedness of the Company or any other Person or any other property (including, without limitation, shares of the Class, other securities or evidences of indebtedness of a subsidiary), or any combination thereof, effected while this Warrant is outstanding. The "effective date" of a Pro Rata Repurchase shall mean the date of acceptance of shares for purchase or exchange by the Company under any tender or exchange offer that is a Pro Rata Repurchase or the date of purchase with respect to any Pro Rata Repurchase that is not a tender or exchange offer.

(g) "**Vested Shares**" means the Shares that have become vested and exercisable in accordance with Section 5.1(a).

5.7No Impairment. The Company shall not, by amendment of its organizational documents, or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed by it hereunder, but shall at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all such action as may reasonably be requested by the Holder in order to protect the exercise rights of the Holder against dilution or other impairment, consistent with the tenor and purpose of this Warrant.

5.8Investment Unit. The Company and the Holder acknowledge and agree that the Term Loan (as defined in the Financing Agreement) made on the Effective Date (as defined in the Financing Agreement) and the Warrant, taken together, comprise an "investment unit" for purposes of Section 1273(c)(2) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and agree that the issue price of such investment unit shall be allocated between the Term Loan (as defined in the Financing Agreement) and the Warrant based on their relative fair market values as of the Issue Date, in accordance with Treasury Regulation Section 1.1273-2(h). For this purpose, the Company and the Holder agree that, as of the Effective Date (as defined in the Financing Agreement), the fair market value of the Warrant is $0. The Company and the Holder agree to file all applicable tax returns in a manner consistent with such allocation and not to take any position on any tax return or in any tax proceeding that is inconsistent with such allocation, unless otherwise required by a contrary "determination" within the meaning of Section 1313 of the Code.

5.9Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being

mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.9. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

[●]
150 East 58th Street, 18th Floor
New York, NY 10155
Attention: Sibyl Kavak
Email: skavak@bluetorchcapital.com

with a copy to:

Milbank LLP
2029 Century Park East, Suite 3300
Los Angeles, CA 90067
Attention: Jason Anderson; Al Pisa
Email: jtanderson@milbank.com; apisa@milbank.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

The Beachbody Company, Inc.
400 Continental Boulevard, Suite 400
El Segundo, CA 90245
Attention: [●]
Email: [●]

with a copy to:

Latham & Watkins LLP
10250 Constellation Blvd., Suite 1100
Los Angeles, CA 90067
Attention: Steven B. Stokdyk
Email: steven.stokdyk@lw.com

5.10Amendments and Waivers. Any term of this Warrant may be amended and the observance of any term of this Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Holder.

5.11Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.12Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.13Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regard to any agreement subject to the terms hereof or any amendment hereto.

5.14GOVERNING LAW. THIS WARRANT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PROVISION.

5.15Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Warrant or the transactions contemplated hereby may be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the city of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by certified or registered mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

5.16Waiver of Jury Trial. Each party acknowledges and agrees that any controversy which may arise under this Warrant is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Warrant or the transactions contemplated hereby.

5.17Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.18Business Days. "**Business Day**" is any day that is not a Saturday, Sunday or a day on which banks in New York, NY or Los Angeles, CA are closed.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

THE BEACHBODY COMPANY, INC.

By:

Name:
Title:

Agreed and Accepted:

[●]

By:

Name:
Title:

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to purchase _____ shares of Class A Common Stock of _____ (the "**Company**") in accordance with the attached Warrant To Purchase Stock (the "**Warrant**"), and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] Check in the amount of $_____ payable to order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company's account

[ ] Cashless exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

Holder's Name

(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant as of the date hereof.

HOLDER:

[_____]

By:

Name:

Title:

Date:

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Carl Daikeler, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The Beachbody Company, 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 financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal controls over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2022

By: /s/ Carl Daikeler

Carl Daikeler
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Marc Suidan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The Beachbody Company, 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 financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal controls over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2022

By: /s/ Marc Suidan

Marc Suidan
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of The Beachbody Company, Inc. (the "Company") on Form 10-Q for the period ending June 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: August 8, 2022

By: /s/ Carl Daikeler
Carl Daikeler
Chief Executive Officer
(Principal Executive Officer)

In connection with the Quarterly Report of The Beachbody Company, Inc. (the "Company") on Form 10-Q for the period ending June 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: August 8, 2022

By: /s/ Marc Suidan
Marc Suidan
Chief Financial Officer
(Principal Financial Officer)