

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

)	
In re:)	Chapter 11
)	
PGX HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 23-10718 (CTG)
)	
Debtors.)	(Jointly Administered)
)	
)	Related to Docket Nos. 410, 466, 486, 546, and 570

SECOND PLAN SUPPLEMENT

PLEASE TAKE NOTICE that on August 24, 2023, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Joint Chapter 11 Plan of PGX Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 410].

PLEASE TAKE FURTHER NOTICE that on September 15, 2023, the Debtors filed the *First Amended Joint Chapter 11 Plan of PGX Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 466].

PLEASE TAKE FURTHER NOTICE that on September 20, 2023, the Debtors filed the solicitation version of the *First Amended Joint Chapter 11 Plan of PGX Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 486].

PLEASE TAKE FURTHER NOTICE that on October 24, 2023, the Debtors filed the *Second Amended Joint Chapter 11 Plan of PGX Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 570], (as may be modified, amended, or supplemented from time to time, the “Plan”).²

PLEASE TAKE FURTHER NOTICE that on October 9, 2023, the Debtors filed the initial version of the *Plan Supplement* [Docket No. 546] (the “Initial Plan Supplement”).

PLEASE TAKE FURTHER NOTICE that on October 25, 2023, the Debtors filed the *Notice of Proposed Findings of Fact, Conclusions of Law and Order Confirming the Second*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

² Capitalized terms used and not defined herein have the meanings given to them in the Plan.



Amended Joint Chapter 11 Plan of PGX Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 574].

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file this second plan supplement (this “Second Plan Supplement”) in support of the Plan with respect to the following documents attached hereto as **Exhibits G and H**, respectively, filed with the Plan Supplement:

- **Exhibit G** – clean and redline of the PIK Notes; and
- **Exhibit H** - (i) the identity of the Plan Administrator and (ii) the Plan Administrator Agreement.

PLEASE TAKE FURTHER NOTICE that the documents contained in the Plan Supplement are integral to, and are considered part of, the Plan. The documents contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the Confirmation Order and in accordance with the terms of the Plan.³ For the avoidance of doubt, the documents and content of in the Initial Plan Supplement (and subject to the terms thereof) are incorporated into this Second Plan Supplement to the extent the documents and content of this Second Plan Supplement do not differ from those of the Initial Plan Supplement.

PLEASE TAKE FURTHER NOTICE that certain and/or additional documents, or portions thereof, contained in the Initial Plan Supplement and Second Plan Supplement may remain subject to ongoing review, revision, and negotiation among the Debtors and interested parties with respect thereto. The Debtors reserve the right to alter, amend, modify, or supplement the documents in this Plan Supplement in accordance with the Plan at any time before the Effective Date of the Plan or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court; *provided* that if the document in the Plan Supplement is altered, amended, modified, or supplemented in any material respect, the Debtors will file a redline of such document with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that certain documents, or portions thereof, contained or referenced in this Second Plan Supplement (including, for the avoidance of doubt, the documents contained in Exhibits G and H hereto) may appear in draft form, remain subject to continuing negotiations by and among the Debtors and certain parties in interest, including the Progexion Purchaser, the Committee, and the party that will be the Plan Administrator and may be substantially revised. For the avoidance of doubt, these documents are not binding until final terms and conditions of the documents have been agreed to by the relevant parties. The Debtors reserve the rights, with the consent of any applicable counterparties to the extent required under the Plan, the Restructuring Support Agreement, and/or the Global Settlement, including the Global Settlement Term Sheet attached to the DIP Order [Docket No. 332], to amend, revise, or supplement the Plan Supplement, and any of the documents or designations contained herein in accordance with the terms of the Plan, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court; provided that

³ For the avoidance of doubt, the Debtors reserve all rights to make modifications to the Plan Supplement and the exhibits thereof in accordance with the terms of the Plan and Confirmation Order.

if a document in the Second Plan Supplement is altered, amended, modified, or supplemented in any material respect, the Debtors will file a redline of such document with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that the Plan, the Initial Plan Supplement, this Second Plan Supplement and related documents can be viewed on the Court's website at <https://ecf.deb.uscourts.gov> and on the website of the Debtors' notice and claims agent, Kurtzman Carson Consultants LLC, at <https://www.kccllc.net/pgx>. Further information may be obtained by contacting the undersigned counsel for the Debtors.

Dated: October 25, 2023

Wilmington, Delaware

/s/ Michael W. Yurkewicz

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

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Co-Counsel to the Debtors and Debtors in Possession

Exhibit G

THE PIK NOTES

Clean and Redlined attached

(Provided in draft form and subject to ongoing negotiation, review, and substantial revision in accordance with the terms of the Plan, the Restructuring Support Agreement, and/or the Global Settlement, including the Global Settlement Term Sheet attached to the DIP Order [Docket No. 332])

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SUBORDINATED NOTE

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED OR ASSIGNED UNLESS (I) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (II) PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, IN EACH CASE IN COMPLIANCE WITH APPLICABLE STATE SECURITIES OR BLUE SKY LAWS AND, IN THE CASE OF (II), IF REQUESTED BY THE ISSUER, AS CONFIRMED TO THE ISSUER BY AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT.

\$250,000.00

Issuance Date: September [], 2023

SUBORDINATED NOTE

[], a Delaware limited liability company (together with its successors, the “Issuer”), for value received hereby promises to pay to the order of [] (including any permitted assignee or transferee of this note, the “Holder”) (i) the principal sum of TWO HUNDRED FIFTY THOUSAND DOLLARS AND 00 /100 CENTS (\$250,000.00) or, if less, the aggregate unpaid principal amount hereunder (such amount, the “Principal Sum”) by transfer of immediately available funds to the Holder’s account at such bank in the United States as may be specified in writing by the Holder to the Issuer, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, on September [], 2028 (the “Maturity Date”); and (ii) interest accrued on the outstanding principal amount hereof until payment in full hereof has been made.

1. Interest.

(a) This note (the “Note”) shall bear interest on the unpaid principal amount hereof from and including the date issued to the date this Note is paid in full in a cash in accordance with the terms hereof (whether upon final maturity, by prepayment, acceleration or otherwise) at the rate of 5.00% per annum. Interest shall be payable (a) quarterly in arrears on the last day of September, December, March and June of each year (each such date an “Interest Payment Date”), commencing on the first such date occurring after the date of issuance of this Note, (b) upon any prepayment with respect to this Note (to the extent accrued on the amount being prepaid) and (c) on the Maturity Date (or such other time as this Note becomes due and payable, whether by acceleration or otherwise); *provided* that payment due on each Interest Payment Date pursuant to the foregoing clause (a) shall be paid-in-kind (and not in cash) and added to the then outstanding principal amount of this Note Interest on this Note will be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

(b) For the avoidance of doubt, any payment of accrued but unpaid interest at the maturity of this Note (or at such other time as payment of the principal amount of this Note or

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any portion hereof is due (as a result of prepayment, acceleration or otherwise)) shall be made entirely and exclusively in cash.

(c) Notwithstanding the foregoing, if at any time the interest rate applicable to this Note, together with all fees, charges and other amounts that are treated as interest on this Note under any applicable Requirement of Law, shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Holder in accordance with such applicable Requirement of Law, then the rate of interest payable in respect of this Note, together with all such charges payable in respect hereof, shall be limited to the Maximum Rate.

2. Certain Defined Terms. The following terms have the meanings specified herein:

"Change of Control" means if a "Change of Control" or other similar event shall occur, as defined in, or under, the Senior Financing Agreement.

"Excluded Taxes" means, with respect to Holder or any other recipient of any payment to be made by or on account of any obligation of the Issuer hereunder, (a) income or franchise Taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of Holder, in which its applicable lending office is located, (b) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction in which the Issuer is located, (c) any Taxes attributable to Holder's failure to comply with Section 8(f), (d) any withholding Taxes imposed under the Foreign Account Tax Compliance Act (FATCA) or any rules or regulations promulgated thereunder, and (e) any withholding Taxes that arise due to a transfer of this Note.

"Governmental Authority" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority thereof exercising executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Indemnified Taxes" means Taxes (including Other Taxes), other than those that are Excluded Taxes.

"Loan Documents" means this Note, and all documents delivered to the Holder in connection with any of the foregoing.

"Other Taxes" means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Note.

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“Payment in Full” or “Paid in Full” means the date on which (i) all commitments under the Senior Loan Documents have been terminated, (ii) all Senior Obligations have been paid and satisfied in full in cash (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), and (iii) there shall have been deposited cash collateral with respect to all contingent Senior Indebtedness (or other collateral support) in an amount sufficient to the Senior Agent.

“Reorganization” means any voluntary or involuntary dissolution, winding-up, liquidation, reorganization by judicial proceedings, bankruptcy, insolvency, receivership or other statutory or common law proceedings, including any proceeding under the federal bankruptcy code or any similar law or any other jurisdiction, involving the Issuer or any of its Subsidiaries or any of their respective properties or assets and the readjustment of the respective liabilities of the Issuer or any such other person or any assignment for the benefit of creditors or any marshaling of the assets or liabilities of the Issuer or any such other person.

“Requirement of Law” means, with respect to any person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and 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.

“Senior Agent” means Blue Torch Finance LLC.

“Senior Default” or “Event of Default” means the occurrence and continuance of “default” or “event of default” as defined in the Senior Financing Agreement.

“Senior Obligations” means the “Obligations” as defined in the Senior Financing Agreement.

“Senior Financing Agreement” means that certain Financing Agreement, dated as of the date hereof by and among, Issuer, Blue Torch Finance LLC and the other parties from time to time there, as such agreement is amended, restated, amended and restated or otherwise modified from time to time.

“Senior Financing Document” means any of the Loan Documents (as defined in the Senior Financing Agreement), in any case, as amended, modified, restated, refinanced or replaced from time to time. “Subsidiaries” means, with respect to any person, any corporation, partnership, joint venture, limited liability company, association or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than 50% of the voting stock is, at the time, owned or controlled directly or indirectly by, such person or one or more Subsidiaries of such person.

“Subordinated Obligations” has the meaning set forth in Section 6 hereof.

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“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

3. Security. This Subordinated Note and the obligations hereunder shall remain unsecured.

4. Events of Default.

(a) Event of Default Defined; Acceleration of Maturity; No Waiver of Default.

In case one or more of the following events (each, an “Event of Default”) (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by any Requirement of Law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any Governmental Authority) shall have occurred and be continuing:

(i) failure on the part of the Issuer to pay all or any part of the unpaid principal or accrued but unpaid interest on this Note as and when the same shall become due and payable in accordance with the terms of this Note; or

(ii) the Issuer shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or a substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing; or

(iii) (A) an involuntary case or other proceeding shall be commenced against the Issuer seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or (B) an order for relief shall be entered against the Issuer under the federal bankruptcy laws as now or hereafter in effect; or

(iv) there shall be a default or event of default in respect of (i) the Senior Financing Agreement and the agent thereunder has accelerated the Senior Obligations (or the Senior Obligations have automatically or otherwise become accelerated or due in full) pursuant to the terms of the Senior Financing Agreement or (ii) any other debt (other than the Senior Obligations) of the Issuer having an outstanding principal amount in excess of \$15,000,000 that results from the occurrence or existence of any event (after giving effect to any grace or cure period) which (1) results in the acceleration of the maturity of such debt; or

(v) a Change of Control occurs;

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then, (1) if such event is an Event of Default specified in clause (ii) or clause (iii) of this Section 4, the entire principal amount of, interest on and all other amounts payable with respect to this Note and the Loan Documents shall automatically become immediately due and payable together with interest accrued thereon, without any requirement of presentment, demand, protest or notice of any kind, all of which are hereby waived, and (2) if such event is not an Event of Default specified in clauses (ii) or (iii) of this Section 4 (as a result of which this Notes has already been accelerated), the Holder may at its option at any time declare the entire principal amount of, interest on and all other amounts payable with respect to this Note and the Loan Documents to be immediately due and payable together with interest accrued thereon, without any requirement of presentment, demand, protest or notice of any kind, all of which are hereby waived. If any Event of Default shall occur, the Holder may proceed to protect and enforce its rights and remedies under this the Note by exercising such rights and remedies as are available to the Holder in respect hereof under all applicable law, either by suit in equity or by action at law, or both, whether for specific performance or otherwise.

(b) Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default. No right or remedy herein or in any other Loan Document conferred upon or reserved to the Holder is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or under the other Loan Documents or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Holder to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and every power and remedy given by this Note, the other Loan Documents or by law may be exercised from time to time, and as often as shall be deemed expedient, by the Holder.

5. Prepayment and Payment of Note.

(a) So long as the Senior Loan Obligations have been paid in full, the Issuer may prepay any or all of the principal amount of this Note without penalty or premium.

(b) Notwithstanding clause (a) above or Section 6 below, the Issuer may prepay all (but not less than) all of the principal amount of this Note on a date (the "Prepayment Date") on or prior to the two year anniversary of the Issuance Date by payment, entirely in cash, of 80% of (i) the original face principal amount (as opposed to accreted principal amount) plus (ii) the amount of interest accrued and paid in kind hereon as of such Prepayment Date, plus (iii) any and all accrued and unpaid interest thereon through such Prepayment Date (the "Prepayment Discount"). For the avoidance of doubt, upon payment of an amount equal to the Prepayment Discount, all Subordinated Obligations hereunder shall be immediately and automatically cancelled and the Issuer shall no longer have any obligations to the Holder hereunder.

(c) The entire outstanding principal amount of this Note, and all accrued and unpaid interest hereon, are due and payable in cash on the Maturity Date. No later than the

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Maturity Date, the Issuer shall have paid in cash in full any and all amounts due and owing hereunder.

6. Subordination.

(i) In the event that any Holder obtains any liens or security interests securing the Subordinated Obligations, (i) Senior Agent shall be deemed authorized by the Holder to file UCC termination statements necessary to terminate such liens and security interests and (ii) the Holder shall promptly execute and deliver to Senior Agent such releases and terminations as Senior Agent shall reasonably request to effect the release of such liens, and security interests.

(ii) Notwithstanding any provision herein to the contrary, but subject to Section 5(b), no cash payment shall be made or permitted or required to be made under this Note prior to the Maturity Date and the payment of any amount hereunder (a "**Subordinated Obligation**") is and shall be expressly subordinated and junior in right of payment to the prior Payment in Full of all Senior Obligations. The parties hereto acknowledge and agree that each of the Senior Agent and each Senior Lender shall be entitled to rely on, and shall be deemed to have incurred Senior Obligations in reliance upon, the agreements set forth in this Section 6.

(iii) For the avoidance of doubt, Issuer's failure to make any payment of a Subordinated Obligation to any Holder entitled thereto on account of it not being permitted under this Section 6 shall constitute a default hereunder..

(iv) In the event of any Reorganization, all Senior Obligations shall first be Paid in Full before any payment or distribution is made on account of any Subordinated Obligation. Prior to such Payment in Full of the Senior Obligations, in any proceedings seeking to effect a Reorganization, any payment or distribution of any kind or character which may be payable or deliverable in respect of any Subordinated Obligation shall be paid or delivered (in the form received duly endorsed to the Senior Agent) directly to the Senior Agent for application to payment of the Senior Obligations, until all Senior Obligations shall have been Paid in Full.

(v) If any Subordinated Obligation is then outstanding, then in any proceedings with respect to any Reorganization prior to the Payment in Full of all Senior Obligations, each Holder, by its acceptance hereof, irrevocably authorizes the Senior Agent, in its sole discretion:

(A) to prove and enforce any claims on the Subordinated Obligations owed by Issuer to Holder either in the name of the Senior Agent or in the name of Holder as the attorney-in-fact of Holder (including to execute, verify, deliver and file any proofs of claim and/or vote any such claim);

(B) to accept and execute receipts for any payment or distribution made with respect to any such Subordinated Obligations and to apply such payment or distribution to the payment of the Senior Obligations; and

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(C) to take any action and to execute any instruments necessary to effectuate the foregoing, either in the name of the Senior Agent or in the name of Holder as the attorney-in-fact of Holder.

(vi) If, notwithstanding the foregoing provisions of this Section 6, any Holder shall receive any payment or distribution from the Issuer or any of its Subsidiaries of any kind or character in contravention of this Section 6, such payment or distribution shall be held in trust by such Holder and promptly paid over to the Senior Agent for application to the payment of Senior Obligations until all such Senior Obligations shall have been Paid in Full.

(vii) Notwithstanding any provision to the contrary contained herein or otherwise with respect to the Subordinated Obligations, no Holder shall, prior to the earliest to occur of (i) the Payment in Full of all Senior Obligations, (ii) the occurrence of any event of default described in Section 4(ii), Section 4(iii) or Section 4(v) hereof, or (iii) the Maturity Date, without the prior written consent of the Senior Agent, institute or participate in any proceedings to enforce any Subordinated Obligations or exercise any other remedies in respect of the Subordinated Obligations (including acceleration of any Subordinated Obligations; commencing, or joining with any other creditor of Issuer and its Subsidiaries in commencing, any proceeding against Issuer or any of its Subsidiaries seeking to effect a Reorganization). In addition, each Holder shall not institute or participate in any proceedings or take any other action challenging the enforceability, validity, security, perfection or priority of the Senior Obligations or any liens or security interests securing the Senior Obligations.

(viii) Issuer and its Subsidiaries shall not grant, and each Holder shall not demand, accept or receive, (A) any collateral, direct or indirect, for any Subordinated Obligations or (B) any guarantee from any of Issuer's Subsidiaries of any Subordinated Obligations.

(ix) Each Holder represents that the Subordinated Obligations are not subordinated to any obligations other than the Senior Obligations and covenants that it will not subordinate the Subordinated Obligations to any other obligations except with the prior written consent of the Senior Agent.

(x) If Senior Agent or any Senior Lender is required by reason of a judgment or order of any court or administrative authority having competent jurisdiction to repay any amounts or property received by Senior Agent or any Senior Lender on account of the Senior Obligations, and Senior Agent or such Senior Lender repays or returns such amounts or property, then the subordination provisions of this Section 6 shall be reinstated retroactively with respect to the amounts so repaid or property so returned as if such amounts or property had never been received by Senior Agent or such Senior Lender, notwithstanding any termination thereof or the cancellation of any Senior Financing Documents.

(xi) Each Holder, by its acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein by each holder of Senior Obligations, whether now outstanding or hereafter created, incurred or assumed, and waives reliance by each such holder of Senior Obligations upon such provisions.

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(xii) Senior Agent and the Senior Lenders may at any time, and from time to time, in their absolute discretion, without adversely affecting the subordination provisions of this Section 6 or their rights hereunder, increase the commitments or loans under the Senior Financing Agreement, change the manner, place or terms of payment of, change or extend the time of payment of, or renew or alter, any Senior Obligations, or amend, supplement or otherwise modify any Senior Financing Document or other document evidencing Senior Obligations, or exercise or refrain from exercising any other or their rights or remedies under the Senior Obligations, including, without limitation, the waiver of any Senior Default or Event of Default or any other default or event of default thereunder, all without notice to or assent from Holder.

(xiii) No right of any present or future holder of Senior Obligations to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of Issuer or its Subsidiaries or Holder or by any act or failure to act by any such holder of Senior Obligations, or by any noncompliance by Issuer or its Subsidiaries or Holder with the terms, provisions and covenants hereof, regardless of any knowledge thereof with which any such holder of Senior Obligations may have or otherwise be charged.

(xiv) Each of the Issuer and Holder, by its respective acceptance hereof, covenants to execute and deliver to the Senior Agent such further instruments and to take such further action as the Senior Agent may at any time or times reasonably request in order to carry out the provisions and intent of this Section 6.

7. Modification of Note, Etc.

(a) This Note may only be modified by the written consent of the Issuer and the Holder.

(b) Notwithstanding anything to the contrary, the parties hereto agree that (i) the holders of Senior Obligations are express third-party beneficiaries of, and may enforce, the provisions of Section 6, Section 10, Section 11 and this Section 7 of this Note that are in their favor (the "Subordination Terms"), and (ii) the Subordination Terms cannot be amended without the prior written consent of the Senior Agent.

8. Taxes.

(a) Any and all payments on this Note by or on account of any obligation of the Issuer hereunder and under any other Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes; provided that if the Issuer shall be required to deduct any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Holder receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Issuer shall make such deductions and (iii) the Issuer shall pay the full amount deducted to the relevant Governmental Authority in accordance with any Requirement of Law.

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(b) In addition, the Issuer shall pay any Other Taxes pursuant to any Requirement of Law to the relevant Governmental Authority in accordance with any Requirement of Law.

(c) The Issuer shall indemnify Holder, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes paid by Holder on or with respect to any payment on this Note by or on account of any obligation of the Issuer hereunder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability paid or incurred by a Holder and delivered to the Issuer by Holder shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes by the Issuer to a Governmental Authority, the Issuer shall deliver to Holder the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Holder.

(e) If Holder actually receives or realizes any refund of tax, any reduction of, or credit against, its tax liabilities or otherwise recovers any amount in connection with any deduction or withholding, or payment of any additional amount (including any Indemnified Taxes), by the Issuer pursuant to this Section 8, Holder shall reimburse the Issuer an amount equal to the net benefit (after tax, and net of all reasonable expenses incurred by such Holder in connection with such refund) actually obtained by Holder as a consequence of such refund, reduction, credit or recovery; provided, that nothing in this subsection (e) shall require Holder to make available its tax returns (or any other information relating to its taxes which it deems to be confidential). The Issuer shall return such amount to Holder in the event that Holder is required to repay such refund of tax or is not entitled to such reduction of, or credit against, its tax liabilities.

(f) Holder shall deliver to the Issuer a valid and duly executed IRS Form W-9, or any successor thereto, (i) promptly upon reasonable demand by the Issuer; and (ii) promptly upon learning that any such tax form previously provided has become invalid, obsolete, or incorrect. Additionally, Holder shall, promptly upon reasonable request by the Issuer, provide any necessary tax forms reasonably requested by the Issuer which the Issuer is required to have on file by a Government Authority or is otherwise required by Issuer to determine the Issuer's tax liabilities.

9. No Right of Setoff. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever.

10. Entire Agreement. This Note and the other Loan Documents constitute the entire agreement and supersede all prior agreements, negotiations, arrangements and understandings, both written and oral, among the parties hereto with respect to the subject matter hereof and thereof.

11. Miscellaneous. This Note and the rights of the parties hereto shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that State. The parties hereto,

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including all endorsers hereof, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Note, except as specifically provided herein, and assent to extensions of the time of payment, or forbearance or other indulgence without notice. Any judicial proceeding brought against the Issuer or the Holder with respect to this Note may be brought in any federal or state court of competent jurisdiction sitting in the Borough of Manhattan, New York, New York. Each of the Issuer and each Holder irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. Each of the Issuer and the Holder hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Note.

12. **Transfer and Assignments.** In the event that any Holder seeks to transfer, assign, grant participation rights or otherwise convey this Note and the rights granted herein (each, a “Transfer”) to another party, prior to such Transfer, such Holder shall offer Issuer the right to purchase this Note at the same price and under the same terms and conditions as the prospective transferee for a period of no less than five (5) business days before consummating such Transfer with a third-party (the “Election Date”). If Issuer elects to consummate a Transfer on or prior to the Election Date, Issuer and Holder shall consummate such Transfer within five (5) business days following the Election Date on the same terms and conditions offered to the prospective transferee. Subject to terms of this Section 12, each Holder may, with the written consent of the Issuer, Transfer all or a portion of its rights and obligations under this Agreement with respect to this Note; provided that under this Section 12 consent of the Issuer shall not be required if an Event of Default pursuant to Section 4 has occurred and is continuing. Consent of Issuer shall be deemed given after ten (10) business days following notice of such Transfer by the Holder and a failure by the Issuer to provide written notice objecting to such Transfer. For the avoidance of doubt, if the Issuer does not respond to Holder prior to the Election Date or the Issuer declines the Transfer, Holder shall have the ability to consummate the Transfer with a third party within twenty (20) business days following the Election Date.

[Remainder of page left intentionally blank]

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IN WITNESS WHEREOF, the Issuer and Holder has caused this instrument to be duly executed as of the date of issuance set forth above.

[ISSUER]

By: _____

Name:

Title:

[Holder]

By: _____

Name:

Title:

REDLINE PIK NOTE

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SUBORDINATED NOTE

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED OR ASSIGNED UNLESS (I) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (II) PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, IN EACH CASE IN COMPLIANCE WITH APPLICABLE STATE SECURITIES OR BLUE SKY LAWS AND, IN THE CASE OF (II), IF REQUESTED BY THE ISSUER, AS CONFIRMED TO THE ISSUER BY AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT.

\$250,000.00

Issuance Date: September [], 2023

SUBORDINATED NOTE

[], a Delaware limited liability company (together with its successors, the “Issuer”), for value received hereby promises to pay to the order of [] (including any permitted assignee or transferee of this note, the “Holder”) (i) the principal sum of TWO HUNDRED FIFTY THOUSAND DOLLARS AND 00 /100 CENTS (\$250,000.00) or, if less, the aggregate unpaid principal amount hereunder (such amount, the “Principal Sum”) by transfer of immediately available funds to the Holder’s account at such bank in the United States as may be specified in writing by the Holder to the Issuer, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, on September [], 2028 (the “Maturity Date”); and (ii) interest accrued on the outstanding principal amount hereof until payment in full hereof has been made.

1. Interest.

(a) This note (the “Note”) shall bear interest on the unpaid principal amount hereof from and including the date issued to the date this Note is paid in full in a cash in accordance with the terms hereof (whether upon final maturity, by prepayment, acceleration or otherwise) at the rate of 5.00% per annum. Interest shall be payable (a) quarterly in arrears on the last day of September, December, March and June of each year (each such date an “Interest Payment Date”), commencing on the first such date occurring after the date of issuance of this Note, (b) upon any prepayment with respect to this Note (to the extent accrued on the amount being prepaid) and (c) on the Maturity Date (or such other time as this Note becomes due and payable, whether by acceleration or otherwise); *provided* that payment due on each Interest Payment Date pursuant to the foregoing clause (a) shall be paid-in-kind (and not in cash) and added to the then outstanding principal amount of this Note Interest on this Note will be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

(b) For the avoidance of doubt, any payment of accrued but unpaid interest at the maturity of this Note (or at such other time as payment of the principal amount of this Note

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or any portion hereof is due (as a result of prepayment, acceleration or otherwise)) shall be made entirely and exclusively in cash.

(c) Notwithstanding the foregoing, if at any time the interest rate applicable to this Note, together with all fees, charges and other amounts that are treated as interest on this Note under any applicable Requirement of Law, shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Holder in accordance with such applicable Requirement of Law, then the rate of interest payable in respect of this Note, together with all such charges payable in respect hereof, shall be limited to the Maximum Rate.

2. Certain Defined Terms. The following terms have the meanings specified herein:

"Change of Control" means if a "Change of Control" or other similar event shall occur, as defined in, or under, the Senior Financing Agreement.

"Excluded Taxes" means, with respect to Holder or any other recipient of any payment to be made by or on account of any obligation of the Issuer hereunder, (a) income or franchise Taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of Holder, in which its applicable lending office is located, (b) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction in which the Issuer is located, (c) any Taxes attributable to Holder's failure to comply with Section 8(f), (d) any withholding Taxes imposed under the Foreign Account Tax Compliance Act (FATCA) or any rules or regulations promulgated thereunder, and (e) any withholding Taxes that arise due to a transfer of this Note.

"Governmental Authority" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority thereof exercising executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Indemnified Taxes" means Taxes (including Other Taxes), other than those that are Excluded Taxes.

"Loan Documents" means this Note, and all documents delivered to the Holder in connection with any of the foregoing.

"Other Taxes" means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any

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payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Note.

“Payment in Full” or “Paid in Full” means the date on which (i) all commitments under the Senior Loan Documents have been terminated, (ii) all Senior Obligations have been paid and satisfied in full in cash (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), and (iii) there shall have been deposited cash collateral with respect to all contingent Senior Indebtedness (or other collateral support) in an amount sufficient to the Senior Agent.

“Reorganization” means any voluntary or involuntary dissolution, winding-up, liquidation, reorganization by judicial proceedings, bankruptcy, insolvency, receivership or other statutory or common law proceedings, including any proceeding under the federal bankruptcy code or any similar law or any other jurisdiction, involving the Issuer or any of its Subsidiaries or any of their respective properties or assets and the readjustment of the respective liabilities of the Issuer or any such other person or any assignment for the benefit of creditors or any marshaling of the assets or liabilities of the Issuer or any such other person.

“Requirement of Law” means, with respect to any person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and 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.

“Senior Agent” means Blue Torch Finance LLC.

“Senior Default” or “Event of Default” means the occurrence and continuance of “default” or “event of default” as defined in the Senior Financing Agreement.

“Senior Obligations” means the “Obligations” as defined in the Senior Financing Agreement.

“Senior Financing Agreement” means that certain Financing Agreement, dated as of the date hereof by and among, Issuer, Blue Torch Finance LLC and the other parties from time to time there, as such agreement is amended, restated, amended and restated or otherwise modified from time to time.

“Senior Financing Document” means any of the Loan Documents (as defined in the Senior Financing Agreement), in any case, as amended, modified, restated, refinanced or replaced from time to time. “Subsidiaries” means, with respect to any person, any corporation, partnership, joint venture, limited liability company, association

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or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than 50% of the voting stock is, at the time, owned or controlled directly or indirectly by, such person or one or more Subsidiaries of such person.

“Subordinated Obligations” has the meaning set forth in Section 6 hereof.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

3. Security. This Subordinated Note and the obligations hereunder shall remain unsecured.

4. Events of Default.

(a) Event of Default Defined; Acceleration of Maturity; No Waiver of Default. In case one or more of the following events (each, an “Event of Default”) (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by any Requirement of Law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any Governmental Authority) shall have occurred and be continuing:

(i) failure on the part of the Issuer to pay all or any part of the unpaid principal or accrued but unpaid interest on this Note as and when the same shall become due and payable in accordance with the terms of this Note; or

(ii) the Issuer shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or a substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing; or

(iii) (A) an involuntary case or other proceeding shall be commenced against the Issuer seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or (B) an order for relief shall be entered against the Issuer under the federal bankruptcy laws as now or hereafter in effect; or

(iv) there shall be a default or event of default in respect of (i) the Senior Financing Agreement and ~~any lender or~~the agent thereunder has accelerated the Senior Obligations (or the Senior Obligations have automatically or otherwise become

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accelerated or due in full) pursuant to the terms of the Senior Financing Agreement or (ii) any other debt (other than the Senior Obligations) of the Issuer having an outstanding principal amount in excess of \$15,000,000 that results from ~~(A) the failure of the Issuer to make any payment beyond the applicable grace period, if any, in respect of any such debt or (B) the occurrence or existence of any other~~ event (after giving effect to any grace or cure period) which (1) ~~permits the acceleration of the maturity or (2) requires the redemption by an obligor, or requires an offer to purchase by an obligor, in each case, of any such debt, whether such debt now exists or shall hereafter be created, and whether or not such default (or other event) results in~~ results in the acceleration of the maturity of such debt; or

~~(v) a final non-appealable judgment shall be rendered against the Issuer by a court of competent jurisdiction and shall (A) remain undischarged for a period (during which execution shall not be effectively stayed) of 90 days after such judgment becomes final and (B) at any one time and after giving effect to any grace or cure period applicable thereto, be for the payment of money that is recourse to the Issuer or any of its assets and exceeds \$15,000,000 (to the extent not paid or covered by insurance or indemnities as to which the insurer or indemnifying party has been notified of such judgment and the applicable insurer or indemnifying party has not denied or failed to acknowledge coverage); or~~

(v) ~~(vi)~~ a Change of Control occurs;

then, (1) if such event is an Event of Default specified in clause (ii) or clause (iii) of this Section 4, the entire principal amount of, interest on and all other amounts payable with respect to this Note and the Loan Documents shall automatically become immediately due and payable together with interest accrued thereon, without any requirement of presentment, demand, protest or notice of any kind, all of which are hereby waived, and (2) if such event is not an Event of Default specified in clauses (ii) or (iii) of this Section 4 (as a result of which this Notes has already been accelerated), the Holder may at its option at any time declare the entire principal amount of, interest on and all other amounts payable with respect to this Note and the Loan Documents to be immediately due and payable together with interest accrued thereon, without any requirement of presentment, demand, protest or notice of any kind, all of which are hereby waived. If any Event of Default shall occur, the Holder may ~~not~~ proceed ~~with any action to protect and enforce its rights and remedies under this the Note until the Senior Obligations are paid in full in cash.~~ by exercising such rights and remedies as are available to the Holder in respect hereof under all applicable law, either by suit in equity or by action at law, or both, whether for specific performance or otherwise.

(b) Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default. No right or remedy herein or in any other Loan Document conferred upon or reserved to the Holder is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or under the other Loan Documents or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or

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otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Holder to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and every power and remedy given by this Note, the other Loan Documents or by law may be exercised from time to time, and as often as shall be deemed expedient, by the Holder.

5. Prepayment and Payment of Note.

(a) So long as the Senior Loan Obligations have been paid in full, the Issuer may prepay any or all of the principal amount of this Note without penalty or premium.

(b) Notwithstanding clause (a) above or Section 6 below, the Issuer may prepay all (but not less than) all of the principal amount of this Note on a date (the “Prepayment Date”) on or prior to the two year anniversary of the Issuance Date by payment, entirely in cash, of 80% of (i) the original face principal amount (as opposed to accreted principal amount) plus (ii) the amount of interest accrued and paid in kind hereon as of such Prepayment Date, plus (iii) any and all accrued and unpaid interest thereon through such Prepayment Date (the “Prepayment Discount”). For the avoidance of doubt, upon payment of an amount equal to the Prepayment Discount, all Subordinated Obligations hereunder shall be immediately and automatically cancelled and the Issuer shall no longer have any obligations to the Holder hereunder.

(c) The entire outstanding principal amount of this Note, and all accrued and unpaid interest hereon, are due and payable in cash on the Maturity Date. No later than the Maturity Date, the Issuer shall have paid in cash in full any and all amounts due and owing hereunder.

6. Subordination.

(i) In the event that any Holder obtains any liens or security interests securing the Subordinated Obligations, (i) Senior Agent shall be deemed authorized by the Holder to file UCC termination statements necessary to terminate such liens and security interests and (ii) the Holder shall promptly execute and deliver to Senior Agent such releases and terminations as Senior Agent shall reasonably request to effect the release of such liens, and security interests.

(ii) Notwithstanding any provision herein to the contrary, but subject to Section 5(b), no cash payment shall be made or permitted or required to be made under this Note prior to the Maturity Date and the payment of any amount hereunder (a “**Subordinated Obligation**”) is and shall be expressly subordinated and junior in right of payment to the prior Payment in Full of all Senior Obligations. The parties hereto acknowledge and agree that each of the Senior Agent and each Senior Lender shall be entitled to rely on, and shall be deemed to have incurred Senior Obligations in reliance upon, the agreements set forth in this Section 6.

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(iii) For the avoidance of doubt, Issuer's failure to make any payment of a Subordinated Obligation to any Holder entitled thereto on account of it not being permitted under this Section 6 ~~does not~~shall constitute a default hereunder..

(iv) In the event of any Reorganization, all Senior Obligations shall first be Paid in Full before any payment or distribution is made on account of any Subordinated Obligation. Prior to such Payment in Full of the Senior Obligations, in any proceedings seeking to effect a Reorganization, any payment or distribution of any kind or character which may be payable or deliverable in respect of any Subordinated Obligation shall be paid or delivered (in the form received duly endorsed to the Senior Agent) directly to the Senior Agent for application to payment of the Senior Obligations, until all Senior Obligations shall have been Paid in Full.

(v) If any Subordinated Obligation is then outstanding, then in any proceedings with respect to any Reorganization prior to the Payment in Full of all Senior Obligations, each Holder, by its acceptance hereof, irrevocably authorizes the Senior Agent, in its sole discretion:

(A) to prove and enforce any claims on the Subordinated Obligations owed by Issuer to Holder either in the name of the Senior Agent or in the name of Holder as the attorney-in-fact of Holder (including to execute, verify, deliver and file any proofs of claim and/or vote any such claim);

(B) to accept and execute receipts for any payment or distribution made with respect to any such Subordinated Obligations and to apply such payment or distribution to the payment of the Senior Obligations; and

(C) to take any action and to execute any instruments necessary to effectuate the foregoing, either in the name of the Senior Agent or in the name of Holder as the attorney-in-fact of Holder.

(vi) If, notwithstanding the foregoing provisions of this Section 6, any Holder shall receive any payment or distribution from the Issuer or any of its Subsidiaries of any kind or character in contravention of this Section 6, such payment or distribution shall be held in trust by such Holder and promptly paid over to the Senior Agent for application to the payment of Senior Obligations until all such Senior Obligations shall have been Paid in Full.

~~(vii) Notwithstanding any contrary provision set forth herein or otherwise with respect to the Subordinated Obligations, no Subordinated Obligations shall become or be declared to be due and payable prior to the date on which the Senior Obligations becomes or is declared to be due and payable.~~

(vii) ~~(viii)~~ Notwithstanding any provision to the contrary contained herein or otherwise with respect to the Subordinated Obligations, no Holder shall, prior to the earliest to occur of (i) the Payment in Full of all Senior Obligations, (ii) the occurrence of any event of default described in Section 4(ii), Section 4(iii) or Section 4(v) hereof, or (iii) the Maturity Date, without the prior written consent of the Senior Agent, institute or participate in any proceedings to enforce any Subordinated Obligations or exercise any other remedies in respect of the

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Subordinated Obligations (including acceleration of any Subordinated Obligations ~~or~~; commencing, or joining with any other creditor of Issuer and its Subsidiaries in commencing, any proceeding against Issuer or any of its Subsidiaries seeking to effect a Reorganization). In addition, each Holder shall not institute or participate in any proceedings or take any other action challenging the enforceability, validity, security, perfection or priority of the Senior Obligations or any liens or security interests securing the Senior Obligations.

(viii) ~~(ix)~~ Issuer and its Subsidiaries shall not grant, and each Holder shall not demand, accept or receive, (A) any collateral, direct or indirect, for any Subordinated Obligations or (B) any guarantee from any of Issuer's Subsidiaries of any Subordinated Obligations.

(ix) ~~(x)~~ Each Holder represents that the Subordinated Obligations are not subordinated to any obligations other than the Senior Obligations and covenants that it will not subordinate the Subordinated Obligations to any other obligations except with the prior written consent of the Senior Agent.

(x) ~~(xi)~~ If Senior Agent or any Senior Lender is required by reason of a judgment or order of any court or administrative authority having competent jurisdiction to repay any amounts or property received by Senior Agent or any Senior Lender on account of the Senior Obligations, and Senior Agent or such Senior Lender repays or returns such amounts or property, then the subordination provisions of this Section 6 shall be reinstated retroactively with respect to the amounts so repaid or property so returned as if such amounts or property had never been received by Senior Agent or such Senior Lender, notwithstanding any termination thereof or the cancellation of any Senior Financing Documents.

(xi) ~~(xii)~~ Each Holder, by its acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein by each holder of Senior Obligations, whether now outstanding or hereafter created, incurred or assumed, and waives reliance by each such holder of Senior Obligations upon such provisions.

(xii) ~~(xiii)~~ Senior Agent and the Senior Lenders may at any time, and from time to time, in their absolute discretion, without adversely affecting the subordination provisions of this Section 6 or their rights hereunder, increase the commitments or loans under the Senior Financing Agreement, change the manner, place or terms of payment of, change or extend the time of payment of, or renew or alter, any Senior Obligations, or amend, supplement or otherwise modify any Senior Financing Document or other document evidencing Senior Obligations, or exercise or refrain from exercising any other or their rights or remedies under the Senior Obligations, including, without limitation, the waiver of any Senior Default or Event of Default or any other default or event of default thereunder, all without notice to or assent from Holder.

(xiii) ~~(xiv)~~ No right of any present or future holder of Senior Obligations to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of Issuer or its Subsidiaries or Holder or by any act or failure to act by any such holder of Senior Obligations, or by any noncompliance by Issuer or its Subsidiaries or Holder with the terms, provisions and covenants hereof, regardless of any

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knowledge thereof with which any such holder of Senior Obligations may have or otherwise be charged.

(xiv) ~~(xv)~~ Each of the Issuer and Holder, by its respective acceptance hereof, covenants to execute and deliver to the Senior Agent such further instruments and to take such further action as the Senior Agent may at any time or times reasonably request in order to carry out the provisions and intent of this Section 6.

7. Modification of Note, Etc.

(a) This Note may only be modified by the written consent of the Issuer and the Holder.

(b) Notwithstanding anything to the contrary, the parties hereto agree that (i) the holders of Senior Obligations are express third-party beneficiaries of, and may enforce, the provisions of Section 6, Section 10, Section 11 and this Section 7 of this Note that are in their favor (the "Subordination Terms"), and (ii) the Subordination Terms cannot be amended without the prior written consent of the Senior Agent.

8. Taxes.

(a) Any and all payments on this Note by or on account of any obligation of the Issuer hereunder and under any other Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes; provided that if the Issuer shall be required to deduct any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Holder receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Issuer shall make such deductions and (iii) the Issuer shall pay the full amount deducted to the relevant Governmental Authority in accordance with any Requirement of Law.

(b) In addition, the Issuer shall pay any Other Taxes pursuant to any Requirement of Law to the relevant Governmental Authority in accordance with any Requirement of Law.

(c) The Issuer shall indemnify Holder, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes paid by Holder on or with respect to any payment on this Note by or on account of any obligation of the Issuer hereunder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability paid or incurred by a Holder and delivered to the Issuer by Holder shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes by the Issuer to a Governmental Authority, the Issuer shall deliver to Holder the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the

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return reporting such payment or other evidence of such payment reasonably satisfactory to Holder.

(e) ~~Except as otherwise provided in Section 5(d), if~~ Holder actually receives or realizes any refund of tax, any reduction of, or credit against, its tax liabilities or otherwise recovers any amount in connection with any deduction or withholding, or payment of any additional amount (including any Indemnified Taxes), by the Issuer pursuant to this Section 8, Holder shall reimburse the Issuer an amount equal to the net benefit (after tax, and net of all reasonable expenses incurred by such Holder in connection with such refund) actually obtained by Holder as a consequence of such refund, reduction, credit or recovery; provided, that nothing in this subsection (e) shall require Holder to make available its tax returns (or any other information relating to its taxes which it deems to be confidential). The Issuer shall return such amount to Holder in the event that Holder is required to repay such refund of tax or is not entitled to such reduction of, or credit against, its tax liabilities.

(f) Holder shall deliver to the Issuer a valid and duly executed IRS Form W-9, or any successor thereto, (i) promptly upon reasonable demand by the Issuer; and (ii) promptly upon learning that any such tax form previously provided has become invalid, obsolete, or incorrect. Additionally, Holder shall, promptly upon reasonable request by the Issuer, provide any necessary tax forms reasonably requested by the Issuer which the Issuer is required to have on file by a Government Authority or is otherwise required by Issuer to determine the Issuer's tax liabilities.

9. No Right of Setoff. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever.

10. Entire Agreement. This Note and the other Loan Documents constitute the entire agreement and supersede all prior agreements, negotiations, arrangements and understandings, both written and oral, among the parties hereto with respect to the subject matter hereof and thereof.

11. Miscellaneous. This Note and the rights of the parties hereto shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that State. The parties hereto, including all endorsers hereof, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Note, except as specifically provided herein, and assent to extensions of the time of payment, or forbearance or other indulgence without notice. Any judicial proceeding brought against the Issuer or the Holder with respect to this Note may be brought in any federal or state court of competent jurisdiction sitting in the Borough of Manhattan, New York, New York. Each of the Issuer and each Holder irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. Each of the Issuer and the Holder hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Note.

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12. Transfer and Assignments. In the event that any Holder seeks to transfer, assign, grant participation rights or otherwise convey this Note and the rights granted herein (each, a “Transfer”) to another party, prior to such Transfer, such Holder shall offer Issuer the right to purchase this Note at the same price and under the same terms and conditions as the prospective transferee for a period of no less than five (5) business days before consummating such Transfer with a third-party (the “Election Date”). If Issuer elects to consummate a Transfer on or prior to the Election Date, Issuer and Holder shall consummate such Transfer within five (5) business days following the Election Date on the same terms and conditions offered to the prospective transferee. Subject to terms of this Section 12, each Holder may, with the written consent of the Issuer, Transfer all or a portion of its rights and obligations under this Agreement with respect to this Note; provided that under this Section 12 consent of the Issuer shall not be required if an Event of Default pursuant to Section 4 has occurred and is continuing. Consent of Issuer shall be deemed given after ten (10) business days following notice of such Transfer by the Holder and a failure by the Issuer to provide written notice objecting to such Transfer. For the avoidance of doubt, if the Issuer does not respond to Holder prior to the Election Date or the Issuer declines the Transfer, Holder shall have the ability to consummate the Transfer with a third party within twenty (20) business days following the Election Date.

[Remainder of page left intentionally blank]

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IN WITNESS WHEREOF, the Issuer and Holder has caused this instrument to be duly executed as of the date of issuance set forth above.

[ISSUER]

By: _____

Name:

Title:

[Holder]

By: _____

Name:

Title:

Exhibit H

(I) THE IDENTITY OF THE PLAN ADMINISTRATOR AND (II) THE PLAN ADMINISTRATOR AGREEMENT

(I) Matthew Henry of Alvarez & Marsal North America, LLC

(II) Attached

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PLAN ADMINISTRATOR AGREEMENT

This PLAN ADMINISTRATOR AGREEMENT (this “Agreement”), dated as of October [●], 2023, by and among (a) PGX Holdings, Inc., on behalf of itself and its Debtor affiliates (collectively, the “Debtors”) and (b) Alvarez & Marsal North America, LLC (“A&M”), which shall provide certain Plan administration services and make available Matthew Henry, to serve as (and who is deemed designated) the “Plan Administrator” under, as defined in, and for all purposes of the Plan, until the Plan Administrator ceases to be the “Plan Administrator” hereunder (the “Plan Administrator,” and with the Debtors, the “Parties”), sets forth the terms and conditions under which the Plan Administrator shall effectuate the wind down, dissolution, and liquidation of the Debtors’ Estates and to implement the terms and distributions under the *Second Amended Joint Chapter 11 Plan of PGX Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. ●] (as may be amended from time to time and including all supplements thereto, the “Plan”).¹

1. Appointment. Effective as of the Confirmation Date, the Plan Administrator is appointed to act as the Plan Administrator under the Plan to implement the Plan and wind down the business and affairs of the Debtors, subject to the terms and conditions set forth in this Agreement, the Plan, and the Confirmation Order. The Debtors and the Plan Administrator acknowledge that the Plan Administrator shall be a fiduciary for the Debtors’ Estates. The Plan Administrator, as Plan Administrator for all purposes of the Plan, shall act for the Debtors in the same fiduciary capacity as applicable to a board of managers, directors, officers, general partner, or other governing body (each, a “Governing Body”), subject to the provisions of the Plan (and all certificates of formation, membership agreements, partnership agreements, and related documents are deemed amended by the Plan to permit and authorize the same) and, on the Confirmation Date, shall succeed to the powers of the Debtors’ Governing Bodies. The Plan Administrator shall be deemed a “representative” of the Debtors’ Estates as contemplated by section 1123(b)(3)(B) of the Bankruptcy Code and appointed to enforce, in its reasonable business judgment, all claims, interests, or Retained Causes of Action held by the Debtors’ Estates on and after the Effective Date, unless any Retained Cause of Action against an Entity is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Final Order, *provided* that the Debtors, in consultation with the Plan Administrator after the Effective Date, may prosecute any such Retained Cause of Action against any party only in connection with their objection (or counterclaim) to and resolution of any Claim asserted by such party, and *provided further* that, for the avoidance of doubt, Retained Causes of Action shall not include those causes of action transferred to Purchaser pursuant to the Asset Purchase Agreements. The Plan Administrator shall be appointed the exclusive trustee of the Wind-Down Debtor Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3). The Plan Administrator is hereby appointed to make (or cause) any disbursements under the Plan on and after the Effective Date, subject to the terms and conditions set forth in this Agreement, the Plan, and the Confirmation Order. From and after the Confirmation Date, the Debtors’ Estates shall be managed and administered through the Plan Administrator as Plan Administrator for all purposes of the Plan, who shall have full authority to administer the provisions of the Plan subject to the terms and conditions of this Agreement, the Plan, and the Confirmation Order. To the extent necessary, on

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan.

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and after the Confirmation Date, the Plan Administrator shall be deemed to be a judicial substitute for the applicable Debtors as the party in interest in the Chapter 11 Cases, under the Plan, or in any judicial proceeding or appeal to which any of the Debtors is a Party. For the avoidance of doubt, the foregoing shall not limit the authority of the Plan Administrator to continue the employment of any former manager or officer, pursuant to any transition services agreement entered into on or after the Effective Date, by and between the Debtors and the Purchaser.

2. Scope of Services. The Plan Administrator is to provide post-Confirmation Date administration, wind down, dissolution, and liquidation services that are necessary, required, desirable, or advisable to effectuate the Wind Down and to make certain distributions under the Plan. Without limiting the provisions of the Plan applicable to the Plan Administrator, the Plan Administrator will perform the following services for the Debtors' Estates (as such services may be further described in the Plan and/or Confirmation Order, together with any other or additional tasks required to be performed by the Plan Administrator as described in the Plan and/or the Confirmation Order):

(a) oversee the maintenance of the books, records, and accounts of the Debtors' Estates and the wind down and dissolution of the Debtors (or Wind-Down Debtors) after the Effective Date;

(b) be responsible for the ongoing administration of the Chapter 11 Cases;

(c) be responsible for all actions related to the closing of the Chapter 11 Cases;

(d) pursue the Retained Causes of Action in an efficacious manner and only to the extent the benefits of such enforcement or prosecution are reasonably believed to outweigh the costs associated therewith, subject to the terms and conditions set forth in this Agreement, the Plan, and the Confirmation Order;

(e) in connection with making (or causing to be made) any distributions under the Plan, comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority;

(f) liquidate, receive, hold, invest, supervise, and protect the Wind-Down Debtor Assets in accordance with the Wind-Down Budget;

(g) take all steps to execute all instruments and documents necessary to effectuate the distributions to be made under the Plan in accordance with the Wind-Down Budget;

(h) make (or cause to be made) distributions as contemplated under the Plan;

(i) establish and maintain bank accounts in the name of the Wind-Down Debtor Debtors;

(j) subject to the terms set forth in the Plan, employ, retain, terminate, or replace professionals to represent it with respect to its responsibilities or otherwise effectuate the Plan to the extent necessary; *provided* that the Plan Administrator shall be permitted to pay such professionals in the ordinary course of business and without any further notice to or action, order,

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or approval of the Bankruptcy Court solely from the Wind-Down Debtor Assets and subject to the Wind-Down Budget;

(k) pay all reasonable fees, expenses, debts, charges, and liabilities of the Wind-Down Debtor on and after the Effective Date;

(l) administer and pay taxes of the Debtors and Wind-Down Debtors, including filing tax returns;

(m) represent the interests of the Debtors, Wind-Down Debtor, or the Estates before any taxing authority in all matters, including any action, suit, proceeding, or audit;

(n) oversee all other tax compliance matters, such as the filing of tax returns, payment of taxes, and pursuing tax refunds as necessary;

(o) make all necessary filings in accordance with any applicable law, statute, or regulation;

(p) prepare and file quarterly reports and other filings with the Bankruptcy Court; and

(q) exercise such other powers as may be vested in it pursuant to an order of the Bankruptcy Court or pursuant to the Plan, or as it reasonably deems to be necessary and proper to carry out the provisions of the Plan, in each case of the forgoing clauses, strictly in accordance with the Wind-Down Budget.

3. Timing and Fees.

(a) The Plan Administrator will commence its responsibilities as the Plan Administrator for all purposes on the Confirmation Date.

(b) The Plan Administrator shall be compensated for their services out of the Wind-Down Budget and Wind-Down Debtor Assets.

(c) Any professionals retained by the Plan Administrator pursuant to the terms of this Agreement shall be paid as set forth in the applicable professional's engagement letter, which shall be payable from the Wind-Down Debtor Assets, subject to the Wind-Down Budget, in accordance with the terms of this Agreement, the Plan, and the Confirmation Order.

4. Relationship of the Parties. The Parties intend that an independent contractor relationship shall be created by this Agreement. The Plan Administrator shall not be entitled to receive from the Debtors or its Estates any vacation pay, sick leave, retirement, pension or social security benefits, workers' compensation, disability, unemployment insurance benefits, or any other employee benefits.

5. Confidentiality. The Plan Administrator shall treat confidentially all information not publicly available that is received by the Plan Administrator in connection with this engagement

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or that is developed during this engagement, and the Plan Administrator shall not disclose such information except as required by a court order or other legal process.

6. Exculpation; Indemnification; Insurance; Liability Limitation. On and after the Confirmation Date, the Plan Administrator and all professionals retained by the Plan Administrator, each in their capacities as such, shall be deemed exculpated and indemnified, except for fraud, willful misconduct, or gross negligence, in all respects by the Debtors. The Plan Administrator may obtain, at the expense of the Debtors and Wind-Down Debtors, but solely from the Wind-Down Debtor Assets and pursuant to the Wind-Down Budget, commercially reasonable liability or other appropriate insurance with respect to the indemnification obligations of the Debtors. The Plan Administrator may rely upon written information previously generated by the Debtors. For the avoidance of doubt, notwithstanding anything to the contrary contained herein, the Plan Administrator, in its capacity as such, shall have no liability whatsoever to any party for the liabilities and/or obligations, however created, whether direct or indirect, in tort, contract, or otherwise, of the Debtors.

7. Relationship to the Plan. The principal purpose of this Agreement is to aid in the implementation of the Plan and, therefore, this Agreement incorporates and is, in all respects, subject to the provisions of the Plan and the Confirmation Order. In the event that any provision of this Agreement is found to be inconsistent with a provision of the Plan or the Confirmation Order, the provisions of the Plan or the Confirmation Order, as applicable, shall control.

8. Retention of Jurisdiction. Notwithstanding the occurrence of the Effective Date, and to the fullest extent permitted by law, the Bankruptcy Court shall retain exclusive jurisdiction over the Debtors after the Effective Date, including, without limitation, jurisdiction to resolve any and all controversies, suits, and issues that may arise in connection therewith, including, without limitation, this Agreement, or any entity's obligations incurred in connection herewith, including, without limitation, any action against the Plan Administrator or any professional retained by the Plan Administrator, in each case in its capacity as such. Each party to this Agreement hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court in any action to enforce, interpret, and/or construe any provision of this Agreement or of any other agreement or document delivered in connection with this Agreement and also hereby irrevocably waives any defense of improper venue, forum *non conveniens*, or lack of personal jurisdiction to any such action brought in the Bankruptcy Court. Each party further irrevocably agrees that any action to enforce, interpret, or construe any provision of this Agreement will be brought only in the Bankruptcy Court. Each party hereby irrevocably consents to the service by certified or registered mail, return receipt requested, of any process in any action to enforce, interpret, or construe any provision of this Agreement.

9. Termination; Effect of Termination. The Plan Administrator may resign at any time upon 30-days' written notice delivered to the Bankruptcy Court; *provided* that such resignation shall only become effective upon the appointment of a permanent or interim successor Plan Administrator in accordance with this Agreement. Upon its appointment, the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor (as set forth in this Agreement), and all

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responsibilities of the predecessor Plan Administrator relating to the Debtors in this Agreement shall be terminated.

(a) This Agreement may be terminated for cause shown pursuant to a Final Order entered by the Bankruptcy Court after notice and a hearing; *provided* that, in the event that this Agreement is terminated before its automatic termination as provided herein, the Debtors shall appoint a successor Plan Administrator to fill the vacancy left by the termination of this Agreement.

(b) Upon termination of this Agreement or resignation of the Plan Administrator, the Plan Administrator shall be entitled to all fees and expenses accrued to that date pursuant to this Agreement, including any travel or related expenses incurred in returning from the location of the services being provided under this Agreement, prior to the termination date or resignation date.

10. Effectiveness. This Agreement shall be effective upon the Confirmation Date.

11. Notice. All invoices, notices, requests, demands, and other communications permitted or required to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed conclusively to have been given: (a) when personally delivered; (b) when sent by facsimile (with hard copy to follow) during a Business Day (or on the next Business Day if sent after the close of normal business hours or on any non-Business Day); (c) when sent by electronic mail (with hard copy to follow) during a Business Day (or on the next Business Day if sent after the close of normal business hours or on any non-Business Day); (d) one (1) Business Day after being sent by reputable overnight express courier (charges prepaid); or (e) three (3) Business Days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless another address is specified in writing, notices, requests, demands, and communications to the Parties hereto shall be sent to the addresses indicated below:

(a) if to the Debtors, to:

PGX Holdings, Inc.
257 East 200 South, Suite 1200
Salt Lake City, Utah 84111
Attention: Chad Wallace
Email address: cwallace@progrexion.com

with copies to:

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Facsimile: (312) 862-2000
Attention: Spencer Winters
Alison J. Wirtz
E-mail address: spencer.winters@kirkland.com
alison.wirtz@kirkland.com

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-and-

Klehr Harrison Harvey Branzburg LLP
919 N. Market, Suite 1400
Wilmington, Delaware 19801
Attention: Domenic E. Pacitti
Michael W. Yurkewicz
E-mail addresses: dpacitti@klehr.com
myurkewicz@klehr.com

(b) if to the Plan Administrator, to:

Alvarez & Marsal North America, LLC
600 Madison Avenue
New York, NY 10022
Attention: Matthew Henry
E-mail address: mhenry@alvarezandmarsal.com

12. Miscellaneous.

(a) Sections 5, 6, and all other provisions necessary to the enforcement of the intent of this Agreement will survive the termination or expiration of this Agreement.

(b) If any portion of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall be valid and enforceable to the maximum extent provided by applicable law.

(c) Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any of the Parties (whether by operation of law or otherwise) without the prior written consent of the other Party.

(d) This Agreement is governed by and shall be construed in accordance with the laws of the State of Delaware without regard to choice of law or principles thereof. In any court proceeding arising out of or related to this Agreement, each of the Parties hereby waive any right to trial by jury. Each of the Parties hereby submits to the exclusive jurisdiction of the Bankruptcy Court for purposes of any proceeding arising from or related to this Agreement, and each of the Parties agrees not to commence any action, suit, or proceedings relating thereto except in the Bankruptcy Court.

(e) This Agreement, the Plan, and the Confirmation Order encompass all of the terms and conditions between the Debtors and the Plan Administrator concerning the subject matter hereof. This Agreement may not be amended or modified in any respect except in a writing signed by each of the Parties.

(f) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same Agreement.

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A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission (.pdf) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGES FOLLOW]

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THE DEBTORS:

PGX Holdings, Inc. on behalf of itself and its
Debtor affiliates

By: _____

Name: Chad Wallace

Title: Chief Executive Officer

Signature Page to Plan Administrator Agreement

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THE PLAN ADMINISTRATOR:

Alvarez & Marsal North America, LLC

By: _____

Name:

Title:

Signature Page to Plan Administrator Agreement