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*Co-Counsel to the Debtors and
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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

THRASIO HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11840 (CMG)

(Jointly Administered)

NOTICE OF FILING OF SECOND AMENDED PLAN SUPPLEMENT

PLEASE TAKE NOTICE THAT on April 18, 2024, the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) entered an order [Docket No. 399] (the “Disclosure Statement Order”): (a) authorizing Thrasio Holdings, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”), to solicit acceptances for the *Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 398] (as modified, amended, or supplemented from time to time, the “Plan”);² (b) approving the *Second Amended Disclosure Statement for the Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*

¹ The last four digits of Debtor Thrasio Holdings, Inc.’s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ Claims, Noticing, and Solicitation Agent at <https://www.kcellc.net/Thrasio>. The Debtors’ service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.

² Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Plan or the Disclosure Statement, as applicable.



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[Docket No. 397] (as modified, amended, or supplemented from time to time, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages (the “Solicitation Packages”); and (d) approving procedures for soliciting, noticing, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

PLEASE TAKE FURTHER NOTICE THAT, on May 23, 2024, the Debtors filed the *Notice of Filing of Plan Supplement* [Docket No. 806] (the “Initial Plan Supplement”) in support of the Plan.

PLEASE TAKE FURTHER NOTICE THAT, on May 31, 2024, the Debtors filed the *Notice of Filing of Settlement Term Sheet as Exhibit H to the Plan Supplement* [Docket Not 818] in support of the Plan.

PLEASE TAKE FURTHER NOTICE THAT, on June 4, 2024, the Debtors filed the *Notice of Filing First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1067].

PLEASE TAKE FURTHER NOTICE THAT, on June 7, 2024, the Debtors filed the *Notice of Filing First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)* [Docket No. 1102].

PLEASE TAKE FURTHER NOTICE THAT, on June 8, 2024, the Debtors filed the *Notice of Filing of First Amended Plan Supplement* [Docket No. 806] (the “First Amended Plan Supplement”) in support of the Plan.

PLEASE TAKE FURTHER NOTICE THAT, on June 10, 2024, the Debtors filed the *Notice of Filing First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1103].

PLEASE TAKE FURTHER NOTICE THAT, on June 13, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtors Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1124].

PLEASE TAKE FURTHER NOTICE THAT, on June 13, 2024, the Debtors filed the *Notice of Filing First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications)* [Docket No. 1125].

PLEASE TAKE FURTHER NOTICE THAT the Debtors hereby file this amended plan supplement (the “Second Amended Plan Supplement”), in support of the Plan and as contemplated by the Plan.

PLEASE TAKE FURTHER NOTICE THAT as contemplated by the Plan, the Second Amended Plan Supplement includes the following documents:

<u>Exhibit</u>	<u>Description</u>
Exhibit C	Revised Restructuring Transactions Memorandum
Exhibit C-1	(Redline to Previous) Restructuring Transactions Memorandum
Exhibit J	Revised Thrasio Legacy Trust Agreement
Exhibit J-1	(Redline to Previous) Thrasio Legacy Trust Agreement
Exhibit K	Revised Members of the New Board and Officers of the Reorganized Debtors
Exhibit K-1	(Redline to Previous) Members of the New Board and Officers of the Reorganized Debtors
Exhibit L	Exit Facilities Documents
Exhibit M	New Organizational Documents

PLEASE TAKE FURTHER NOTICE that these documents remain subject to continuing negotiations in accordance with the terms of the Plan and the Restructuring Support Agreement and the final versions may contain material differences from the versions filed herewith. For the avoidance of doubt, the parties to the Restructuring Support Agreement have not consented to such documents as being in final form and reserve all rights in that regard. Such parties reserve all of their respective rights with respect to such documents and to amend, modify, or supplement the Plan Supplement and any of the documents contained therein through the Effective Date in accordance with the terms of the Plan and the Restructuring Support Agreement. To the extent material amendments or modifications are made to any of these documents, the Debtors will file a redline version with the Court prior to the hearing to consider confirmation of the Plan.

PLEASE TAKE FURTHER NOTICE that the Plan Supplement is integral to, part of, and incorporated by reference into the Plan. Please note, however, these documents have not yet been approved by the Court. If the Plan is confirmed, the documents contained in the Plan Supplement (including any amendments, modifications, or supplements thereto) will be approved by the Court pursuant to the order confirming the Plan.

PLEASE TAKE FURTHER NOTICE THAT the hearing at which the Bankruptcy Court considered Confirmation of the Plan commenced on **June 10, 2024, at 10:00 a.m. (prevailing Eastern Time)** (the “Confirmation Hearing”) before the Honorable Christine M. Gravelle, United States Bankruptcy Judge, 402 East State Street, Courtroom 3, Trenton, New Jersey 08608.

PLEASE TAKE FURTHER NOTICE THAT the deadline for filing objections to the Plan was **June 5, 2024, at 2:00 p.m. (prevailing Eastern Time)** (the “Plan Objection Deadline”). Any objection to the Plan **must**: (a) be in writing; (b) state with particularity the basis of the objection; and (c) be filed with the Clerk of the Bankruptcy Court electronically by (i) attorneys who regularly practice before the Bankruptcy Court in accordance with the General Order Regarding Electronic Means for Filing, Signing, and Verification of Documents dated March 27, 2002 (the “General Order”) and the Commentary Supplementing Administrative Procedures dated as of March 2004 (the “Supplemental Commentary”) (the General Order, the Supplemental Commentary and the User’s Manual for the Electronic Case Filing System can be found at www.njb.uscourts.gov, the official website for the Bankruptcy Court), and (ii) by all other parties-in-interest, if not otherwise filed with the Clerk of the Bankruptcy Court electronically, via hard copy, and shall be served in accordance with the General Order and the Supplemental Commentary upon the following parties so as to be **actually received** on or before the Plan Objection Deadline:

Co-Counsel to the Debtors	
Kirkland & Ellis LLP 333 West Wolf Point Plaza Chicago, Illinois 60654 Attention: Anup Sathy, P.C. -and- 601 Lexington Avenue New York, New York 10022 Attention: Matthew Fagen, P.C.; Francis Petrie; Evan Swager	Cole Schotz P.C. Court Plaza, 25 Main Street Hackensack, New Jersey 10112 Attention: Michael D. Sirota; Warren A. Usatine; Felice R. Yudkin
Counsel to the Ad Hoc Group	Counsel to the Administrative Agent Under the Revolving Credit Facility
Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, New York 10166 Attention: Scott J. Greenberg; Joe Zujkowski	Simpson Thacher & Bartlett LLP 425 Lexington Avenue New York, New York 10017 Attention: Nicholas Baker; Philip L. DiDonato; Amy W. Zhuo
United States Trustee	Official Committee of Unsecured Creditors
Office of the United States Trustee for the District of New Jersey, Region 3 One Newark Center, Suite 2100 Newark, New Jersey 07102 Attention: Jeffrey M. Sponder; Lauren Bielskie	Morrison & Foerster LLP 250 West 55th Street, New York, New York 10019 Attention: Lorenzo Marinuzzi; Theresa Foudy; Douglas Mannal; Raff Ferraioli; Darren Smolarski -and- Kelley Drye & Warren LLP One Jefferson Road, 2nd Floor, Parsippany, New Jersey 07054 Attention: James S. Carr; Maeghan McLoughlin; Connie Choe

PLEASE TAKE FURTHER NOTICE THAT if you would like to **obtain a copy of the Disclosure Statement, the Plan, or related documents at no additional cost**, you should contact Kurtzman Carson Consultants LLC, the Debtors' claims, noticing, and solicitation agent in the chapter 11 cases (the "**Claims, Noticing, and Solicitation Agent**") by: (a) calling (866) 967-0496 (domestic) or +1(310) 751-2696 (international) and asking for a member of the Solicitation Team; (b) submitting an inquiry to <http://www.kccllc.net/thrasio/inquiry>; (c) writing to Thrasio Ballot Processing Center, c/o KCC 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; or (d) e-mailing thrasioinfo@kccllc.com and referencing "Thrasio" in the subject line. You may also obtain copies of any pleadings filed with the Bankruptcy Court for free by visiting the Debtors' restructuring website, <http://www.kccllc.net/thrasio>, or the Bankruptcy Court's website at <https://www.njb.uscourts.gov> in accordance with the procedures and fees set forth therein.

ARTICLE VIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE VIII.F CONTAINS A THIRD-PARTY RELEASE. THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS WITH RESPECT TO YOUR RIGHTS UNDER THE PLAN OR ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, CONTACT THE CLAIMS, NOTICING, AND SOLICITATION AGENT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE,
PLEASE CALL (866) 967-0496 (DOMESTIC) OR +1 (310) 751-2696 (INTERNATIONAL),
OR SUBMIT AN INQUIRY VIA WWW.KCCLLC.NET/THRASIO/INQUIRY.

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Dated: June 18, 2024

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

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*Co-Counsel to the Debtors and
Debtors in Possession*

Exhibit C

Revised Restructuring Transactions Memorandum

This Restructuring Transactions Memorandum sets forth a summary description of certain of the proposed Restructuring Transactions¹ to be effectuated on the Effective Date in connection with the *Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications)* [Docket No. 1125] (as amended, supplemented or modified from time to time in accordance with its terms, the “Plan”).

The Restructuring Transactions remain under discussion among the Debtors and other parties, and the Debtors and the Consenting Term Lenders reserve the right to modify this Restructuring Transactions Memorandum at any time (including after the Plan Effective Date), and the Restructuring Transactions remain subject to modification, refinement, and change in all respects at any time, subject to the consent rights in the Plan and Restructuring Support Agreement.

On or prior to the Effective Date:

Step 1: Thrasio forms the Thrasio Legacy Trust, a common law trust.

On the Effective Date (unless otherwise specified in the Plan):

Step 2: Thrasio contributes, or causes its subsidiaries to contribute on its behalf, the Thrasio Legacy Trust Assets to the Thrasio Legacy Trust in exchange for 100% of the Thrasio Legacy Trust A Interests and 100% of the Thrasio Legacy Trust B Interests.

Step 3: Thrasio cancels all Series A Redeemable Preferred Stock Interests, Series B Preferred Stock Interests, Series C Preferred Stock Interests, Series D Preferred Stock Interests, Series A Preferred Stock Interests, and Common Stock Interests in accordance with the Plan.

Step 4: Thrasio issues and contributes 100% of the New Common Stock to Thrasio Intermediate Sub, LLC.

Step 5: Thrasio Intermediate Sub, LLC contributes 100% of the New Common Stock to Thrasio, LLC.

Step 6: Thrasio, LLC transfers 100% of the New Common Stock, subject to dilution on account of the (i) DIP Exit Fee, (ii) Backstop Payment, and (iii) Management Incentive Plan, to the Holders of First Lien Claims in accordance with the Plan, collectively, in full and final satisfaction of the First Lien Claims.

Step 7: Thrasio issues 100% of the Thrasio Legacy Trust A Interests to Holders of Allowed First Lien Deficiency Claims and 100% of the Thrasio Legacy Trust B Interests to Holders of Other

¹ Capitalized terms used but not defined herein shall have the definitions set forth in the Plan. In the event of an inconsistency between the Plan and the terms hereof, the terms of the Plan shall control.

General Unsecured Claims in accordance with the Plan, in each case, in full and final satisfaction of the General Unsecured Claims.

Step 8: Holders of Other Secured Claims, at the election of Debtors or Reorganized Debtors: (i) receive payment in full in Cash of the unpaid portion of its Other Secured Claim on the Effective Date or as soon as reasonably practicable thereafter (or if payment is not then due, shall be paid in accordance with its terms); (ii) are Reinstated; or (iii) receive such other recovery necessary to satisfy section 1129 of the Bankruptcy Code, in each case, in full and final satisfaction of the Other Secured Claims.

General Authority With Respect to Intercompany Claims and Other Restructuring Transactions Steps:

At any point following the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as applicable, may, but will not be required to, (i) merge out of existence, liquidate, dissolve, convert into different entity forms, and/or make tax elections with respect to any other direct or indirect subsidiaries of Thrasio; (ii) set off, settle, distribute, contribute, cancel, or release without any distribution with respect to the Intercompany Claims; (iii) cancel, release or reinstate the Intercompany Interests; or (iv) transfer assets, rights, obligations, personnel, and similar items among the Debtors or Reorganized Debtors, as applicable; in each case, in furtherance of the transactions contemplated by the Plan.

Exhibit C-1

(Redline to Previous) Restructuring Transactions Memorandum

Exhibit C

Revised Restructuring Transactions Memorandum

This Restructuring Transactions Memorandum sets forth a summary description of certain of the proposed Restructuring Transactions¹ to be effectuated on the Effective Date in connection with the *Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications)* [Docket No. ~~398~~1125] (as amended, supplemented or modified from time to time in accordance with its terms, the “Plan”).

The Restructuring Transactions remain under discussion among the Debtors and other parties, and the Debtors and the Consenting Term Lenders reserve the right to modify this Restructuring Transactions Memorandum at any time (including after the Plan Effective Date), and the Restructuring Transactions remain subject to modification, refinement, and change in all respects at any time, subject to the consent rights in the Plan and Restructuring Support Agreement.

On or prior to the Effective Date:

Step 1: Thrasio forms the Thrasio Legacy Trust, a common law trust.

On the Effective Date (unless otherwise specified in the Plan):

Step 2: Thrasio contributes, or causes its subsidiaries to contribute on its behalf, the Thrasio Legacy Trust Assets to the Thrasio Legacy Trust in exchange for 100% of the Thrasio Legacy Trust A Interests and 100% of the Thrasio Legacy Trust B Interests.

Step 13: Thrasio cancels all Series A Redeemable Preferred Stock Interests, Series B Preferred Stock Interests, Series C Preferred Stock Interests, Series D Preferred Stock Interests, Series A Preferred Stock Interests, and Common Stock Interests in accordance with the Plan.

Step 24: Thrasio issues and contributes 100% of the New Common Stock to Thrasio Intermediate Sub, LLC.

Step 35: Thrasio Intermediate Sub, LLC contributes 100% of the New Common Stock to Thrasio, LLC.

Step 46: Thrasio, LLC transfers 100% of the New Common Stock, subject to dilution on account of the (i) DIP Exit Fee, (ii) Backstop Payment, and (iii) Management Incentive Plan, to the Holders of First Lien Claims in accordance with the Plan, collectively, in full and final satisfaction of the First Lien Claims.

Step 57: Thrasio issues 100% of the ~~GUC Recovery Pool~~Thrasio Legacy Trust A Interests to Holders of Allowed First Lien Deficiency Claims and 100% of the Thrasio Legacy Trust B

¹ Capitalized terms used but not defined herein shall have the definitions set forth in the Plan. In the event of an inconsistency between the Plan and the terms hereof, the terms of the Plan shall control.

Interests to Holders of Other General Unsecured Claims in accordance with the Plan, ~~collectively~~in each case, in full and final satisfaction of the General Unsecured Claims.

Step 68: Holders of Other Secured Claims, at the election of Debtors or Reorganized Debtors: (i) receive payment in full in Cash of the unpaid portion of its Other Secured Claim on the Effective Date or as soon as reasonably practicable thereafter (or if payment is not then due, shall be paid in accordance with its terms); (ii) are Reinstated; or (iii) receive such other recovery necessary to satisfy section 1129 of the Bankruptcy Code, in each case, in full and final satisfaction of the Other Secured Claims.

General Authority With Respect to Intercompany Claims and Other Restructuring Transactions Steps:

At any point following the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as applicable, may, but will not be required to, (i) merge out of existence, liquidate, dissolve, convert into different entity forms, and/or make tax elections with respect to any other direct or indirect subsidiaries of Thrasio; (ii) set off, settle, distribute, contribute, cancel, or release without any distribution with respect to the Intercompany Claims; (iii) cancel, release or reinstate the Intercompany Interests; or (iv) transfer assets, rights, obligations, personnel, and similar items among the Debtors or Reorganized Debtors, as applicable; in each case, in furtherance of the transactions contemplated by the Plan.

Exhibit J

Revised Thrasio Legacy Trust Agreement

Certain documents, or portions thereof, contained or to be contained in this **Exhibit J** and the Plan Supplement remain subject to continued review and comment by the Debtors and the Required Consenting Lenders in accordance with the consent rights set forth in the Plan and the Restructuring Support Agreement. The respective rights of the Debtors and the Required Consenting Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; *provided* that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

THRASIO LEGACY TRUST AGREEMENT AND DECLARATION OF TRUST

This Thrasio Legacy Trust Agreement and Declaration of Trust (this “Agreement”), dated as of June 18, 2024, is made by and among Thrasio Holdings, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”)¹ in these Chapter 11 Cases (as defined herein) and META Advisors LLC (the “Trustee,” and together with the Debtors, each, a “Party” and collectively, the “Parties”).

RECITALS

1. On February 28, 2024, each of the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”). The Debtors’ chapter 11 cases are being jointly administered under the caption *In re Thrasio Holdings, Inc., et al.*, Case No. 24-11840 (CMG) (Bankr. D.N.J.) (the “Chapter 11 Cases”).

2. On March 12, 2024, the Office of the United States Trustee (the “U.S. Trustee”) appointed the Official Committee of Unsecured Creditors pursuant to section 1102 of the Bankruptcy Code.²

¹ A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Claims, Noticing, and Solicitation Agent at <https://www.kccllc.net/Thrasio>.

² Docket No. 163. The Committee consists of the following seven members: (1) Anthony J. DeCarlo, individually; (2) Cecilio Musical Instruments, Inc.; (3) GXO Logistics Supply Chain, Inc.; (4) Mellow Militia, LLC; (5) The California Beach Co.; (6) Word Ape, LLC f/k/a ChomChom; and (7) YH Goods.

3. On April 18, 2024, the Debtors filed the *Second Amended Disclosure Statement for the Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy*³ and the *Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*.⁴

4. On April 18, 2024, the Bankruptcy Court entered the *Order Approving (I) the Adequacy of the Second Amended Disclosure Statement, (II) the Solicitation and Voting Procedures, (III) the Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* (the “Disclosure Statement Order”).⁵

5. On June 7, 2024, the Debtors filed the *First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)*.⁶

6. On June 13, 2024, the Debtors filed the *First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications)* (as amended or otherwise modified from time to time, the “Plan”).⁷

7. On June 13, 2024, the Bankruptcy Court entered an order (the “Confirmation Order”) confirming the Plan, which will become effective once all conditions set forth in Article IX of the Plan have been satisfied or waived pursuant to the Plan (the “Effective Date”).⁸

³ Docket No. 397.

⁴ Docket No. 398.

⁵ Docket No. 399. All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Disclosure Statement Order, the Plan (as defined herein), or the Confirmation Order (as defined herein), as applicable.

⁶ Docket No. 1102.

⁷ Docket No. 1125.

⁸ Docket No. 1124.

8. Article IV.J of the Plan provides for the creation of the Thrasio Legacy Trust (the “Trust”) on the Effective Date of the Plan.

9. The Trust is established in accordance with Article IV of the Plan for the benefit of holders of Allowed Class 4 First Lien Deficiency Claims and Allowed Class 4 Other General Unsecured Claims entitled to distributions under the Plan (collectively, the “Beneficiaries”).

10. The Trust’s primary purposes are to investigate, prosecute, settle, or abandon the Vested Causes of Action, to review, reconcile, object to and resolve General Unsecured Claims other than First Lien Deficiency Claims, and to make distributions to Beneficiaries, with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the Thrasio Legacy Trust’s liquidating purpose and reasonably necessary to conserve and protect the Vested Causes of Action and provide for the orderly liquidation thereof.

11. Pursuant to the Plan, the Debtors, Reorganized Thrasio, the Trust, the Trustee, and the Beneficiaries shall treat, for all U.S. federal income tax purposes, the transfer of the Trust Assets (as defined herein) to the Trust as a transfer of the Trust Assets by the Debtors to the Beneficiaries in satisfaction of their Allowed Claims, followed by a transfer of the Trust Assets by the Beneficiaries to the Trust in exchange for their respective Thrasio Legacy Trust Interests, and to treat the Beneficiaries as the grantors and owners of the Trust for U.S. federal income tax purposes, except with respect to any DOF (as defined below). The foregoing treatment shall also apply, to the extent permitted by applicable law, for applicable United States state and local income tax purposes.

12. Pursuant to the Plan, the Trust (other than with respect to any DOF or other separate entity) is intended for U.S. federal income tax purposes (a) to be treated as a grantor

trust within the meaning of sections 671-679 of the Tax Code; and (b) to qualify as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d). For the avoidance of doubt, the decision to elect whether or not to have a disputed claim reserve treated as a DOF for tax purposes shall be determined by the Trustee in its sole discretion and nothing in this Agreement or the Plan shall be construed otherwise.

13. In accordance with the Plan, the Trust, or interests in the Trust, is further intended to be exempt from the registration requirements of (a) the federal securities laws, including the Securities Act of 1933, as amended (the “Securities Act”) and the Exchange Act (as defined below), and any applicable state and local laws requiring registration of securities; and (b) the Investment Company Act (as defined below).

NOW, THEREFORE, in accordance with the Plan and the Confirmation Order, and in consideration of the promises, and the mutual covenants and agreements of the Parties contained in the Plan and herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties agree and declare as follows:

DECLARATION OF TRUST

The Debtors and the Trustee enter into this Agreement to effectuate the distribution of the Trust Assets to the Beneficiaries pursuant to the Plan and the Confirmation Order;

Pursuant to Article IV of the Plan and Section 2.3.2 of this Agreement, on the Effective Date, all of the Thrasio Legacy Trust Assets shall automatically be transferred to and vest in the Trust free and clear of all Claims, Liens, Interests, encumbrances, and contractually imposed restrictions except as otherwise provided in the Plan;

TO HAVE AND TO HOLD unto the Trustee and its successors in trust; and

IT IS HEREBY FURTHER COVENANTED AND DECLARED, that the Thrasio Legacy Trust Assets (upon vesting in the Trust, the “Trust Assets”), are to be held by the Trust and applied on behalf of the Trust by the Trustee on the terms and conditions set forth herein and the Plan, solely for the benefit of the Beneficiaries and for no other party.

ARTICLE I

RECITALS, PLAN DEFINITIONS, OTHER DEFINITIONS, INTERPRETATION, AND CONSTRUCTION

1. Recitals. The Recitals are incorporated into and made terms of this Agreement.
2. Definitions. All terms used in this Agreement but not defined herein shall have the meanings set forth in the Plan or Confirmation Order, as applicable, or as otherwise set forth herein.
3. Interpretation; Headings. All references herein to specific provisions of the Plan or Confirmation Order are without exclusion or limitation of other applicable provisions of the Plan or Confirmation Order. Words denoting the singular number shall include the plural number and vice versa, and words denoting one gender shall include the other gender. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the provisions of this Agreement.
4. Construction of Agreement. This Agreement shall not be construed to impair or limit in any way the rights of any Person under the Plan.
5. Conflict Among Plan Documents. In the event of any inconsistency between the Plan, the Confirmation Order, and this Agreement, the Confirmation Order shall control. In the event of an inconsistency between the Plan and this Agreement, the terms of the relevant provision of this Agreement shall control (unless stated otherwise in this Agreement or in the Confirmation Order).

ARTICLE II

ESTABLISHMENT OF TRUST

2.1 Effectiveness of Agreement; Name of Trust. This Agreement shall become effective on the Effective Date, and the Trust shall be officially known as the “Thrasio Legacy Trust.” The Debtors and the Trustee, pursuant to the Plan and in accordance with Bankruptcy Code, hereby create the Trust in furtherance of the settlement set forth in the Plan and the settlement term sheet set forth as Exhibit H to the Plan Supplement (the “Committee Settlement”).⁹

2.2 Purpose of Trust. The Debtors or Reorganized Thrasio, as applicable, and the Trustee, pursuant to the Plan and in accordance with Bankruptcy Code, hereby create the Trust for the primary purposes of investigating, prosecuting, settling, or abandoning the Vested Causes of Action, to review, reconcile, object to and resolve General Unsecured Claims other than First Lien Deficiency Claims, and making distributions to Beneficiaries, with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the Thrasio Legacy Trust’s liquidating purpose and reasonably necessary to conserve and protect the Vested Causes of Action and provide for the orderly liquidation thereof.

2.3 Transfer of Trust Assets.

2.3.1 Conveyance of Trust Assets. Pursuant to the Plan, the Debtors or Reorganized Thrasio, as applicable, hereby grant, release, assign, transfer, convey and deliver, on behalf of the Beneficiaries, all of such Debtors’ rights, title, and interest in and to the Thrasio Legacy Trust Assets to the Trust as of the Effective Date in trust for the benefit of the Beneficiaries, which shall constitute Trust Assets for all purposes and shall be administered and

⁹ Docket No. 818.

applied as specified in this Agreement and the Plan. On the Effective Date, the Debtors or Reorganized Thrasio, as applicable, shall, from time to time as and when reasonably requested by the Trustee, execute and deliver or cause to be executed and delivered all such documents (in recordable form where necessary or appropriate) and such Debtors or Reorganized Thrasio, as applicable, shall take or cause to be taken such further action as the Trustee may reasonably deem necessary or appropriate, to vest or perfect in the Trust or confirm to the Trustee title to and possession of the Trust Assets. The transfer and delivery of the Trust Assets shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax to the maximum extent permitted under section 1146 of the Bankruptcy Code. The Trustee shall have no duty to arrange for any of the transfers contemplated under this Agreement or by the Plan or to ensure their compliance with the terms of the Plan and/or the Confirmation Order, and shall be conclusively entitled to rely on the legality and validity of such transfers.

2.3.2 Title to Trust Assets. Pursuant to the Plan, all of the Debtors' rights, title, and interest in and to the Thrasio Legacy Trust Assets, including all such assets held or controlled by third parties, are hereby transferred to and automatically vested in the Trust on the Effective Date and shall comprise Trust Assets for all purposes, free and clear of all Liens, Claims, encumbrances, Interests, contractually imposed restrictions, and other interests, except as specifically provided in the Plan, and such transfer is on behalf of the Beneficiaries to establish the Trust. The Trust, acting by and through the Trustee, shall be authorized, among other things, to obtain possession or control of, liquidate, and collect all of the Trust Assets in the possession or control of third parties, pursue, settle, and/or sell all Vested Causes of Action (subject to Article VIII hereof), and assert and/or exercise any all rights of setoff and recoupment and defenses of the Debtors or their Estates to any counterclaims that may be asserted by any and

all defendants as to any Vested Causes of Action or Holders of Disputed Other General Unsecured Claims; *provided, however*, that, (i) consistent with Article IV.J.9 of the Plan, the Trust covenants not to pursue any Vested Causes of Action against any Cooperating Party unless or until they become Excluded Parties within the meaning of the Plan (the “Contingent Negative Covenant”), and (ii) consistent with the Plan, the Trust is prohibited from pursuing (a) objections, setoffs, recoupments, against the First Lien Deficiency Claims, and (b) Claims or Causes of Actions against any Released Party under the Plan. Without limiting the generality of the foregoing, the Trust shall have the right to invoke section 542 of the Bankruptcy Code to pursue turnover of Trust Assets. On the Effective Date, the Trust shall be substituted for the Debtors for all purposes with respect to the Trust Assets, reconciliation of Other General Unsecured Claims and administration of all General Unsecured Claims. To the extent any law or regulation prohibits the transfer of ownership of any of the Trust Assets from the Debtors to the Trust and such law is not superseded by the Bankruptcy Code, the Trust’s interest shall be a Lien upon and security interest in such Trust Assets, in trust, nevertheless, for the sole use and purposes set forth in Section 2.2 of this Agreement, and this Agreement shall be deemed a security agreement granting such interest thereon without need to file financing statements or mortgages. By executing this Agreement, the Trustee on behalf of the Trust hereby accepts all of such property as Trust Assets, to be held in trust for the Beneficiaries, subject to the terms of this Agreement and the Plan.

2.4 Capacity of Trust. Notwithstanding any state or federal law to the contrary or anything herein, the Trust shall itself have the capacity, in its own right and name, to act or refrain from acting, including the capacity to sue and be sued and to enter into contracts. The Trust may alone be the named movant, respondent, party plaintiff or defendant, or the like in all

adversary proceedings, contested matters, and other state or federal proceedings brought by or against it, and may settle and compromise all such matters in its own name.

2.5 Cooperation of Reorganized Thrasio.

2.5.1 With respect to the Vested Causes of Action, on or as soon as reasonably practicable following the Effective Date, at the sole cost of Reorganized Thrasio, Reorganized Thrasio and the Committee (prior to the Committee's dissolution on the Effective Date, as applicable) shall: (a) deliver or cause to be delivered to the Trust any and all books and records and all other documents and communications, or copies of the same, related to the Vested Causes of Action; (b) provide reasonable and continuing access to such officers, directors and employees of Reorganized Thrasio and their agents, advisors, attorneys, accountants or any other professionals with knowledge of matters relevant to the Vested Causes of Action (including any former officers, directors, employees, agents, advisors, attorneys, accountants, or other professionals who owe a continuing duty of cooperation to Reorganized Thrasio); and (c) promptly following receipt of a reasonable request from the Trust, use commercially reasonable efforts to (i) take, or cause to be taken, all such reasonable further actions, and execute and/or deliver all such additional instruments, agreements or documents, as the Trust may request in order to evidence or effectuate the transfer of the Vested Causes of Action and the Privileges (defined below) to the Trust and the consummation of the transactions contemplated hereby and by the Plan and to otherwise carry out the intent of this Agreement, the Committee Settlement, and under the Plan, and (ii) cooperate with the Trust in the prosecution of the Vested Causes of Action and with the Trustee in fulfilling its duties and obligations under this Agreement and the Plan.

2.5.2 Reorganized Thrasio shall use commercially reasonable efforts to

cooperate with the Trust and Trustee and their professionals in reconciling Other General Unsecured Claims and administering all General Unsecured Claims. Such cooperation shall include, but not be limited to, reasonably attempting to identify and facilitate access (a) to any evidence and information the Trustee requests in connection with the Trust's review, reconciliation, allowance or objections to Disputed Other General Unsecured Claims, to the extent Reorganized Thrasio has such evidence and/or information; and (b) through the Company Representative (defined below), to former employees and Professionals of the Debtors and current officers and directors of Reorganized Thrasio (with knowledge regarding any Disputed Other General Unsecured Claims). Reorganized Thrasio shall arrange for the Trustee to receive an updated register of filed and scheduled General Unsecured Claims (the "Claims Register") from the Claims, Noticing, and Solicitation Agent within thirty (30) days after the Effective Date.

2.5.3 If the Trust requires documents or information from Reorganized Thrasio, such requests shall be made by the Trust to such employee of Reorganized Thrasio as may be designated from time to time by Reorganized Thrasio (the "Company Representative"). The Company Representative will use commercially reasonable efforts to respond to such information requests, including providing reasonable access to employees, as appropriate, to facilitate an efficient complex assets recovery process, litigation recovery process, and Claims reconciliation process. Any dispute regarding access set forth in this paragraph shall be resolved for the Trust by the Thrasio Legacy Trust Committee.

2.6 No Retention of Excess Cash. Notwithstanding anything in this Agreement to the contrary, under no circumstances shall the Trust or the Trustee retain cash or cash equivalents in excess of a reasonable amount to meet claims, expenses, and contingent liabilities or to maintain

the value of the Trust Assets during administration of the Trust, to the extent consistent with applicable law, or to fund the reserves established in accordance with the Plan and/or pursuant to Section 4.1.2 of this Agreement, and shall distribute all amounts not required to be retained for such purposes and not otherwise required to be distributed to the Beneficiaries as promptly as reasonably practicable in accordance with the Plan and this Agreement; *provided, however*, that no Holder of an Allowed General Unsecured Claim shall be entitled to receive distributions in excess of 100% of such Beneficiary's Allowed Claim.

2.7 Acceptance by Trustee. The Trustee accepts its appointment as Trustee of the Trust and shall perform all duties and obligations imposed upon the Trustee under the Plan, this Agreement, and applicable orders of the Bankruptcy Court.

ARTICLE III

ADMINISTRATION OF TRUST

3.1 Rights, Powers, and Privileges of Trustee Generally. Except as otherwise provided in this Agreement, the Plan, or the Confirmation Order, as of the Effective Date, the Trust, acting by and through the Trustee, may control and exercise authority over the Trust Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the affairs of the Trust, with the consent and consultation rights of the Thrasio Legacy Trust Committee set forth in Article VIII hereof. In administering the Trust Assets, the Trust, acting by and through the Trustee, shall, in an expeditious but commercially reasonable manner, liquidate and convert to Cash the Trust Assets, shall make timely distributions in accordance with this Agreement and the Plan, and shall exercise reasonable business judgment and not unduly prolong the Trust's duration, with due regard that undue haste in the administration of the Trust Assets may fail to maximize value for the benefit of the Beneficiaries and otherwise be

imprudent and not in the best interests of the Beneficiaries. Notwithstanding anything in the Plan or this Agreement to the contrary, the Trust, acting by and through the Trustee, shall always act consistently with, and not contrary to, the purpose of the Trust as set forth in the Plan.

3.2 Power to Contract. In furtherance of the purpose of the Trust, and except as otherwise specifically restricted in the Plan, the Confirmation Order, or this Agreement, the Trust, by and through the Trustee, shall have the right and power to enter into any covenants or agreements binding the Trust, and to execute, acknowledge, and deliver any and all instruments that are necessary or deemed by the Trust to be consistent with and advisable in furthering the purpose of the Trust.

3.3 Ultimate Right to Act Based on Advice of Counsel or Other Professionals. Nothing in this Agreement shall be deemed to prevent the Trust, by and through the Trustee, from taking or refraining to take any action on behalf of the Trust that, based upon the advice of counsel or other professionals, the Trustee determines it is obligated to take or to refrain from taking in the performance of any fiduciary duty that the Trustee may owe under the Plan, the Confirmation Order, or this Agreement.

3.4 Powers of Trustee. Without limiting the generality of the above Section 3.1, in addition to the powers granted in the Plan, the Trust, by and through the Trustee, shall have the power to take the following actions on behalf of the Trust and any powers reasonably incidental thereto that the Trust, by and through the Trustee, in its reasonable discretion (subject to any limitations set forth in Article VIII hereof), deems necessary or appropriate to fulfill the purpose of the Trust, unless otherwise specifically limited or restricted by the Plan or this Agreement:

3.4.1 hold legal title to the Trust Assets and to any and all rights of the Debtors (including as Reorganized Thrasio, as applicable) and the Beneficiaries in or arising from the Trust Assets;

3.4.2 receive, maintain, conserve, supervise, prosecute, collect, settle, manage, adjust, invest, protect, enforce, and, where appropriate, cause the Trust to abandon the Trust Assets, including causing (but not obligating) the Trust to invest any moneys held as Trust Assets in accordance with the terms of Section 3.9 hereof;

3.4.3 open and maintain bank accounts on behalf of or in the name of the Trust;

3.4.4 cause the Trust to enter into any agreement or execute any document or instrument required by or consistent with the Plan, the Confirmation Order, or this Agreement, and to perform all obligations thereunder;

3.4.5 collect and liquidate all Trust Assets, including the sale of any Trust Assets;

3.4.6 protect and enforce the rights to the Trust Assets (including, without limitation, any Vested Causes of Action) vested in the Trust and the Trustee by this Agreement by any method deemed appropriate, including, without limitation, by judicial proceedings or otherwise, subject to the Contingent Negative Covenant;

3.4.7 investigate any Trust Assets including, but not limited to, any Vested Causes of Action, review, reconcile, compromise, settle, or object to any Other General Unsecured Claim, and cause the Trust to seek the examination of any Person pursuant to Federal Rule of Bankruptcy Procedure 2004;

3.4.8 cause the Trust to employ or retain professionals, disbursing agent, and other agents, independent contractors, and third parties pursuant to this Agreement and pay the reasonable and documented compensation thereof;

3.4.9 cause the Trust to pay all of its lawful expenses, debts, charges, taxes, and other liabilities, and make all other payments relating to the Trust Assets, solely out of the Trust Assets;

3.4.10 cause the Trust to review, reconcile, prosecute, enforce, collect, compromise, settle, dismiss, release, waive, withdraw, abandon, resolve, or elect not to pursue all Vested Causes of Actions, including all Avoidance Actions against the Excluded Parties, subject to the Contingent Negative Covenant;

3.4.11 calculate, authorize, and make all distributions to the Holders of Allowed General Unsecured Claims as provided for in, or contemplated by, the Plan and this Agreement;

3.4.12 establish, adjust, and maintain a reserve for Disputed Other General Unsecured Claims (the “Disputed Claims Reserve”);

3.4.13 cause the Trust to withhold from the amount distributable to any Person the maximum amount needed to pay or remit any tax or other charge that the Trustee has determined, based upon the advice of its agents and/or professionals, may be required to be withheld or deducted from such distribution under the income tax or other laws of the United States or of any state or political subdivision thereof;

3.4.14 in reliance upon the Debtors’ Schedules and the official Claims Register maintained in the Chapter 11 Cases, review, and, where appropriate, cause the Trust, by and through the Trustee, to allow or object to Other General Unsecured Claims, and supervise and administer the Trust’s commencement, prosecution, settlement, compromise, withdrawal, or

resolution of all objections to Disputed Other General Unsecured Claims required to be administered by the Trust in accordance with the Plan;

3.4.15 in reliance upon the Debtors' Schedules, the Claims Register maintained in the Chapter 11 Cases and the First Lien Deficiency Claim Distribution List described in Section 3.4.18 of this Agreement, maintain a register evidencing the beneficial interest herein held by each Beneficiary and, in accordance with Section 3.10 of this Agreement, in connection with Other General Unsecured Claims, such register may be the official Claims Register maintained in the Chapter 11 Cases;

3.4.16 without limitation of, and as set forth in Section 3.4.13 and Section 4.4 of this Agreement, cause the Trust to make all tax withholdings, file tax information returns, file and prosecute tax refund claims, make tax elections by and on behalf of the Trust, and prepare and timely file tax returns for the Trust as a grantor trust under sections 671–679 of the Tax Code and Treasury Regulation section 1.671-4 pursuant to and in accordance with the Plan and Article VII hereof, and timely pay taxes, if any, payable for and on behalf of the Trust solely out of the Trust Assets; *provided, however*, nothing contained herein shall provide the Trustee with authority or responsibility to file any tax returns for the Debtors or their Estates, nor shall the Trust or the Trustee have any responsibility or liability in any capacity whatsoever for the filing of Debtors' income tax returns for any period either prior to or after the Effective Date or for any tax liability related thereto;

3.4.17 cause the Trust to abandon or donate to a charitable organization that qualifies for non-profit status under section 501(c)(3) of the Tax Code any Trust Assets that the Trustee determines, with the consent of the Thrasio Legacy Trust Committee to the extent that

such Trust Assets have a value in excess of \$50,000, to be too impractical to distribute to the Beneficiaries or of inconsequential value to the Trust and the Beneficiaries;

3.4.18 calculate, authorize, and make all distributions to Holders of Allowed First Lien Deficiency Claims, in reliance on information provided by the Administrative Agent, any advisors to the Administrative Agent, the Ad Hoc Group, the Ad Hoc Group Advisors, the Debtors, Reorganized Debtors, the Debtors' Professionals and/or the Reorganized Debtors' professionals (as applicable), which information shall include, with respect to each Holder of a First Lien Deficiency Claim, the name, address and amount held as of the Distribution Record Date (the "First Lien Deficiency Claim Distribution List");

3.4.19 cause the Trust to send annually to Beneficiaries, in accordance with the applicable tax laws, a separate statement stating a Beneficiary's interest in the Trust and its share of the Trust's income, gain, loss, deduction, or credit, and to instruct all such Beneficiaries to report such items on their U.S. federal tax returns, as applicable;

3.4.20 cause the Trust to seek a determination of tax liability or refund of the Trust under section 505 of the Bankruptcy Code for all tax returns filed for, or on behalf of, the Trust for all taxable periods from the creation of the Trust through the termination of the Trust;

3.4.21 cause the Trust to establish such reserves for taxes, assessments and other expenses of administration of the Trust as may be necessary and appropriate for the proper operation of matters incident to the Trust;

3.4.22 cause the Trust to purchase and carry all insurance policies that the Trust, by and through the Trustee, deems reasonably necessary or advisable and to pay all associated insurance premiums and costs solely out of the Trust Assets;

3.4.23 undertake all administrative functions of the Trust, including overseeing the winding down and termination of the Trust;

3.4.24 undertake all administrative functions remaining in these Chapter 11 Cases as provided for in the Plan and/or to the extent necessary to carry out the Trust or Trustee's duties under the Plan;

3.4.25 exercise, implement, enforce, and discharge all of the applicable and relevant terms, conditions, powers, duties, and other provisions of the Plan, the Confirmation Order, and this Agreement; and

3.4.26 take all other actions consistent with the provisions of the Plan that the Trustee deems reasonably necessary or desirable to administer the Trust.

3.5 Exclusive Authority to Pursue the Vested Causes of Actions. Subject to the Contingent Negative Covenant and the limitations set forth in Article VIII of this Agreement, the Trust, acting by and through the Trustee, shall have the exclusive right, power, and interest to review, reconcile, enforce, collect, compromise, settle, or elect not to pursue the Vested Causes of Action. The Trustee shall be the sole representative of the Estates under section 1123(b)(3) of the Bankruptcy Code with respect to all Vested Causes of Action, including, for the avoidance of doubt, as to Vested Causes of Action against individuals to whom the Contingent Negative Covenant may apply; *provided, however*, that the Trust shall not commence or prosecute any claims released under Article XII of the Plan against any Released Party. Without limiting the generality of the foregoing, section 108 of the Bankruptcy Code shall apply to the Trustee, as the section 1123(b)(3) representative of the Estates, with respect to all Vested Causes of Action, and the Trust, by and through the Trustee, shall be entitled to assert, in accordance with the terms of the Plan, all setoffs, and defenses of the Debtors or the Trust to any counterclaims that may be

asserted by any defendant with respect to the Vested Causes of Action. The Trust shall also be vested with, and the Trust, by and through the Trustee, shall be entitled to assert, in accordance with the terms of the Plan, all of the Debtors' and their Estates' rights with respect to any such counterclaims under section 558 of the Bankruptcy Code. All costs and expenses of pursuing the Vested Causes of Action shall be satisfied first from the Thrasio Legacy Trust Initial Funding and then from the Thrasio Legacy Trust Proceeds, and all other Thrasio Legacy Trust Fees and Expenses, including this Thrasio Legacy Trust Initial Funding, shall be paid or reserved for, before any Thrasio Legacy Trust Proceeds are paid to the Beneficiaries.

3.5.1 Except as expressly stated otherwise below, the Trust shall stand in the same position as the Debtors and their Estates (solely with regard to the Vested Causes of Action) as to all evidentiary privileges of any type or nature whatsoever, including attorney-client privilege, the work product privilege or doctrine, any other privilege or immunity attaching to any documents or communications in any form, including electronic data hosted on remote servers, and any other applicable evidentiary privileges of each of the foregoing (collectively, the "Privileges"), and shall succeed to all of the rights of the Debtors and their Estates (solely with regard to the Vested Causes of Action) to preserve or assert any such Privileges, and shall be deemed to be the assignee by each Debtor and its respective Estate (solely with regard to the Vested Causes of Action) of each such Privilege.

3.5.2 Notwithstanding the foregoing, the privilege of the Disinterested Directors is hereby recognized and shall remain in full force and effect and shall not be waived, nor shall any such privileged documents be turned over to any person or Entity without the consent of each of the Disinterested Directors. The Disinterested Directors shall produce to the Trust, on or shortly after the Effective Date: (a) all interview memoranda regarding the interviews conducted

in the Independent Investigation; (b) a list of all interviews requested in the Independent Investigation; and (c) all documents produced to the Disinterested Directors by the Debtors and/or any third parties; *provided, however*, that production of such materials does not constitute a waiver of any privileges or work product protections that might exist, and shall not be used by the Trust to argue that such a waiver has occurred.

3.5.3 Notwithstanding the Debtors or Reorganized Thrasio providing any privileged information to the Trust, the Trustee, or the Thrasio Legacy Trust Committee (including any member thereof), such privileged information shall be without waiver in recognition of the joint and/or successor interest in investigating and prosecuting the Vested Causes of Action and shall remain privileged. For the avoidance of doubt, the actions taken by the Committee, the Disinterested Directors, the Debtors, and Reorganized Thrasio in connection with the Plan, the Committee Settlement, or the formation of the Trust shall not be (or deemed to be) a waiver of any Privilege of any of the Committee, the Disinterested Directors, the Debtors, and Reorganized Thrasio, as applicable, including any Privilege attaching to any document or communications (whether written or oral) transferred to the Trust.

3.5.4 All communications between the Trust and the Thrasio Legacy Trust Committee, as well as their and their members' respective representatives and advisors, shall be deemed privileged and confidential communications, it being acknowledged that the subject matter of such communications is with respect to common litigation interests. Such communications shall not be disclosed to any third parties except as may be required by an order of a court of competent jurisdiction upon prior written notice to the Trustee and the Thrasio Legacy Trust Committee members.

3.6 Abandonment. Notwithstanding the foregoing, if, in the Trustee's reasonable judgment (subject to the limitations set forth in Article VIII hereof), any non-cash Trust Assets cannot be sold in a commercially reasonable manner or the Trust, by and through the Trustee, believes in good faith that such property has inconsequential value to the Trust or its Beneficiaries, the Trust, by and through the Trustee, shall have the right to cause the Trust to abandon or otherwise dispose of such property, including by donation of such property to a qualified section 501(c)(3) of the Tax Code charitable organization.

3.7 Responsibility for Administration of Claims. From and after the Effective Date, the Trust, by and through the Trustee, shall become responsible for administering and paying distributions to the Holders of Allowed General Unsecured Claims. The Trust, acting by and through the Trustee, shall have the exclusive right to object to the allowance of any Other General Unsecured Claim on any ground, to file, withdraw, or litigate to judgment objections to such Other General Unsecured Claims, to settle or compromise any Disputed Other General Unsecured Claims without any further notice to or action, order or approval by the Bankruptcy Court, and to assert all defenses of the Debtors and their Estates. The Trust, acting by and through the Trustee, shall also be entitled to assert all of the Debtors' and their Estates' rights under, without limitation, section 558 of the Bankruptcy Code, and may seek estimation of any Other General Unsecured Claims under and subject to section 502(c) of the Bankruptcy Code.

3.8 Agents and Professionals. The Trust, by and through the Trustee, may, but shall not be required to, consult with and retain attorneys, financial advisors, accountants, appraisers, and other professionals the Trust believes have qualifications necessary to assist in the administration of the Trust, including professionals previously retained by the Debtors or the Committee. For the avoidance of doubt, and without limitation of applicable law, nothing in this

Agreement (other than the limitations set forth in Article VIII hereof) shall limit the Trust, by and through the Trustee, from engaging counsel or other professionals, including the Trustee itself or the Trustee's firm or their affiliates, to do work for the Trust. The Trustee may pay the reasonable and documented salaries, fees, and expenses of such Persons out of the Trust Assets in the ordinary course of business as Thrasio Legacy Trust Fees and Expenses.

3.9 Safekeeping and Investment of the Trust Assets. All moneys and other assets received by the Trust shall, until distributed or paid over as provided herein and in the Plan, be held in trust for the benefit of the Beneficiaries. Neither the Trust nor the Trustee shall have any liability for interest or producing income on any moneys received by them and held for distribution on account of applicable Allowed General Unsecured Claims or payment to the Beneficiaries except as such interest shall actually be received by the Trust or the Trustee, which shall be distributed as provided in the Plan. Except as otherwise provided by the Plan, the powers of the Trust, by and through the Trustee, to invest any moneys held by the Trust, other than those powers reasonably necessary to maintain the value of the assets and to further the Trust's liquidating purpose, shall be limited to powers to invest in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary liquid investments, such as treasury bills; *provided, however*, that the scope of permissible investments shall be limited to include only those investments that a "liquidating trust," within the meaning of Treasury Regulation section 301.7701-4(d), may be permitted to hold pursuant to the Treasury Regulations, or any modification of the IRS guidelines (including Revenue Procedure 94-45), whether set forth in IRS rulings, IRS pronouncements, or otherwise. For the avoidance of doubt, the provisions of section 11-2.3 of the Estates, Powers, and Trusts Law of New York shall not apply to this Agreement. Notwithstanding the foregoing, the Trustee

shall not be prohibited from engaging in any trade or business on its own account, provided that such activity does not interfere or conflict with the Trustee's administration of the Trust.

3.10 Maintenance and Disposition of Trust and Debtor Records. The Trustee shall maintain accurate records of the administration of the Trust Assets, including receipts and disbursements and other activity of the Trust. To the extent of any Other General Unsecured Claims reflected thereon, the Claims Register may serve as the Trust's register of beneficial interests held by Beneficiaries. The Trust shall be provided with originals or copies of or access to all documents and business records of the Debtors that are in the possession of the Debtors and reasonably necessary for the disposition of the Trust Assets and objections to Other General Unsecured Claims, except, in each case, to the extent necessary to (a) ensure compliance with any applicable law or an order of the Bankruptcy Court; (b) preserve any applicable privilege (including the attorney-client privilege); or (c) comply with any contractual confidentiality obligations. The Debtors or Reorganized Thrasio, as applicable, shall use commercially reasonable efforts to cooperate with the Trust in connection with the Trust's investigation and prosecution of the Vested Causes of Action and/or objections to Other General Unsecured Claims, including with respect to providing evidence and information as requested by the Trust, by and through the Trustee. The books and records maintained by the Trust and any records of the Debtors transferred to the Trust may be disposed of by the Trust, by and through the Trustee, at the later of (i) such time as the Trust determines that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Trust or its Beneficiaries; and (ii) upon the termination and completion of the winding down or dissolution of the Trust.

3.11 No Bond Required; Procurement of Insurance. Notwithstanding any state or other applicable law to the contrary, the Trust, by and through the Trustee (including any successor

Trustee), shall be exempt from giving any bond or other security in any jurisdiction and shall serve hereunder without bond. The Trust, by and through the Trustee, shall obtain insurance coverage with respect to the duties and obligations of the Thrasio Legacy Trust Committee on terms reasonably acceptable to the Thrasio Legacy Trust Committee. In addition, the Trust, by and through the Trustee, is hereby authorized, but not required, to obtain all reasonable insurance coverage for itself, its agents, representatives, employees, or independent contractors, including, without limitation, coverage with respect to the liabilities, duties, and obligations of the Trustee and its agents, representatives, employees, or independent contractors under this Agreement. The cost of any such insurance coverage shall be paid out of the Trust Assets as Thrasio Legacy Trust Fees and Expenses.

3.12 Fiduciary and Other Duties. Notwithstanding anything in the Plan or this Agreement to the contrary, the Trust, by and through the Trustee, shall always act in the best interests of the Beneficiaries and in furtherance of the purpose of the Trust as set forth in the Plan. The Trust, by and through the Trustee, shall have fiduciary duties to the Beneficiaries consistent with the fiduciary duties that a member of an official committee appointed pursuant to section 1102 of the Bankruptcy Code has to the creditor constituents represented by such committee and shall exercise his, her or its responsibilities accordingly. Except for obligations expressly imposed on the Trust by this Agreement, to the extent that, at law or in equity, the Trust has duties (including fiduciary duties) to the Beneficiaries or to any other person that is a party to or is otherwise bound by this Agreement, such duties are hereby eliminated by this Agreement to the fullest extent permitted by applicable law; *provided, however*, that this Agreement does not eliminate the implied contractual covenant of good faith and fair dealing.

3.13 Reporting Requirements. The Trustee shall provide the Thrasio Legacy Trust Committee, the U.S. Trustee and the Bankruptcy Court the information and reports they may reasonably request concerning Trust administration.

ARTICLE IV

DISTRIBUTIONS

4.1 Distribution and Reserve of Trust Assets. Following the transfer of the Trust Assets to the Trust, the Trust, by and through the Trustee, shall make continuing efforts on behalf of the Trust to collect, liquidate, and distribute all Trust Assets, subject to the reserves deemed necessary by the Trust pursuant to this Agreement, in accordance with the Plan.

4.1.1 Distributions. The Trust, by and through the Trustee, shall make distributions only in accordance with the terms of the Plan, Confirmation Order, and this Agreement to the Holders of Allowed General Unsecured Claims in accordance with the waterfall provisions of the Plan. The Trust, by and through the Trustee, shall cause the Trust to make distributions, at least annually, to Holders of Allowed General Unsecured Claims, except the Trust may retain an amount of net income and other Trust Assets that is reasonably necessary to meet contingent liabilities and to maintain the value of the Trust Assets pending their liquidation during the term of the Trust or that are determined to be necessary to pay or be reserved for reasonably incurred or anticipated expenses or claims of the Trust and the Trustee, and retention of such amount may preclude distributions to the Holders of Allowed General Unsecured Claims.

4.1.2 Reserves; Pooling of Reserved Funds. Before any distribution can be made, the Trust, by and through the Trustee, shall, in its reasonable discretion and subject to the provisions of Article VIII, establish, supplement, and maintain a reserve in an amount sufficient

to meet any and all expenses and liabilities of the Trust in the Thrasio Legacy Trust Reserve, including attorneys' fees and expenses and the fees and expenses of other professionals. In accordance with the Plan and Section 4.2.12 of this Agreement, the Trust may also maintain as necessary one or more reserves with respect to the Other General Unsecured Claims required to be administered by the Trust. For the avoidance of doubt, the Trust may withhold any distribution pending the Trust's determination of whether to object to any Other General Unsecured Claim. Any such withheld distribution shall become part of a reserve with respect to Other General Unsecured Claims and shall be distributed to the appropriate Holder of an Allowed Other General Unsecured Claim no later than the first Distribution Date after a decision is made not to object to the pertinent Other General Unsecured Claim or the Other General Unsecured Claim becomes Allowed. The Trustee need not maintain any of the Trust's reserves in segregated bank accounts and may pool funds in the reserves with each other and other funds of the Trust; *provided, however*, that the Trust shall treat all such reserved funds as being held in a segregated manner in its books and records.

4.1.3 Distributions Net of Reserves and Costs. Distributions shall be made net of reserves in accordance with the Plan and this Agreement, and also net of the actual and reasonable costs of making the distributions.

4.1.4 Right to Rely on Professionals. Without limitation of the generality of Section 6.7 of this Agreement, in determining the amount of any distribution or reserves, the Trust, by and through the Trustee, may rely and shall be fully protected in relying on the advice and opinion of the Trust's counsel, financial advisors, accountants, or other professionals.

4.2 Method and Timing of Distributions. Distributions to Holders of Allowed First Lien Deficiency Claims and Allowed General Unsecured Claims will be made from the Trust at

least annually, except the Trust shall retain an amount of net income and other Trust Assets that is reasonably necessary to meet contingent liabilities and to maintain the value of the Trust Assets pending their liquidation during the term of the Trust or that are determined to be necessary to pay or be reserved for reasonably incurred or anticipated expenses or claims of the Trust and the Trustee, and retention of such amount may preclude distributions to Beneficiaries, all in accordance with the terms of the Plan and this Agreement. The Trust may engage disbursing agents and other Persons to assist in making such distributions.

4.3 Plan Distributions and Repayment of Thrasio Legacy Trust Initial Funding in General. Except as otherwise provided in the Plan or this Agreement, the Trust or its disbursing agent shall make distributions to (a) Holders of Allowed Other General Unsecured Claims at the address for each such holder of an Allowed Other General Unsecured Claim as indicated in either (i) the address set forth on the Proof(s) of Claim, (ii) the address reflected in the Schedules if no Proof of Claim has been filed, or (iii) the address set forth in any written notice of change of address delivered to the Trust and filed with the Bankruptcy Court; and (b) to Holders of Allowed First Lien Deficiency Claims at the address set forth on the First Lien Deficiency Claim Distribution List. Repayment of the Thrasio Legacy Trust Initial Funding to Reorganized Thrasio shall be made to Reorganized Thrasio or pursuant to such other instructions as received from a Company Representative.

4.4 Withholding from Distributions. The Trust, by and through the Trustee's discretion, may cause the Trust to deduct and withhold from amounts distributable from the Trust to or on account of any Beneficiary, any and all amounts as may be sufficient to pay the maximum amount of any tax or other charge that has been or might be assessed or imposed by any law, regulation, rule, ruling, directive, or other governmental requirement on such

Beneficiary or the Trust, including with respect to the amount to be distributed to or on account of such Beneficiary any amounts received by, collections of, or earnings of the Trust and any proceeds from the Trust Assets. The Trust, by and through the Trustee, shall determine such maximum amount to be withheld by the Trust in its sole, reasonable discretion and shall cause the Trust to distribute to the Beneficiary any excess amount withheld. All such amounts deducted or withheld and timely paid to the appropriate taxing authority shall be treated as amounts distributed to such Beneficiaries for all purposes of the Plan and this Agreement, to the extent permitted by applicable Law.

4.5 IRS Forms. The Trust, by and through the Trustee, may require any Holder of a First Lien Deficiency Claim and/or any Holder of an Other General Unsecured Claim and/or the Administrative Agent to properly complete, execute and deliver tax identification documentation, *i.e.*, appropriate IRS Form W-8 (including any supporting documents) or IRS Form W-9, or such other appropriate documentation, as a prerequisite to receiving any distribution or repayment under the Plan or this Agreement. If a Holder of a First Lien Deficiency Claim or a Holder of an Other General Unsecured Claim does not provide to the Trustee within ninety (90) days of first written request all required documentation that, in the Trustee's reasonable business judgment, is necessary to determine the tax withholding and reporting requirements for such Claim, including an appropriate IRS Form W-8 or IRS Form W-9 (as applicable), then, without further order of the Bankruptcy Court, any present or future distribution on or on account of such First Lien Deficiency Claim or Other General Unsecured Claim shall, at the sole discretion of the Trustee, be either (a) net of applicable withholding, in which case any amounts so withheld shall be treated as having been paid to such Holders, or (b) forfeited, the underlying First Lien Deficiency Claim or Other General Unsecured Claim

shall be deemed disallowed and expunged in its entirety, and the funds in respect thereof shall become Trust Assets for all purposes, including, but not limited to, redistribution to or on account of the other Holders of First Lien Deficiency Claims or Allowed Other General Unsecured Claims (as applicable) in accordance with the terms of the Plan and this Agreement.

4.6 Unclaimed and Undeliverable Distributions. Unclaimed property, together with any distributions to Holders of applicable Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claims returned as undeliverable, shall be held by the Trustee in an unclaimed property reserve (the “Unclaimed Property Reserve”) until the date that is ninety (90) days after first issuance by the Trust, and may be released by the Trust prior to the expiration of the ninety (90) day period set forth in this Section 4.6 if proper proof by such Holder of such Allowed First Lien Deficiency Claim or Allowed Other General Unsecured Claim of its entitlement thereto is presented to the Trust. After the expiration of the ninety (90) day period set forth in this Section 4.6, all unclaimed property or interest in property shall revert to the Trust for all purposes including, but not limited to, for redistribution to holders of Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claims (as applicable) in accordance with the terms of the Plan, the Confirmation Order, and this Agreement. Upon such reversion, the First Lien Deficiency Claim or Other General Unsecured Claim of the affected Holder or its successors with respect to such property shall be cancelled, released, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an unclaimed distribution, to the contrary.

4.7 No Responsibility to Attempt to Locate Beneficiaries. If a distribution is returned to the Trust as undeliverable, or otherwise remains unclaimed, no further distribution shall be

made to a Holder of an applicable Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claim unless and until such Holder notifies the Trust of such Holder's then-current address and taxpayer identification number. The Trust, by and through the Trustee, may, in its sole discretion, attempt to determine a Holder of an applicable Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claim's current address or otherwise locate such Holder, but nothing in this Agreement or the Plan shall require the Trust to do so.

4.7.1 Inapplicability of Escheat, Abandoned or Unclaimed Property Laws.

Unclaimed property held by the Trust shall not be subject to the escheat, abandoned or unclaimed property laws of the United States, or any state, provincial, or local governmental unit.

4.8 Request for Reissuance. Distribution checks issued on account of First Lien Deficiency Claims and Other General Unsecured Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Distribution checks for Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claims not cashed within such ninety-day period shall be treated as unclaimed property that has already been held in the Unclaimed Property Reserve for the full time period specified in Section 4.6 of this Agreement. Requests for reissuance of any check shall be made in writing directly to the Trust by the Holder of the applicable Allowed Other General Unsecured Claim that was originally issued such check. All such requests shall be made promptly and in time for the check to be reissued and cashed before the funds for the checks become unrestricted Trust Assets under Section 4.6 of this Agreement. The Holder of an applicable Allowed Other General Unsecured Claim shall bear all the risk that, and shall indemnify and hold the Trust and the Trustee harmless against any loss

that may arise if, the Trustee does not reissue a check promptly after receiving a request for its reissuance.

4.9 Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to the beneficial interest of a Beneficiary under this Agreement, or if there is any disagreement between the assignees, transferees, heirs, representatives, or legatees succeeding to all or a part of such an interest resulting in adverse claims or demands being made in connection with such interest, then, in any of such events, the Trust, by and through the Trustee, shall be entitled, in its sole discretion, to refuse to comply with any such conflicting claims or demands.

4.9.1 The Trust, by and through the Trustee, may elect to cause the Trust to make no payment or distribution with respect to the beneficial interest subject to the conflicting claims or demand, or any part thereof, and to refer such conflicting claims or demands to the Bankruptcy Court, which shall have continuing jurisdiction over resolution of such conflicting claims or demands. Neither the Trust, the Trustee, nor the Thrasio Legacy Trust Committee shall be or become liable to any of such parties for their refusal to comply with any such conflicting claims or demands, nor shall the Trust, the Trustee, nor the Thrasio Legacy Trust Committee be liable for interest on any funds which may be so withheld.

4.9.2 The Trust shall be entitled to refuse to act until either (a) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction adjudicating the matter; or (b) all differences have been resolved by a valid written agreement among all such parties to the satisfaction of the Trust, which agreement shall include a complete release of the Trust and Trustee. Until the Trust receives written notice that one of the conditions of the preceding sentence is met, the Trust may deem and treat as the absolute owner under this Agreement of the beneficial interest in the Trust the

Beneficiary identified as the owner of that interest in the books and records maintained by the Trust. The Trust shall treat such Beneficiary as the absolute owner for purposes of receiving distributions and any payments on account thereof for federal and state income tax purposes, and for all other purposes whatsoever.

4.10 Limitation on Liability. In acting or refraining from acting under and in accordance with this Agreement, the Trust, the Trustee, and the Thrasio Legacy Trust Committee (and its current and former members, in their respective capacities as such) shall be fully protected and incur no liability to any purported claimant or any other Person as provided for in Article VI and Article VIII of this Agreement.Priority of Expenses of Trust. The Trust shall pay or reserve for all Thrasio Legacy Trust Fees and Expenses before making any distributions pursuant to the Thrasio Legacy Trust Waterfall.

ARTICLE V

BENEFICIARIES

5.1 Interest Beneficial Only. The ownership of a beneficial interest in the Trust shall not entitle any Beneficiary to any title in or to the Trust Assets or to any right to call for a partition or division of such assets or to require an accounting.

5.2 Ownership of Beneficial Interests Hereunder. Each Beneficiary shall own a Thrasio Legacy Trust Interest which shall, subject to Section 4.1 of this Agreement and the terms and conditions of the Plan, be entitled to a distribution in the amounts, and at the times, set forth in the Plan and hereunder.

5.3 Evidence of Beneficial Interest. Ownership of a Thrasio Legacy Trust Interest in the Trust Assets shall not be evidenced by any certificate, security, or receipt, or in any other

form or manner whatsoever, except as maintained on the books and records of the Trust by the Trustee.

5.4 No Right to Accounting. Except as otherwise provided in this Agreement, neither the Beneficiaries nor their successors, assigns, creditors, nor any other Person shall have any right to an accounting by the Trust, and the Trust, by and through the Trustee, shall not be obligated to provide any accounting to any Person. Nothing in this Agreement is intended to require the Trust at any time or for any purpose to file any accounting or seek approval of any court with respect to the administration of the Trust or as a condition for making any advance, payment, or distribution out of proceeds of Trust Assets.

5.5 No Standing. Except as expressly provided in this Agreement, a Beneficiary shall not have standing to direct or to seek to direct the Trust or Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any Person upon or with respect to the Trust Assets; *provided, however*, that, for the avoidance of doubt, this Section 5.5 shall not prevent a Beneficiary from seeking any appropriate or necessary relief from the Bankruptcy Court.

5.6 Requirement of Undertaking. The Trust, by and through the Trustee, may request the Bankruptcy Court to require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Trust or Trustee for any action taken or omitted by it as Trust or Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, including reasonable attorneys' fees, against any party litigant in such suit; *provided, however*, that the provisions of this Section 5.6 shall not apply to any suit by the Trust or Trustee.

5.7 Limitation on Transferability. It is understood and agreed that Thrasio Legacy Trust Interests shall be non-transferable and non-assignable during the term of this Agreement except by will, intestate succession or operation of law. An assignment by operation of law shall not be effective until appropriate notification and proof thereof is submitted to the Trust, and the Trust, by and through the Trustee, may continue to cause the Trust to pay all amounts to or for the benefit of the assigning Beneficiaries until receipt of proper notification and proof of assignment by will, intestate succession or operation of law. The Trust may rely upon such proof without the requirement of any further investigation.

5.8 Exemption from Registration. The rights of the Beneficiaries arising under this Agreement may be deemed “securities” under applicable law. However, such rights have not been defined as “securities” under the Plan because (a) the parties hereto intend that such rights shall not be securities; and (b) to the extent that the rights arising under this Agreement in favor of the Beneficiaries are deemed to be “securities,” the exemption from registration under section 1145 of the Bankruptcy Code, and applicable state and local laws requiring registration of securities, is intended to be applicable to such securities. If the Trustee determines, with the advice of counsel, that the Trust is required to comply with any of the registration, reporting, or other requirements of the federal securities laws, including the Securities Act or the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or the Investment Company Act of 1940, as amended (the “Investment Company Act”), then the Trustee shall take any and all actions necessary to comply with such requirements or may seek exemption from the Securities and Exchange Commission therefor, and, if granted, shall comply with the terms of any such exemption.. Notwithstanding the foregoing procedure, nothing herein shall be deemed to preclude the Trustee from amending this Agreement to make such changes as are deemed

necessary or appropriate by the Trustee, with the advice of counsel, to ensure that the Trust is not subject to the registration or reporting requirements of the Exchange Act, or the Investment Company Act, or any applicable state and local laws requiring registration of securities.

5.9 Delivery of Distributions. Subject to the terms of this Agreement, the Trust, by and through the Trustee, shall cause the Trust to make distributions to Beneficiaries in the manner provided in the Plan and in this Agreement.

5.10 Limited Liability. No provision of this Agreement, the Plan, or the Confirmation Order, and no mere enumeration herein of the rights or privileges of any Beneficiary, shall give rise to any liability of such Beneficiary solely in its capacity as such, whether such liability is asserted by any Reorganized Debtor, by the Debtors' or Reorganized Thrasio's creditors, successors, representatives, employees, or equity interests, or by any other Person. The Beneficiaries are deemed to receive the Trust Assets in accordance with the provisions of this Agreement, the Plan, and the Confirmation Order in exchange for their claims as set forth in the Plan without further obligation or liability of any kind, but subject to the provisions of this Agreement.

ARTICLE VI

THIRD-PARTY RIGHTS AND LIMITATION OF LIABILITY

6.1 Parties Dealing With the Trust. In the absence of actual knowledge to the contrary, any Person dealing with the Trust, the Trustee, or the Thrasio Legacy Trust Committee shall be entitled to rely on the authority of the Trust, the Trustee, the Thrasio Legacy Trust Committee, or any of the Trustee's agents to act in connection with the Trust Assets. There is no obligation of any Person dealing with the Trust to inquire into the validity or expediency or propriety of any transaction by the Trust, the Trustee or any agent of the Trustee.

6.2 Limitation of Liability.

6.2.1 Limitation of Trustee Liability. In exercising the rights granted herein, the Trustee shall exercise its best judgment in accordance with its fiduciary duties, to the end that the affairs of the Trust shall be properly managed and the interests of all of the Beneficiaries safeguarded. However, notwithstanding anything herein to the contrary, neither the Trust, the Trustee, nor any of its respective firms, companies, affiliates, partners, officers, directors, members, employees, designees, professionals, advisors, attorneys, representatives, or disbursing agents, or agents, and any of such Person's successors and assigns, shall incur any responsibility or liability by reason of any error of law or fact or of any matter or thing done or suffered or omitted to be done under or in connection with this Agreement, whether sounding in tort, contract, or otherwise, except for fraud, gross negligence, or willful misconduct that is found by a Final Order of the Bankruptcy Court to be the direct and primary cause of loss, liability, damage, or expense suffered by the Trust. In no event shall the Trust or Trustee be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Trust, by and through the Trustee, has been informed of the likelihood of such loss or damages and regardless of the form of action. Without limiting the foregoing, the Trust and Trustee shall be entitled to the benefits of the limitation of liability and exculpation provisions set forth in the Plan and the Confirmation Order.

6.2.2 Limitation of Thrasio Legacy Trust Committee Liability. In exercising the rights granted herein, the Thrasio Legacy Trust Committee shall exercise its best judgment in accordance with its fiduciary duties, to the end that the affairs of the Trust shall be properly managed and the interests of all of the Beneficiaries safeguarded. However, notwithstanding anything herein to the contrary, neither the Thrasio Legacy Trust Committee, nor any of its respective current or former members, firms, companies, affiliates, partners, officers, directors,

members, employees, designees, professionals, advisors, attorneys, representatives, or disbursing agents, or agents, and any of such Person's successors and assigns, each in their respective capacities as such, shall incur any responsibility or liability by reason of any error of law or fact or of any matter or thing done or suffered or omitted to be done under or in connection with this Agreement, whether sounding in tort, contract, or otherwise, except for fraud, gross negligence, or willful misconduct that is found by a Final Order of the Bankruptcy Court to be the direct and primary cause of loss, liability, damage, or expense suffered by the Trust. In no event shall the Thrasio Legacy Trust Committee or its current or former members, in their respective capacities as such, be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Thrasio Legacy Trust Committee, by and through the Trustee, has been informed of the likelihood of such loss or damages and regardless of the form of action. Without limiting the foregoing, the Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall be entitled to the benefits of the limitation of liability and exculpation provisions set forth in the Plan and the Confirmation Order.

6.3 No Liability for Acts of Other Persons. None of the Persons identified in the immediately preceding Section 6.2 of this Agreement shall be liable for the act or omission of any other Person identified in that Section.

6.4 Limitation of Debtors' Liability. The Debtors or their respective successors shall have no liabilities or obligations to the Beneficiaries, the Trust, the Trustee, or the Thrasio Legacy Trust Committee (each in its capacity as such), other than the liabilities and obligations expressly contemplated by this Agreement and the Plan.

6.5 No Liability for Acts of Predecessors. No successor Trustee shall be in any way responsible for the acts or omissions of any Trustee in office prior to the date on which such successor becomes the Trustee, unless a successor Trustee expressly assumes such responsibility.

6.6 No Liability for Good Faith Error of Judgment. Neither the Trust nor the Trustee shall be liable for any error of judgment made in good faith, unless it shall be finally determined by a Final Order of the Bankruptcy Court that the Trust or Trustee (as applicable) was grossly negligent.

6.7 Reliance by Trust on Documents and Advice of Counsel or Other Persons. Except as otherwise provided herein, the Trust, by and through the Trustee, may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trust, by and through the Trustee, also may engage and consult with its respective legal counsel and other agents and advisors, and shall not be liable for any action taken, omitted, or suffered in good faith reliance upon the advice of such counsel, agents, or advisors to the Trust to the extent permitted by law. Without limiting the generality of the foregoing, the Trust conclusively shall be entitled to rely on the First Lien Deficiency Claim Distribution List and shall have no duty to inquire as to its validity or to independently verify any information contained therein; *provided, however*, that the parties listed in Section 3.4.18 hereof may make clarifying modifications to the First Lien Deficiency Claim Distribution List after the Distribution Record Date, which modifications must be delivered to the Trustee in writing no later than ten (10) business days prior to any proposed distribution date, and in such event the provisions of this Section 6.7 shall apply to the First Lien Deficiency Claim Distribution List as so modified; *provided further* that, for the avoidance of

doubt, the First Lien Deficiency Claim Distribution List may not be modified to effect the transfer of any Class A Trust Interests or First Lien Deficiency Claims except by will, intestate succession, or operation of law.

6.8 No Liability For Acts Approved by Bankruptcy Court. The Trust, by and through the Trustee, shall have the right (but not the obligation) at any time to seek an order from the Bankruptcy Court concerning the administration or disposition of the Trust and the General Unsecured Claims required to be administered by the Trust. Following the entry of any such order of the Bankruptcy Court, neither the Trust, the Trustee, nor the Thrasio Legacy Trust Committee (including its current and former members, in their respective capacities as such) shall be liable for any act or omission expressly taken in accordance with, and not inconsistent with, any such order, and all such actions or omissions shall be deemed not to constitute fraud, gross negligence, or willful misconduct.

6.9 No Personal Obligation for Trust Liabilities. Persons dealing with the Trust or Trustee shall have recourse only to the Trust Assets to satisfy any liability incurred by the Trust or Trustee to any such Person in carrying out the terms of this Agreement, and the Trustee shall have no personal, individual obligation to satisfy any such liability.

6.10 Indemnification. The Thrasio Legacy Trust Indemnified Parties shall, to the fullest extent permitted by applicable law, be indemnified by the Trust for, and defended and held harmless by the Trust against, solely from the Trust Assets, any losses, liability, claims, damages, judgment, fine, penalty, claim, demand, settlement, cost, or expenses occurring after the Effective Date (including reasonable attorneys' fees and expenses which the Thrasio Legacy Trust Indemnified Parties may incur in connection therewith) or damages of any kind, type or nature, whether sounding in tort, contract, or otherwise, that the Thrasio Legacy Trust

Indemnified Parties may incur or sustain in connection with the exercise or performance of any of the Trust's, Trustee's or Thrasio Legacy Trust Committee's respective powers and duties under this Agreement or the Plan or in rendering services by the Thrasio Legacy Trust Indemnified Party to the Trust or Trustee, including, without limitation, the costs of counsel or others in investigating, preparing, defending, or settling any action or claim (whether or not litigation has been initiated against the Thrasio Legacy Trust Indemnified Party) or in enforcing this Agreement (including its indemnification provisions), except if such loss, liability, expense, or damage is finally determined by a final judgment (not subject to further appeal or review) of a court of competent jurisdiction to result directly and primarily from the fraud, gross negligence, or willful misconduct of the Thrasio Legacy Trust Indemnified Party asserting this provision. The Thrasio Legacy Trust Indemnified Parties shall be entitled to obtain advances from the Trust to cover their reasonable expenses of defending themselves in any action brought against them as a result of the acts or omissions, actual or alleged, of a Thrasio Legacy Trust Indemnified Party in its capacity as such, except for any actions or omissions arising from their own respective fraud, gross negligence, or willful misconduct; *provided, however*, that the Thrasio Legacy Trust Indemnified Parties receiving such advances shall repay the amounts so advanced to the Trust immediately upon the entry of a final, non-appealable judgment or order finding that such Thrasio Legacy Trust Indemnified Parties were not entitled to any indemnity under the provisions of this Section 6.10 of this Agreement. The Trustee and the Thrasio Legacy Trust Committee (and its current and former members, in their respective capacities as such) shall not be personally liable for the payment of any Trust expense or claim or other liability of the Trust, and no Person shall look to the Trustee or the Thrasio Legacy Trust Committee (or its current

and former members, in their respective capacities as such) personally for the payment of any such expense or liability.

6.10.1 Indemnification of Reorganized Thrasio. Reorganized Thrasio will be entitled to reasonable, third party expenses, if any, on account of any actions required of Reorganized Thrasio at the direction of the Trust.

6.10.2 Expense of Trust; Limitation on Source of Payment of Indemnification. All indemnification liabilities of the Trust under this Section 6.10 shall be expenses of the Trust. The amounts necessary for such indemnification and reimbursement shall be paid by the Trust out of the available Trust Assets after reserving for all other actual and anticipated expenses and liabilities of the Trust. Neither the Trustee nor the Thrasio Legacy Trust Committee or its current or former members shall be personally liable for the payment of any Trust expense or claim or other liability of the Trust, and no Person shall look to the Trustee, the Thrasio Legacy Trust Committee or its current or former members, or other Thrasio Legacy Trust Indemnified Parties personally for the payment of any such expense or liability.

6.10.3 Procedure for Current Payment of Indemnified Expenses; Undertaking to Repay. The Trust shall promptly pay a Thrasio Legacy Trust Indemnified Party all amounts subject to indemnification under this Section 6.10 on submission of invoices for such amounts by the Thrasio Legacy Trust Indemnified Party. By accepting any indemnification payment, the Thrasio Legacy Trust Indemnified Party undertakes to repay such amount promptly if it is determined that the Thrasio Legacy Trust Indemnified Party is not entitled to be indemnified under this Agreement. The Bankruptcy Court shall hear and finally determine any dispute arising out of this Section 6.10.

6.10.4 No Implied Obligations. The Trust or Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Trust or Trustee.

6.11 Confirmation of Survival of Provisions. Without limitation in any way of any provision of this Agreement, the provisions of Article VI of this Agreement shall survive the death, dissolution, liquidation, incapacity, resignation, replacement, or removal, as may be applicable, of the Trustee or, as it relates to Section 6.10, a Thrasio Legacy Trust Indemnified Party, or the termination of the Trust or this Agreement, and shall inure to the benefit of the Trustee's and the Thrasio Legacy Trust Indemnified Parties' heirs and assigns.

ARTICLE VII

TAX MATTERS

7.1 Tax Treatment of Trust. Pursuant to and in accordance with the Plan, for all U.S. federal income tax purposes, the Debtors, Reorganized Thrasio, the Beneficiaries, the Trustee, and the Trust shall treat (a) the Trust as a "liquidating trust" within the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 124 and (b) the transfer of the Thrasio Legacy Trust Assets to the Trust (subject to any obligations relating to such Thrasio Legacy Trust Assets) as a transfer to the Beneficiaries in satisfaction of their Allowed First Lien Deficiency Claims and Allowed Other General Unsecured Claims, followed by a transfer of the Trust Assets by the Beneficiaries to the Trust in exchange for their pro rata Thrasio Legacy Trust Interests. The Beneficiaries shall be treated as the grantors and owners of the Trust (other than to the extent the Trust Assets are allocable to Disputed Claims) for U.S. federal income tax purposes.

7.2 Annual Reporting and Filing Requirements. Pursuant to and in accordance with the terms of the Plan and this Agreement, the Trust, by and through the Trustee, shall file tax

returns (including applicable state, local, and non-U.S. tax returns, if any) for the Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) except as otherwise required by applicable tax law.

7.3 Tax Treatment of Reserves for Disputed Claims. The Trust may, at the Trustee's sole discretion, determine the best way to report for United States tax purposes with respect to any Disputed Claims Reserve, if applicable, including (a) filing a tax election to treat any and all Disputed Claims Reserve as a Disputed Ownership Fund ("DOF") or other separate entity within the meaning of Treasury Regulation section 1.468B-9 for federal income tax purposes rather than to treat such reserve as a part of the Trust (and, to the extent permitted by applicable law, report consistently with the foregoing for U.S. federal, state, and local income tax purposes); or (b) electing to report as a separate trust or sub-trust or other entity. If and to the extent an election is made to report the Disputed Claims Reserve as a DOF or other separate entity, the Trust shall comply with all U.S. federal and state tax reporting and tax compliance requirements of the DOF or other separate entity, including, but not limited to, the filing of a separate U.S. federal income tax return for the DOF or other separate entity and the payment of U.S. federal and/or state income tax due.

7.3.1 If an election is made to report the Disputed Claims Reserve as a DOF or other separate entity, all parties (including the Debtors, Reorganized Thrasio, the Trust, the Trustee, and the Beneficiaries) shall report for U.S. federal, state, and local income tax purposes consistently with the foregoing. The Trust shall be responsible for payment, out of the Trust Assets, of any taxes imposed on the Trust or the Trust Assets, including the Disputed Claims Reserve. In the event, and to the extent, any Cash retained on account of a Disputed Claim in the Disputed Claims Reserve is insufficient to pay the portion of any such taxes attributable to the

taxable income arising from the assets allocable to, or retained on account of, such Disputed Claims, the Trust may, through the Trustee's discretion, (a) sell any non-Cash assets relating to such Claim (including any assets distributable as a result of disallowance of such Claim) to pay such taxes; or (b) utilize the remaining Trust Assets to pay such taxes and replenish such Trust Assets from any subsequent Cash amounts allocable to, or retained on account of such Disputed Claim (including any Cash distributable by the Trustee as a result of disallowance of such Disputed Claim).

7.4 Valuation of Trust Assets. After the Effective Date, but in no event later than the due date for timely filing of the Trust's first U.S. federal income tax return (taking into account applicable tax filing extensions), the Trust, by and through the Trustee, shall determine the fair market value of the Trust Assets as of the Effective Date, based on the Trustee's good faith determination, and establish appropriate means to apprise, in writing, the Beneficiaries of such valuation, from time to time as relevant for tax reporting purposes. The valuation shall be used consistently by all parties (including, without limitation, the Debtors or Reorganized Thrasio, as applicable, the Trust, the Trustee, and the Beneficiaries) for all applicable U.S. federal, state and local income tax purposes.

7.5 In the event that the Trust, by and through the Trustee, determines that the Trust may be required to withhold from amounts distributable from the Trust pursuant to Sections 3.4.13 and 4.4 above, it shall endeavor to promptly notify the relevant Beneficiary.

7.6 Allocations of Trust taxable income among the Beneficiaries shall be determined by reference to the manner in which an amount of Cash representing such taxable income would be distributed (were such cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Trust had distributed all its assets (valued at their tax book value)

to the holders of the Thrasio Legacy Trust Interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Trust. Similarly, taxable loss of the Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Trust Assets. The tax book value of the Trust Assets for purposes of this Section 7.6 shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the Tax Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

ARTICLE VIII

THRASIO LEGACY TRUST COMMITTEE

8.1 Appointment, Composition, and Governance of Thrasio Legacy Trust Committee.

As provided for in Article IV.J.5 of the Plan, the Thrasio Legacy Trust Committee shall consist of those initial five (5) members identified on **Exhibit A** hereto, including the Trustee. In the event that a member of the Thrasio Legacy Trust Committee resigns, the Trust, by and through the Trustee, may appoint a new member, subject to the approval of a majority of the remaining members of the Thrasio Legacy Trust Committee; *provided, however*, that if such member is the Trustee, the successor Trustee shall replace the prior Trustee as a member of the Thrasio Legacy Trust Committee. If the remaining members do not approve, either the Trustee or such remaining members may, upon motion, request that the Bankruptcy Court determine the matter. Notwithstanding the foregoing, in the event that, at any given time, fewer than three (3) persons are willing to serve on the Thrasio Legacy Trust Committee or there shall have been fewer than three (3) Thrasio Legacy Trust Committee members for a period of thirty (30) consecutive days, then solely during such vacancy all references to the Thrasio Legacy Trust Committee's ongoing

rights and duties in the Plan, this Agreement and the Confirmation Order may be temporarily disregarded until such time as there are three (3) or more members of the Thrasio Legacy Trust Committee.

8.2 Meetings of the Thrasio Legacy Trust Committee. Meetings of the Thrasio Legacy Trust Committee are to be held not less often than quarterly. Special meetings of the Thrasio Legacy Trust Committee may be held whenever and wherever called for by the Trustee or a majority of Thrasio Legacy Trust Committee members; *provided, however*, that notice of any such meeting shall be duly given in writing no less than 48 hours prior to such meeting (such notice being subject to waiver by the members). Any action required or permitted to be taken by the Thrasio Legacy Trust Committee may be taken without a meeting if, absent objection to the taking of action without a meeting by any member after reasonable notice, the action is approved by majority vote of Thrasio Legacy Trust Committee members; *provided, however* that no action may be taken without a meeting in respect of (i) any matter concerning the removal and/or replacement of the Trustee or a member of the Thrasio Legacy Trust Committee, or (ii) amendment to this Agreement. Votes may be taken by email on negative notice.

8.2.1 Each Thrasio Legacy Trust Committee member shall recuse itself from participation in meetings regarding, or from voting on, matters in connection with any actual conflict of interest it may have with respect to such matter, including, but not limited to, any deliberations concerning its claims against the Debtors and their Estates and/or the claims, if any, against it by the Debtors and their Estates. The existence of a conflict of interest shall be determined by an affirmative vote of a majority in number of members of the Thrasio Legacy Trust Committee present at a given meeting (less the vote(s) of the members having the apparent conflict of interest).

8.3 Resignation of Thrasio Legacy Trust Committee Members. Any member of the Thrasio Legacy Trust Committee (other than the Trustee, which is governed by Article IX of this Agreement) may resign upon reasonable notice to the Trust, the Trustee, counsel for the Trustee, and other members of the Thrasio Legacy Trust Committee. Fourteen (14) days' prior written notice shall constitute reasonable notice under this Section 8.3. Any member of the Thrasio Legacy Trust Committee (other than the Trustee, which is governed by Article IX of this Agreement) may be removed by order of the Bankruptcy Court for cause. The Thrasio Legacy Trust Committee may authorize its own dissolution by filing with the Bankruptcy Court an appropriate notice that its responsibilities under the Plan have concluded. Unless earlier dissolved in accordance with the Plan, the Thrasio Legacy Trust Committee shall be automatically dissolved on the date the last of the Debtors' Chapter 11 Cases are closed.

8.4 Fiduciary Duties. Members of the Thrasio Legacy Trust Committee shall have fiduciary duties to the Beneficiaries in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by such a committee, and shall be entitled to indemnification from the Trust in the same manner as the Trustee for service as members of the Thrasio Legacy Trust Committee from and after the Effective Date of the Plan under or in connection with this Agreement.

8.5 Limitations on Trustee's Actions. Notwithstanding anything to the contrary herein, but subject to Section 8.15 of this Agreement:

8.5.1 the Trustee shall obtain the approval of the Thrasio Legacy Trust Committee by at least a majority vote prior to:

(a) enforcing, settling, compromising, dismissing, releasing, waiving, withdrawing, abandoning, resolving, or seeking to abandon or otherwise dispose of, any Vested

Causes of Action, where the amount in dispute (as reasonably determined by the Trustee) in the complaint or other document initiating such Vested Cause of Action exceeds \$100,000;

(b) making or agreeing to make any lump sum disbursements of Trust Assets or proceeds of Trust Assets of more than \$100,000 other than payment of the reasonable and documented fees and expenses of Trust professionals, disbursements on account of Allowed First Lien Deficiency Claims or Allowed General Unsecured Claims, or disbursements that are approved by the Bankruptcy Court in accordance with the terms of the Plan;

(c) employing or retaining professionals, disbursing and other agents, independent contractors, and other third-party professionals, including with respect to making agreements with respect to the compensation of such individuals; *provided, however*, that upon the effective date of this Agreement, the Trustee shall be authorized to retain Morrison & Foerster LLP and Kelley Drye & Warren LLP on such terms as are reasonably acceptable to the Thrasio Legacy Trust Committee;

(d) abandoning Cash or non-Cash assets with a value in excess of \$50,000; and

(e) winding down or terminating the Trust.

8.5.2 the Trustee shall consult with the Thrasio Legacy Trust Committee prior to:

(a) establishing and making adjustments to the Thrasio Legacy Trust Reserve to fund the present and projected reasonable expenses of the Trust; and

(b) repaying or agreeing to repay the Thrasio Legacy Trust Initial Funding, and making or agreeing to make distributions of Trust Assets to Beneficiaries.

8.6 Payment of Fees and Expenses. The Trust, by and through the Trustee, shall pay from the Trust Assets the reasonable and documented out-of-pocket expenses of the members of the Thrasio Legacy Trust Committee incurred solely in connection with each of their roles as a Thrasio Legacy Trust Committee member, and not in their individual capacity. For the avoidance of doubt, attorneys' fees incurred by a Thrasio Legacy Trust Committee member, including, but not limited to, attendance at any meetings of the Thrasio Legacy Trust Committee shall not be paid out of the Trust Assets pursuant to this Section 8.6. The Bankruptcy Court shall hear and finally determine any dispute arising out of this Section.

8.7 Conflicts of Interest. If any matter under consideration by the Thrasio Legacy Trust Committee involves a potential conflict of interest with any member serving on the Thrasio Legacy Trust Committee, the member with the potential conflict shall: (a) disclose to the Thrasio Legacy Trust Committee, in writing, the existence of the potential conflict promptly upon learning of the potential conflict; and (b) the member shall be excluded from the discussion and any voting of the matter if a conflict is determined by majority vote of the remaining members of the Thrasio Legacy Trust Committee as provided herein. In the absence of affirmative disclosure by a member having a potential conflict of interest, another member may raise such a conflict of interest. A majority of the remaining members shall have the authority to exclude the conflicting member from any meeting and/or vote on the basis of the existence of a potential conflict of interest after such member has had an opportunity to be heard regarding the potential conflict of interest. Any excluded member shall be granted a reasonable opportunity to address the Thrasio Legacy Trust Committee with respect to such matter upon request. For purposes of a vote to exclude a member, such member shall be counted for purposes of determining a quorum but shall not be entitled to vote on whether a conflict of interest exists. The member having a potential conflict of interest shall not have access to reports or work product (including draft pleadings) prepared by the Trust's advisors with respect to the matter in which the potential conflict of interest exists except to the extent determined to be appropriate by the majority of the remaining members. For the avoidance of doubt, a Thrasio Legacy Trust Committee member shall have a conflict of interest with respect to any matter related to such member's claim against the Estates and shall recuse itself from voting or making any decision related to such claim.

8.8 No Liability for Acts of Predecessors. No successor Thrasio Legacy Trust

Committee member shall be in any way responsible for the acts or omissions of any Thrasio Legacy Trust Committee member in office prior to the date on which such successor becomes a member.

8.9 No Liability for Good Faith Error of Judgment. The Thrasio Legacy Trust Committee members shall not be liable for any error of judgment made in good faith, unless it shall be finally determined by a Final Order of the Bankruptcy Court that the error (as applicable) constituted fraud, gross negligence, or willful misconduct.

8.10 Reliance by the Thrasio Legacy Trust Committee on Documents and Advice of Counsel or Other Persons. Except as otherwise provided herein, the Thrasio Legacy Trust Committee members may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Thrasio Legacy Trust Committee members may rely on, and shall not be liable for any action taken, omitted, or suffered in good faith reliance upon the advice of, counsel, agents, or advisors to the Trust to the extent permitted by law.

8.11 No Personal Obligation for Trust Liabilities. Persons dealing with the Thrasio Legacy Trust Committee have recourse only to the Trust Assets to satisfy any liability incurred by the Trust or Trustee to any such Person in carrying out the terms of this Agreement, and the Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall have no personal, individual obligation to satisfy any such liability.

8.12 No Implied Obligations. The Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied

covenants or obligations shall be read into this Agreement against the Thrasio Legacy Trust Committee or its current and former members.

8.13 Confirmation of Survival of Provisions. Without limitation in any way of any provision of this Agreement, the provisions of this Article VIII shall survive the death, dissolution, liquidation, incapacity, resignation, replacement, or removal, as may be applicable, of the Thrasio Legacy Trust Committee members or, as it relates to Section 6.10, a Thrasio Legacy Trust Indemnified Party, or the termination of the Trust or this Agreement, and shall inure to the benefit of the Thrasio Legacy Trust Committee members and the Thrasio Legacy Trust Indemnified Parties' heirs and assigns.

8.14 Compensation and Reimbursement of Expenses. Unless otherwise determined by the Trustee with the consent of the Thrasio Legacy Trust Committee as a reasonable and appropriate expenditure of the Trust Assets, no member shall be entitled to compensation in connection with his or her service to the Thrasio Legacy Trust Committee. However, the Trust will reimburse the members for all reasonable and documented out-of-pocket expenses incurred by the members in connection with the performance of each of their duties hereunder (other than any fees, costs and expenses of independent legal counsel of any Thrasio Legacy Trust Committee member).

8.15 The Bankruptcy Court shall retain jurisdiction to resolve all disputes under this Article VIII.

ARTICLE IX

SELECTION, REMOVAL, REPLACEMENT AND COMPENSATION OF TRUSTEE

9.1 Initial Trustee. The initial trustee shall be the Trustee.

9.2 Term of Service. The Trustee shall serve until the earliest of (a) the completion of

the administration of the Trust Assets and the Trust, including the winding up of the Trust, in accordance with this Agreement and the Plan; (b) termination and dissolution of the Trust in accordance with the terms of this Agreement and the Plan; or (c) the Trustee's resignation, death, dissolution, incapacity, liquidation, or removal. In the event that the Trustee's appointment terminates by reason of resignation, death, dissolution, incapacity, liquidation, or removal, the Trustee shall be immediately compensated for all reasonable fees and expenses accrued but unpaid through the effective date of termination, whether or not previously invoiced. The provisions of Article VI of this Agreement shall survive the resignation or removal of any Trustee.

9.3 Removal of Trustee. Any party in interest, on notice and hearing before the Bankruptcy Court, may seek removal of the Trustee for cause. The Bankruptcy Court shall hear and finally determine any dispute arising out of this Section 9.3.

9.4 Resignation of Trustee. The Trustee may resign at any time on written notice to the Thrasio Legacy Trust Committee, the U.S. Trustee, and Bankruptcy Court. The resignation shall be effective on the later of (a) the date specified in the notice of resignation; and (b) the date that is thirty days (30) after the date such notice is filed with the Bankruptcy Court and served on the Thrasio Legacy Trust Committee members and the United States Trustee. In the event of a resignation, the resigning Trustee shall render to the Thrasio Legacy Trust Committee and the U.S. Trustee a full and complete accounting of monies and assets received, disbursed, and held during the term of office of that Trustee.

9.5 Appointment of Successor Trustee. Upon the resignation, death, or removal of the Trustee, the Thrasio Legacy Trust Committee shall appoint a successor upon notice to the Bankruptcy Court. Any party in interest (including, in the case of resignation, the Trustee) may

file an objection in the Bankruptcy Court if they object to the appointment of the successor Trustee. In the event no party in interest seeks the appointment of a successor Trustee, the Bankruptcy Court may do so on its own motion. Any successor Trustee so appointed (a) shall consent to and accept his, her or its appointment as successor Trustee, which may be done by e-mail or through acquiescence in not objecting to a motion for approval of his, her or its appointment as successor Trustee; and (b) shall not have any liability or responsibility for the acts or omissions of any predecessor(s). Any successor Trustee may be appointed to serve only on an interim basis.

9.6 Powers and Duties of Successor Trustee. A successor Trustee shall have all the rights, privileges, powers, and duties of his, her, or its predecessor under this Agreement, the Plan, and the Confirmation Order.

9.7 Trust Continuance. The resignation, death, dissolution, incapacity, liquidation, or removal of the Trustee shall not terminate the Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Trustee.

9.8 Compensation of Trustee and Costs of Administration. The Trustee shall receive fair and reasonable compensation for its services in accordance with the terms and conditions set forth on Exhibit B to this Agreement, which shall be a charge solely against and solely paid out of the Trust Assets. All costs, expenses, and obligations incurred by the Trustee (or professionals who may be employed by the Trust or Trustee in administering the Trust, in carrying out their other responsibilities under this Agreement, or in any manner connected, incidental, or related thereto) shall be paid by the Trust solely from the Trust Assets prior to any distribution to Holders of applicable Allowed First Lien Deficiency Claims or Allowed General Unsecured Claims.

9.9 Appointment of Supplemental Trustee. If the Trustee has a conflict or any of the Trust Assets are situated in any state or other jurisdiction in which the Trustee is not qualified to act as trustee, the Trustee shall nominate and appoint a Person duly qualified to act as trustee (the “Supplemental Trustee”) solely with respect to such conflict (but, for the avoidance of doubt, such Supplemental Trustee shall not be a member of the Thrasio Legacy Trust Committee), or in such state or jurisdiction, and require from each such Supplemental Trustee such security as may be designated by the Trustee in its discretion. In the event the Trustee is unwilling or unable to appoint a disinterested Person to act as Supplemental Trustee to handle any such matter, the Bankruptcy Court, on notice and hearing, may do so. The Trustee or the Bankruptcy Court, as applicable, may confer upon such Supplemental Trustee any or all of the rights, powers, privileges, and duties of the Trustee hereunder (other than serving as a member of the Thrasio Legacy Trust Committee), subject to the conditions and limitations of this Agreement, except as modified or limited by the laws of the applicable state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such Supplemental Trustee is acting shall prevail to the extent necessary). To the extent the Supplemental Trustee is appointed by the Trustee, the Trustee shall require such Supplemental Trustee to be answerable to the Trustee for all monies, assets, and other property that may be received in connection with the administration of all property. The Trustee or the Bankruptcy Court, as applicable, may remove such Supplemental Trustee, with or without cause, and appoint a successor Supplemental Trustee at any time by executing a written instrument declaring such Supplemental Trustee removed from office and specifying the effective date and time of removal.

ARTICLE X

DURATION OF TRUST

10.1 Duration. Once the Trust becomes effective upon the Effective Date of the Plan, the Trust and this Agreement shall remain and continue in full force and effect until the Trust is terminated in accordance with the terms hereof.

10.2 Termination on Payment of Trust Expenses and Distribution of Trust Assets. Upon the payment of all costs, expenses, and obligations incurred in connection with administering the Trust, and the distribution of all Trust Assets in accordance with the provisions of the Plan, the Confirmation Order, and this Agreement, the Trust shall automatically terminate and dissolve and the Trustee shall have no further responsibility in connection therewith except as may be required to effectuate such termination under relevant law.

10.3 Termination after Five Years Unless Extended. If the Trust has not been previously terminated pursuant to Section 10.2 hereof, on the fifth (5th) anniversary of the Effective Date, the Trust shall terminate and dissolve unless the Bankruptcy Court, upon motion made within the six (6) month period before such fifth (5th) anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made within six (6) months before the end of the preceding extension), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Trust as a liquidating trust for U.S. federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation and distribution of, the Trust Assets. Upon such termination, the Trustee shall distribute all of the Trust Assets to the Beneficiaries in accordance with the Plan and this Agreement, and immediately thereafter the Trust shall terminate and the

Trustee shall have no further responsibility in connection therewith except to the limited extent set forth in Section 10.5 of this Agreement.

10.4 No Termination by Beneficiaries. The Trust may not be terminated and dissolved at any time by the Beneficiaries.

10.5 Continuance of Trust for Winding Up; Discharge and Release of Trustee. After the termination of the Trust and solely for the purpose of liquidating and winding up the affairs of the Trust, the Trustee shall continue to act as such until its responsibilities have been fully performed. Except as otherwise specifically provided herein, upon the distribution of the Trust Assets, including all excess reserves, the Trustee and the Trust's professionals and agents shall be deemed discharged and have no further duties or obligations hereunder. In connection with the foregoing, upon a motion by the Trustee, the Bankruptcy Court may enter an order relieving the Trustee, the Thrasio Legacy Trust Committee, and the Trust and Trustee's employees, professionals, and agents of any further duties, discharging and releasing the Trustee and its employees, professionals, and agents from all liability related to the Trust.

ARTICLE XI

MISCELLANEOUS

11.1 Cumulative Rights and Remedies. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies under law or in equity.

11.2 Notices. All notices to be given to Beneficiaries may be given by ordinary mail, email (to the extent of available email addresses) or may be delivered personally, at the addresses for such Beneficiaries appearing on the books kept by the Trustee. Any notice or other communication which may be or is required to be given, served, or sent to the Trustee shall be in writing and shall be sent by email, registered or certified United States mail, return

receipt requested, postage prepaid, or transmitted by hand delivery or facsimile (if receipt is confirmed) addressed as follows:

If to the Trust or Trustee:

META Advisors LLC
3 World Trade Center
175 Greenwich Street, 67th Floor
New York, NY 10007
Attn: James S. Carr, Dana P. Kane, Grace Marie Codispoti
Email: jcarr@kelleydrye.com, dkane@kelleydrye.com,
gcodispoti@kelleydrye.com

With a copy to:

Morrison & Foerster LLP
250 West 55th Street
New York, New York 10019-9601
Attn: Lorenzo Marinuzzi, Theresa A. Foudy, Doug Mannal,
Raff Ferraioli, Darren Smolarski
Email: lmarinuzzi@mofo.com, tfoudy@mofo.com,
dmannal@mofo.com, rferraioli@mofo.com,
dsmolarski@mofo.com

and

Kelley Drye & Warren LLP
One Jefferson Road, 2nd Floor
Parsippany, NJ 07054
Attn: Eric Wilson, Maeghan J. McLoughlin, Connie Y. Choe
Email: ewilson@kelleydrye.com, mmcloughlin@kelleydrye.com,
cchoe@kelleydrye.com

or to such other address as may from time to time be provided in written notice by the Trustee.

11.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to rules governing the conflict of laws.

11.4 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

11.5 Particular Words. Reference in this Agreement to any Section or Article is, unless otherwise specified, to that such Section or Article under this Agreement. The words “hereof,” “herein,” and similar terms shall refer to this Agreement and not to any particular Section or Article of this Agreement.

11.6 Execution. All funds in the Trust shall be deemed *in custodia legis* until such times as the funds have actually been paid to or for the benefit of a Beneficiary, and no Beneficiary or any other Person can execute upon, garnish or attach the Trust Assets or the Trustee in any manner or compel payment from the Trust except by Final Order of the Bankruptcy Court. Payments will be solely governed by the Plan, the Confirmation Order and this Agreement.

11.7 Amendment. This Agreement may be amended by written agreement of the Trustee with the consent of the Thrasio Legacy Trust Committee or by order of the Bankruptcy Court; *provided, however*, that such amendment may not be inconsistent with the Plan or the Confirmation Order. No amendment, supplement or waiver of or to this Agreement shall (a) adversely affect the interests, rights or treatment of the holders of Allowed Claims under the Plan or Confirmation Order or the Beneficiaries, (b) adversely affect the payments and/or distributions to be made under the Plan, the Confirmation Order or this Agreement, (c) adversely affect the U.S. federal income tax status of the Trust as a “liquidating trust”; or (d) be inconsistent with the purpose and intention of the Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulation section 301.7701-4(d). No failure by the Liquidating Trust, the Trustee, or the Thrasio Legacy Trust Committee to exercise or delay in exercising any right, power, or privilege hereunder shall

operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any further exercise thereof, or of any other right, power, or privilege.

11.8 No Waiver. No failure or delay of any party to exercise any right or remedy pursuant to this Agreement shall affect such right or remedy or constitute a waiver thereof.

11.9 No Relationship Created. Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership or joint venture of any kind.

11.10 Severability. If any term, provision, covenant, or restriction contained in this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable, or against its regulatory policy, the remainder of the terms, provisions, covenants, and restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

11.11 Further Assurances. Without limitation of the generality of Section 2.3.1 and Section 2.5 of this Agreement, the Parties agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes and provide for the full implementation of this Agreement and the pertinent provisions of the Plan and to consummate the transactions contemplated hereby.

11.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.13 Limitations. Except as otherwise specifically provided in this Agreement, the Plan, or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or to give any person other than the parties hereto any rights or remedies under or by reason of

this Agreement. The parties hereby acknowledge and agree that nothing herein is intended to, does, or shall be construed to prejudice or harm in any way the rights, remedies, or treatment (including any releases, exculpation, indemnification, or otherwise) of any Released Party or Exculpated Party, solely in their capacity as a Released Party or Exculpated Party, under the Plan.

11.13 Jurisdiction. The Bankruptcy Court shall have jurisdiction regarding the Debtors, Reorganized Thrasio, the Trust, the Trustee, the Thrasio Legacy Trust Committee, and the Trust Assets, including, without limitation, the determination of all disputes arising out of or related to administration of the Trust. The Bankruptcy Court shall have continuing jurisdiction and venue to hear and finally determine all disputes and related matters among the Parties arising out of or related to this Agreement or the administration of the Trust. The Parties expressly consent to the Bankruptcy Court hearing and exercising such judicial power as is necessary to finally determine all such disputes and matters. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in this Agreement, the provisions of this Agreement shall have no effect on and shall not control, limit, or prohibit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter, and all applicable references in this Agreement to an order or decision of the Bankruptcy Court shall instead mean an order or decision of such other court of competent jurisdiction.

IN WITNESS WHEREOF, the Parties have or are deemed to have executed this Agreement as of the day and year written above.

Thrasio Holdings, Inc. and the Other Debtors/Reorganized
Thrasio

By: _____

Name: _____

Title: _____

META Advisors LLC, not individually, but solely in its
capacity as Trustee of the Thrasio Legacy Trust

By: _____

Name: _____

Title: _____

EXHIBIT A

THRASIO LEGACY TRUST COMMITTEE

1. META Advisors LLC
2. Daniel Wallitt
3. Lucia Kim
4. Your Home Goods, Inc.
5. Thomas Pitta

EXHIBIT B

[Excluded for Filing]

Exhibit J-1

(Redline to Previous) Thrasio Legacy Trust Agreement

THRASIO LEGACY TRUST AGREEMENT AND DECLARATION OF TRUST

This Thrasio Legacy Trust Agreement and Declaration of Trust (this “Agreement”), dated as of June ~~[+]~~18, 2024, is made by and among Thrasio Holdings, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”)¹ in these Chapter 11 Cases (as defined herein) and ~~[]~~META Advisors LLC (the “Trustee,” and together with the Debtors, each, a “Party” and collectively, the “Parties”).

RECITALS

1. On February 28, 2024, each of the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”). The Debtors’ chapter 11 cases are being jointly administered under the caption *In re Thrasio Holdings, Inc., et al.*, Case No. 24-11840 (CMG) (Bankr. D.N.J.) (the “Chapter 11 Cases”).

2. On March 12, 2024, the Office of the United States Trustee (the “U.S. Trustee”) appointed the Official Committee of Unsecured Creditors pursuant to section 1102 of the Bankruptcy Code. ~~—See Notice of Appointment of Official Committee of Unsecured Creditors~~
~~[Docket No. 163]~~.²

¹ A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Claims, Noticing, and Solicitation Agent at <https://www.kccllc.net/Thrasio>.

² Docket No. 163. The Committee consists of the following seven members: (1) Anthony J. DeCarlo, individually; (2) Cecilio Musical Instruments, Inc.; (3) GXO Logistics Supply Chain, Inc.; (4) Mellow Militia, LLC; (5) The California Beach Co.; (6) Word Ape, LLC f/k/a ChomChom; and (7) YH Goods.

3. On April 18, 2024, the Debtors filed the *Second Amended Disclosure Statement for the Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy*³ and the *Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*.⁴

4. On April 18, 2024, the Bankruptcy Court entered the *Order Approving (I) the Adequacy of the Second Amended Disclosure Statement, (II) the Solicitation and Voting Procedures, (III) the Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* (the “Disclosure Statement Order”).⁵

5. On June 7, 2024, the Debtors filed the *First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (the “First Amended Joint Plan”).⁶

6. On June 13, 2024, the Debtors filed the *First Amended Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications)* (as amended or otherwise modified from time to time, the “Plan”).⁶⁷

7. On June 13, 2024, the Bankruptcy Court entered an order (the “Confirmation Order”) confirming the Plan, which will become effective once all conditions

³ Docket No. 397.

⁴ Docket No. 398.

⁵ Docket No. 399. All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Disclosure Statement Order, the Plan (as defined herein), or the Confirmation Order (as defined herein), as applicable.

⁶ Docket No. 1102.

⁶⁷ Docket No. 1125.

set forth in Article IX of the Plan have been satisfied or waived pursuant to the Plan (the “Effective Date”).⁷⁸

8. ~~7.~~Article IV.J of the Plan provides for the creation of the Thrasio Legacy Trust (the “Trust”) on the Effective Date of the Plan.

9. ~~8.~~The Trust is established in accordance with Article IV of the Plan for the benefit of holders of Allowed Class 4 First Lien Deficiency Claims and Allowed Class 4 Other General Unsecured Claims entitled to distributions under the Plan (collectively, the “Beneficiaries”).

10. ~~9.~~The Trust’s primary purposes ~~is~~are to investigate, prosecute, settle, or abandon the Vested Causes of Action ~~and~~, to review, reconcile, object to and resolve General Unsecured Claims other than First Lien Deficiency Claims, and to make distributions to Beneficiaries, with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the Thrasio Legacy Trust’s liquidating purpose and reasonably necessary to conserve and protect the Vested Causes of Action and provide for the orderly liquidation thereof.

11. ~~10.~~Pursuant to the Plan, the Debtors, ~~the~~ Reorganized ~~Debtors~~,Thrasio, the Trust, the Trustee, and the Beneficiaries ~~are required to~~shall treat, for all U.S. federal income tax purposes, the transfer of the Trust Assets (as defined herein) to the Trust as a transfer of the Trust Assets by the Debtors to the Beneficiaries in satisfaction of their Allowed Claims, followed by a transfer of the Trust Assets by the Beneficiaries to the Trust in exchange for their respective Thrasio Legacy Trust Interests, and to treat the Beneficiaries as the grantors and owners of the Trust for U.S. federal income tax purposes, except with respect to any DOF (as defined below).

⁷⁸ Docket No. ~~[●]~~1124.

The foregoing treatment shall also apply, to the extent permitted by applicable law, for applicable United States state and local income tax purposes.

12. ~~11.~~ Pursuant to the Plan, the Trust (other than with respect to any DOF or other separate entity) is intended for U.S. federal income tax purposes (a) to be treated as a grantor trust within the meaning of sections 671-679 of the ~~Internal Revenue Tax~~ Code ~~of 1986, as amended (“IRC”)~~; and (b) to qualify as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d). For the avoidance of doubt, the decision to elect whether or not to have a disputed claim reserve treated as a DOF for tax purposes shall be determined by the Trustee in its sole discretion and nothing in this ~~Trust~~ Agreement or the Plan shall be construed otherwise.

13. ~~12.~~ In accordance with the Plan, the Trust, or interests in the Trust, is further intended to be exempt from the registration requirements of (a) ~~section 1145 of the Bankruptcy Code,~~ the federal securities laws, including the Securities ~~Exchange~~ Act of 1933, as amended (the “Securities Act”) and the Exchange Act (as defined below), and any applicable state and local laws requiring registration of securities; and (b) the Investment Company Act ~~of 1940, as amended, pursuant to sections 7(a) and 7(b) of that Act and section 1145 of the Bankruptcy Code~~ (as defined below).

NOW, THEREFORE, in accordance with the Plan and the Confirmation Order, and in consideration of the promises, and the mutual covenants and agreements of the Parties contained in the Plan and herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties agree and declare as follows:

DECLARATION OF TRUST

The Debtors and the Trustee enter into this Agreement to effectuate the distribution of the Trust Assets to the Beneficiaries pursuant to the Plan and the Confirmation Order;

Pursuant to Article IV of the Plan and ~~s~~Section 2.3.2 of this Agreement, on the Effective Date, all of the Thrasio Legacy Trust Assets shall automatically be transferred to and vest in the Trust free and clear of all Claims, Liens, Interests, encumbrances, and contractually imposed restrictions except as otherwise provided in the Plan;

TO HAVE AND TO HOLD unto the Trustee and its successors in trust; and

IT IS HEREBY FURTHER COVENANTED AND DECLARED, that the Thrasio Legacy Trust Assets ~~and~~ ~~(collectively~~upon vesting in the Trust, the “Trust Assets”), are to be held by the Trust and applied on behalf of the Trust by the Trustee on the terms and conditions set forth herein and the Plan, solely for the benefit of the Beneficiaries and for no other party.

ARTICLE I

RECITALS, PLAN DEFINITIONS, OTHER DEFINITIONS, INTERPRETATION, AND CONSTRUCTION

1. Recitals. The Recitals are incorporated into and made terms of this Agreement.
2. Definitions. All terms used in this Agreement but not defined herein shall have the meanings set forth in the Plan or Confirmation Order, as applicable, or as otherwise set forth herein.
3. Interpretation; Headings. All references herein to specific provisions of the Plan or Confirmation Order are without exclusion or limitation of other applicable provisions of the Plan or Confirmation Order. Words denoting the singular number shall include the plural number and vice versa, and words denoting one gender shall include the other gender. The

headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the provisions of this Agreement.

4. Construction of Agreement. This Agreement shall not be construed to impair or limit in any way the rights of any Person under the Plan.

5. Conflict Among Plan Documents. In the event of any inconsistency between the Plan, the Confirmation Order, and this Agreement, the Confirmation Order shall control. In the event of an inconsistency between the Plan and this Agreement, the terms of the relevant provision of this Agreement shall control (unless stated otherwise in this Agreement or in the Confirmation Order).

ARTICLE II

ESTABLISHMENT OF TRUST

2.1 Effectiveness of Agreement; Name of Trust. This Agreement shall become effective on the Effective Date, and the Trust shall be officially known as the “Thrasio Legacy ~~SPV~~Trust.” The Debtors and the Trustee, pursuant to the Plan and in accordance with Bankruptcy Code, hereby create the Trust in furtherance of the settlement set forth in the Plan and the settlement term sheet set forth as Exhibit H to the Plan Supplement (the “Committee Settlement”).⁸⁹

2.2 Purpose of Trust. The Debtors or ~~the~~ Reorganized ~~Debtors~~Thrasio, as applicable, and the Trustee, pursuant to the Plan and in accordance with Bankruptcy Code, hereby create the Trust for the primary purposes of investigating, prosecuting, settling, or abandoning the Vested Causes of Action~~and~~, to review, reconcile, object to and resolve General Unsecured Claims other than First Lien Deficiency Claims, and making distributions to Beneficiaries, with no

⁸⁹ Docket No. 818.

objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the Thrasio Legacy Trust's liquidating purpose and reasonably necessary to conserve and protect the Vested Causes of Action and provide for the orderly liquidation thereof.

2.3 Transfer of Trust Assets.

2.3.1 Conveyance of Trust Assets. Pursuant to the Plan, the Debtors or ~~the~~ Reorganized ~~Debtors~~Thrasio, as applicable, hereby grant, release, assign, transfer, convey and deliver, on behalf of the Beneficiaries, all of such Debtors' rights, title, and interest in and to the Thrasio Legacy Trust Assets to the Trust as of the Effective Date in trust for the benefit of the Beneficiaries, which shall constitute Trust Assets for all purposes and shall be administered and applied as specified in this Agreement and the Plan. On the Effective Date, the Debtors or ~~the~~ Reorganized ~~Debtors~~Thrasio, as applicable, shall, from time to time as and when reasonably requested by the Trustee, execute and deliver or cause to be executed and delivered all such documents (in recordable form where necessary or appropriate) and such Debtors or ~~the~~ Reorganized ~~Debtors~~Thrasio, as applicable, shall take or cause to be taken such further action as the Trustee may reasonably deem necessary or appropriate, to vest or perfect in the Trust or confirm to the Trustee title to and possession of the Trust Assets. The transfer and delivery of the Trust Assets shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax to the maximum extent permitted under section 1146 of the Bankruptcy Code. The Trustee shall have no duty to arrange for any of the transfers contemplated under this Agreement or by the Plan or to ensure their compliance with the terms of the Plan and/or the Confirmation Order, and shall be conclusively entitled to rely on the legality and validity of such transfers.

2.3.2 Title to Trust Assets. Pursuant to the Plan, all of the Debtors' rights, title, and interest in and to the Thrasio Legacy Trust Assets, including all such assets held or controlled by third parties, are hereby transferred to and automatically vested in the Trust on the Effective Date and shall comprise Trust Assets for all purposes, free and clear of all Liens, Claims, encumbrances, Interests, contractually imposed restrictions, and other interests, except as specifically provided in the Plan, and such transfer is on behalf of the Beneficiaries to establish the Trust. The Trust, acting by and through the Trustee, shall be authorized, among other things, to obtain possession or control of, liquidate, and collect all of the Trust Assets in the possession or control of third parties, pursue, settle, and/or sell all Vested Causes of Action (subject to Article VIII hereof), and assert and/or exercise any all rights of setoff and recoupment and defenses of the Debtors or their Estates to any counterclaims that may be asserted by any and all defendants as to any Vested Causes of Action or Holders of Disputed Other General Unsecured Claims; *provided, however*, that, (i) consistent with Article IV.J.9 of the Plan, the Trust covenants not to pursue any Vested Causes of Action against any Cooperating Party unless or until they become Excluded Parties within the meaning of the Plan (the "Contingent Negative Covenant"), and (ii) consistent with the Plan, the Trust is prohibited from pursuing ~~Claims and Causes of Action, including pursuing~~ (a) objections, setoffs, recoupments, against the First Lien Deficiency Claims, and (b) Claims or Causes of Actions against any Released Party under the Plan. Without limiting the generality of the foregoing, the Trust shall have the right to invoke section 542 of the Bankruptcy Code to pursue turnover of Trust Assets. On the Effective Date, the Trust shall be substituted for the Debtors for all purposes with respect to the Trust Assets, reconciliation of Other General Unsecured Claims and administration of ~~Other~~all General Unsecured Claims. To the extent any law or regulation prohibits the transfer of ownership of any

of the Trust Assets from the Debtors to the Trust and such law is not superseded by the Bankruptcy Code, the Trust's interest shall be a Lien upon and security interest in such Trust Assets, in trust, nevertheless, for the sole use and purposes set forth in ~~s~~Section 2.2 of this Agreement, and this Agreement shall be deemed a security agreement granting such interest thereon without need to file financing statements or mortgages. By executing this Agreement, the Trustee on behalf of the Trust hereby accepts all of such property as Trust Assets, to be held in trust for the Beneficiaries, subject to the terms of this Agreement and the Plan.

2.4 Capacity of Trust. Notwithstanding any state or federal law to the contrary or anything herein, the Trust shall itself have the capacity, in its own right and name, to act or refrain from acting, including the capacity to sue and be sued and to enter into contracts. The Trust may alone be the named movant, respondent, party plaintiff or defendant, or the like in all adversary proceedings, contested matters, and other state or federal proceedings brought by or against it, and may settle and compromise all such matters in its own name.

2.5 Cooperation of Reorganized ~~Debtors~~Thrasio.

2.5.1 With respect to the Vested Causes of Action, on or as soon as reasonably practicable following the Effective Date, at the sole cost of ~~the~~ Reorganized ~~Debtors, the~~Thrasio, Reorganized ~~Debtors~~Thrasio and the Committee (prior to the Committee's dissolution on the Effective Date, as applicable) shall: (a) deliver or cause to be delivered to the Trust any and all books and records and all other documents and communications, or copies of the same, related to the Vested Causes of Action; (b) provide reasonable and continuing access to such officers, directors and employees of ~~the~~ Reorganized ~~Debtors~~Thrasio and their agents, advisors, attorneys, accountants or any other professionals with knowledge of matters relevant to the Vested Causes of Action (including any former officers, directors, employees, agents, advisors, attorneys,

accountants, or other professionals who owe a continuing duty of cooperation to ~~the~~ Reorganized Debtors~~Thrasio~~); and (c) promptly following receipt of a reasonable request from the Trust, use commercially reasonable efforts to (i) take, or cause to be taken, all such reasonable further actions, and execute and/or deliver all such additional instruments, agreements or documents, as the Trust may request in order to evidence or effectuate the transfer of the Vested Causes of Action and the Privileges (defined below) to the Trust and the consummation of the transactions contemplated hereby and by the Plan and to otherwise carry out the intent of this Agreement, the Committee Settlement, and under the Plan, and (ii) cooperate with the Trust in the prosecution of the Vested Causes of Action and with the Trustee in fulfilling its duties and obligations under this Agreement and the Plan.

2.5.2 ~~The~~ Reorganized Debtors~~have~~Thrasio has shall use commercially reasonable efforts to cooperate with the Trust and Trustee and their professionals in reconciling Other General Unsecured Claims and administering ~~Other~~all General Unsecured Claims. Such cooperation shall include, but not be limited to, reasonably attempting to identify and facilitate access (a) to any evidence and information the Trustee requests in connection with the Trust's review, reconciliation, allowance or objections to Disputed Other General Unsecured Claims, to the extent ~~the~~ Reorganized Debtors~~have~~Thrasio has such evidence and/or information; and (b) through the Company Representative (defined below), to former employees and Professionals of the Debtors and current officers and directors of ~~the~~ Reorganized Debtors~~Thrasio~~ (with knowledge regarding any Disputed Other General Unsecured Claims). ~~The~~ Reorganized Debtors~~Thrasio~~ shall arrange for the Trustee to receive an updated register of filed and scheduled General Unsecured Claims (the "Claims Register") from the Claims, Noticing, and Solicitation Agent within thirty (30) days after the Effective Date.

2.5.3 If the Trust requires documents or information from ~~the~~ Reorganized Debtors Thrasio, such requests shall be made by the Trust to such employee of ~~the~~ Reorganized Debtors Thrasio as may be designated from time to time by ~~the~~ Reorganized Debtors Thrasio (the “Company Representative”). The Company Representative will use commercially reasonable efforts to respond to such information requests, including providing reasonable access to employees, as appropriate, to facilitate an efficient complex assets recovery process, litigation recovery process, and Claims reconciliation process. Any dispute regarding access set forth in this paragraph shall be resolved for the Trust by the Thrasio Legacy Trust Committee.

2.6 No Retention of Excess Cash. Notwithstanding anything in this Agreement to the contrary, under no circumstances shall the Trust or the Trustee retain cash or cash equivalents in excess of a reasonable amount to meet claims, expenses, and contingent liabilities or to maintain the value of the Trust Assets during administration of the Trust, to the extent consistent with applicable law, or to fund the reserves established in accordance with the Plan and/or pursuant to ~~§~~ Section 4.1.2. of this Agreement, and shall distribute all amounts not required to be retained for such purposes and not otherwise required to be distributed to the Beneficiaries as promptly as reasonably practicable in accordance with the Plan and this Agreement; *provided, however*, that no Holder of an Allowed General Unsecured Claim shall be entitled to receive distributions in excess of 100% of such Beneficiary’s Allowed Claim.

2.7 Acceptance by Trustee. The Trustee accepts its appointment as Trustee of the Trust and shall perform all duties and obligations imposed upon the Trustee under the Plan, this Agreement, and applicable orders of the Bankruptcy Court.

~~2.8 Any dispute under this Article II between the Trust and the Reorganized Debtors shall be resolved by the Thrasio Legacy Trust Committee.~~

ARTICLE III

ADMINISTRATION OF TRUST

3.1 Rights, Powers, and Privileges of Trustee Generally. Except as otherwise provided in this Agreement, the Plan, or the Confirmation Order, as of the Effective Date, the Trust, acting by and through the Trustee, may control and exercise authority over the Trust Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the affairs of the Trust, with the consent and consultation rights of the Thrasio Legacy Trust Committee set forth in Article VIII hereof. In administering the Trust Assets, the Trust, acting by and through the Trustee, shall, in an expeditious but commercially reasonable manner, liquidate and convert to Cash the Trust Assets, shall make timely distributions in accordance with this Agreement and the Plan, and shall exercise reasonable business judgment and not unduly prolong the Trust's duration, with due regard that undue haste in the administration of the Trust Assets may fail to maximize value for the benefit of the Beneficiaries and otherwise be imprudent and not in the best interests of the Beneficiaries. Notwithstanding anything in the Plan or this Agreement to the contrary, the Trust, acting by and through the Trustee, shall always act consistently with, and not contrary to, the purpose of the Trust as set forth in the Plan.

3.2 Power to Contract. In furtherance of the purpose of the Trust, and except as otherwise specifically restricted in the Plan, the Confirmation Order, or this Agreement, the Trust, by and through the Trustee, shall have the right and power to enter into any covenants or agreements binding the Trust, and to execute, acknowledge, and deliver any and all instruments that are necessary or deemed by the Trust to be consistent with and advisable in furthering the purpose of the Trust.

3.3 Ultimate Right to Act Based on Advice of Counsel or Other Professionals.

Nothing in this Agreement shall be deemed to prevent the Trust, by and through the Trustee, from taking or refraining to take any action on behalf of the Trust that, based upon the advice of counsel or other professionals, the Trustee determines it is obligated to take or to refrain from taking in the performance of any fiduciary duty that the Trustee may owe under the Plan, the Confirmation Order, or this Agreement.

3.4 Powers of Trustee. Without limiting the generality of the above ~~s~~Section 3.1, in addition to the powers granted in the Plan, the Trust, by and through the Trustee, shall have the power to take the following actions on behalf of the Trust and any powers reasonably incidental thereto that the Trust, by and through the Trustee, in its reasonable discretion (subject to any limitations set forth in Article VIII hereof), deems necessary or appropriate to fulfill the purpose of the Trust, unless otherwise specifically limited or restricted by the Plan or this Agreement:

3.4.1 hold legal title to the Trust Assets and to any and all rights of the Debtors (including as Reorganized ~~Debtors~~Thrasio, as applicable) and the Beneficiaries in or arising from the Trust Assets;

3.4.2 receive, maintain, conserve, supervise, prosecute, collect, settle, manage, adjust, invest, protect, enforce, and, where appropriate, cause the Trust to abandon the Trust Assets, including causing (but not obligating) the Trust to invest any moneys held as Trust Assets in accordance with the terms of ~~f~~sSection 3.9~~+~~ hereof;

3.4.3 open and maintain bank accounts on behalf of or in the name of the Trust;

3.4.4 cause the Trust to enter into any agreement or execute any document or instrument required by or consistent with the Plan, the Confirmation Order, or this Agreement, and to perform all obligations thereunder;

3.4.5 collect and liquidate all Trust Assets, including the sale of any Trust Assets;

3.4.6 protect and enforce the rights to the Trust Assets (including, without limitation, any Vested Causes of Action) vested in the Trust and the Trustee by this Agreement by any method deemed appropriate, including, without limitation, by judicial proceedings or otherwise, subject to the Contingent Negative Covenant;

3.4.7 investigate any Trust Assets including, but not limited to, any Vested Causes of Action, review, reconcile, compromise, settle, or object to any Other General Unsecured Claim, and cause the Trust to seek the examination of any Person pursuant to Federal Rule of Bankruptcy Procedure 2004;

3.4.8 ~~subject to any applicable consent or consultation right in this Agreement,~~ cause the Trust to employ or retain professionals, disbursing agent, and other agents, independent contractors, and third parties pursuant to this Agreement and pay the reasonable and documented compensation thereof;

3.4.9 cause the Trust to pay all of its lawful expenses, debts, charges, taxes, and other liabilities, and make all other payments relating to the Trust Assets, solely out of the Trust Assets;

3.4.10 cause the Trust to review, reconcile, prosecute, enforce, collect, compromise, settle, dismiss, release, waive, withdraw, abandon, resolve, or elect not to pursue all Vested Causes of Actions, including all Avoidance Actions against the Excluded Parties, subject to the Contingent Negative Covenant;

3.4.11 calculate, authorize, and make all distributions to the Holders of Allowed General Unsecured Claims as provided for in, or contemplated by, the Plan and this Agreement;

3.4.12 establish, adjust, and maintain a reserve for Disputed Other General Unsecured Claims (the “Disputed Claims Reserve”);

3.4.13 cause the Trust to withhold from the amount distributable to any Person the maximum amount needed to pay or remit any tax or other charge that the Trustee has determined, based upon the advice of its agents and/or professionals, may be required to be withheld or deducted from such distribution under the income tax or other laws of the United States or of any state or political subdivision thereof;

3.4.14 in reliance upon the Debtors’ Schedules and the official Claims Register maintained in the Chapter 11 Cases, review, and, where appropriate, cause the Trust, by and through the Trustee, to allow or object to Other General Unsecured Claims, and supervise and administer the Trust’s commencement, prosecution, settlement, compromise, withdrawal, or resolution of all objections to Disputed Other General Unsecured Claims required to be administered by the Trust in accordance with the Plan;

3.4.15 in reliance upon the Debtors’ Schedules~~—and,~~ the Claims Register maintained in the Chapter 11 Cases and the First Lien Deficiency Claim Distribution List described in Section 3.4.18 of this Agreement, maintain a register evidencing the beneficial interest herein held by each Beneficiary and, in accordance with ~~{s}Section 3.810}~~ of this Agreement, in connection with Other General Unsecured Claims, such register may be the official Claims Register maintained in the Chapter 11 Cases;

3.4.16 without limitation of, and as set forth in ~~{s}Section 3.4.13}~~ and Section 4.4 of this Agreement, cause the Trust to make all tax withholdings, file tax information returns, file and prosecute tax refund claims, make tax elections by and on behalf of the Trust, and prepare and timely file tax returns for the Trust as a grantor trust under ~~IRC~~ sections 671–679 of the Tax

Code and Treasury Regulation section 1.671-4 pursuant to and in accordance with the Plan and ~~Article VII~~ hereof, and timely pay taxes, if any, payable for and on behalf of the Trust solely out of the Trust Assets; *provided, however*, nothing contained herein shall provide the Trustee with authority or responsibility to file any tax returns for the Debtors or their Estates, nor shall the Trust or the Trustee have any responsibility or liability in any capacity whatsoever for the filing of Debtors' income tax returns for any period either prior to or after the Effective Date or for any tax liability related thereto;

3.4.17 cause the Trust to abandon or donate to a charitable organization that qualifies for non-profit status under ~~IRC~~ section 501(c)(3) of the Tax Code any Trust Assets that the Trustee determines, with the consent of the Thrasio Legacy Trust Committee to the extent that such Trust Assets have a value in excess of \$50,000, to be too impractical to distribute to the Beneficiaries or of inconsequential value to the Trust and the Beneficiaries;

3.4.18 calculate, authorize, and make all distributions to Holders of Allowed First Lien Deficiency Claims, in reliance on information provided by the Administrative Agent, any advisors to the Administrative Agent, the Ad Hoc Group, the Ad Hoc Group Advisors, the Debtors, Reorganized Debtors, the Debtors' Professionals and/or the Reorganized Debtors' professionals (as applicable), which information shall include, with respect to each Holder of a First Lien Deficiency Claim, the name, address and amount held as of the Distribution Record Date (the "First Lien Deficiency Claim Distribution List");

3.4.19 ~~3.4.18~~ cause the Trust to send annually to Beneficiaries, in accordance with the applicable tax laws, a separate statement stating a Beneficiary's interest in the Trust and its share of the Trust's income, gain, loss, deduction, or credit, and to instruct all such Beneficiaries to report such items on their ~~United States~~ U.S. federal tax returns, as applicable;

3.4.20 ~~3.4.19~~ cause the Trust to seek a determination of tax liability or refund of the Trust under section 505 of the Bankruptcy Code for all tax returns filed for, or on behalf of, the Trust for all taxable periods from the creation of the Trust through the termination of the Trust;

3.4.21 ~~3.4.20~~ cause the Trust to establish such reserves for taxes, assessments and other expenses of administration of the Trust as may be necessary and appropriate for the proper operation of matters incident to the Trust;

3.4.22 ~~3.4.21~~ cause the Trust to purchase and carry all insurance policies that the Trust, by and through the Trustee, deems reasonably necessary or advisable and to pay all associated insurance premiums and costs solely out of the Trust Assets;

3.4.23 ~~3.4.22~~ undertake all administrative functions of the Trust, including overseeing the winding down and termination of the Trust;

3.4.24 ~~3.4.23~~ undertake all administrative functions remaining in these Chapter 11 Cases as provided for in the Plan and/or to the extent necessary to carry out the Trust or Trustee's duties under the Plan;

3.4.25 ~~3.4.24~~ exercise, implement, enforce, and discharge all of the applicable and relevant terms, conditions, powers, duties, and other provisions of the Plan, the Confirmation Order, and this Agreement; and

3.4.26 ~~3.4.25~~ take all other actions consistent with the provisions of the Plan that the Trustee, ~~subject to any applicable consent or consultation right in this Agreement,~~ deems reasonably necessary or desirable to administer the Trust.

3.5 Exclusive Authority to Pursue the Vested Causes of Actions. Subject to the Contingent Negative Covenant and the limitations set forth in Article VIII of this Agreement, the

Trust, acting by and through the Trustee, shall have the exclusive right, power, and interest to review, reconcile, enforce, collect, compromise, settle, or elect not to pursue the Vested Causes of Action. The Trustee shall be the sole representative of the Estates under section 1123(b)(3) of the Bankruptcy Code with respect to all Vested Causes of Action, including, for the avoidance of doubt, as [to Vested Causes of Action](#) against individuals to whom the Contingent Negative Covenant may apply; *provided, however*, that the Trust shall not commence or prosecute any claims released under Article XII of the Plan against any Released Party. Without limiting the generality of the foregoing, section 108 of the Bankruptcy Code shall apply to the Trustee, as the section 1123(b)(3) representative of the Estates, with respect to all Vested Causes of Action, and the Trust, by and through the Trustee, shall be entitled to assert, in accordance with the terms of the Plan, all setoffs, and defenses of the Debtors or the Trust to any counterclaims that may be asserted by any defendant with respect to the Vested Causes of Action. The Trust shall also be vested with, and the Trust, by and through the Trustee, shall be entitled to assert, in accordance with the terms of the Plan, all of the Debtors' and their Estates' rights with respect to any such counterclaims under section 558 of the Bankruptcy Code. All costs and expenses of pursuing the Vested Causes of Action shall be satisfied first from the Thrasio Legacy Trust Initial Funding and then from the Thrasio Legacy Trust ~~Litigation~~-Proceeds, and all other Thrasio Legacy Trust Fees and Expenses, including this Thrasio Legacy Trust Initial Funding, shall be paid or reserved for, before any Thrasio Legacy Trust ~~Litigation~~-Proceeds are paid to the Beneficiaries.

3.5.1 Except as expressly stated otherwise below, the Trust shall stand in the same position as the Debtors and their Estates (solely with regard to the Vested Causes of Action) as to all evidentiary privileges of any type or nature whatsoever, including attorney-client privilege, the work product privilege or doctrine, any other privilege or immunity

attaching to any documents or communications in any form, including electronic data hosted on remote servers, and any other applicable evidentiary privileges of each of the foregoing (collectively, the “Privileges”), and shall succeed to all of the rights of the Debtors and their Estates (solely with regard to the Vested Causes of Action) to preserve; or assert; ~~or waive~~ any such Privileges, and shall be deemed to be the assignee by each Debtor and its respective Estate (solely with regard to the Vested Causes of Action) of each such Privilege.

3.5.2 Notwithstanding the foregoing, the privilege of the Disinterested Directors is hereby recognized and shall remain in full force and effect and shall not be waived, nor shall any such privileged documents be turned over to any person or Entity without the consent of each of the Disinterested Directors. The Disinterested Directors shall produce to the Trust, on or shortly after the Effective Date: (a) all interview memoranda regarding the interviews conducted in the Independent Investigation; (b) a list of all interviews requested in the Independent Investigation; and (c) all documents produced to the Disinterested Directors by the Debtors and/or any third parties; *provided, however*, that production of such materials does not constitute a waiver of any privileges or work product protections that might exist, and shall not be used by the Trust to argue that such a waiver has occurred.

3.5.3 Notwithstanding the Debtors or ~~the—~~Reorganized ~~Debtors~~Thrasio providing any privileged information to the Trust, the Trustee, or the Thrasio Legacy Trust Committee (including any member thereof), such privileged information shall be without waiver in recognition of the joint and/or successor interest in investigating and prosecuting the Vested Causes of Action and shall remain privileged. For the avoidance of doubt, the actions taken by the Committee, the Disinterested Directors, the Debtors, and ~~the—~~Reorganized ~~Debtors~~Thrasio in connection with the Plan, the Committee Settlement, or the formation of the Trust shall not be

(or deemed to be) a waiver of any Privilege of any of the Committee, the Disinterested Directors, the Debtors, and ~~the~~ Reorganized ~~Debtors~~ Thrasio, as applicable, including any Privilege attaching to any document or communications (whether written or oral) transferred to the Trust.

3.5.4 All communications between the Trust and the Thrasio Legacy Trust Committee, as well as their and their members' respective representatives and advisors, shall be deemed privileged and confidential communications, it being acknowledged that the subject matter of such communications is with respect to common litigation interests. Such communications shall not be disclosed to any third parties except as may be required by an order of a court of competent jurisdiction upon prior written notice to the Trustee and the Thrasio Legacy Trust Committee members.

3.6 Abandonment. Notwithstanding the foregoing, if, in the Trustee's reasonable judgment (subject to the limitations set forth in Article VIII hereof), any non-cash Trust Assets cannot be sold in a commercially reasonable manner or the Trust, by and through the Trustee ~~in~~ ~~consultation with the Thrasio Legacy Trust Committee~~, believes in good faith that such property has inconsequential value to the Trust or its Beneficiaries, the Trust, by and through the Trustee, shall have the right to cause the Trust to abandon or otherwise dispose of such property, including by donation of such property to a qualified section 501(c)(3) of the Tax Code charitable organization.

3.7 Responsibility for Administration of Claims. From and after the Effective Date, the Trust, by and through the Trustee, shall become responsible for administering and paying distributions to the Holders of Allowed General Unsecured Claims. The Trust, acting by and through the Trustee, shall have the exclusive right to object to the allowance of any Other General Unsecured Claim on any ground, to file, withdraw, or litigate to judgment objections to

such Other General Unsecured Claims, to settle or compromise any Disputed Other General Unsecured Claims without any further notice to or action, order or approval by the Bankruptcy Court, and to assert all defenses of the Debtors and their Estates. The Trust, acting by and through the Trustee, shall also be entitled to assert all of the Debtors' and their Estates' rights under, without limitation, section 558 of the Bankruptcy Code, and may seek estimation of any Other General Unsecured Claims under and subject to section 502(c) of the Bankruptcy Code.

3.8 Agents and Professionals. The Trust, by and through the Trustee, may, but shall not be required to, consult with and retain attorneys, financial advisors, accountants, appraisers, and other professionals the Trust believes have qualifications necessary to assist in the administration of the Trust, including professionals previously retained by the Debtors or the Committee. For the avoidance of doubt, and without limitation of applicable law, nothing in this Agreement [\(other than the limitations set forth in Article VIII hereof\)](#) shall limit the Trust, by and through the Trustee ~~with the consent of the Thrasio Legacy Trust Committee~~, from engaging counsel or other professionals, including the Trustee itself or the Trustee's firm or their affiliates, to do work for the Trust. The Trustee may pay the reasonable and documented salaries, fees, and expenses of such Persons out of the Trust Assets in the ordinary course of business as Thrasio Legacy Trust Fees and Expenses.

3.9 Safekeeping and Investment of the Trust Assets. All moneys and other assets received by the Trust shall, until distributed or paid over as provided herein and in the Plan, be held in trust for the benefit of the Beneficiaries. Neither the Trust nor the Trustee shall have any liability for interest or producing income on any moneys received by them and held for distribution on account of applicable Allowed General Unsecured Claims or payment to the Beneficiaries except as such interest shall actually be received by the Trust or the Trustee, which

shall be distributed as provided in the Plan. Except as otherwise provided by the Plan, the powers of the Trust, by and through the Trustee, to invest any moneys held by the Trust, other than those powers reasonably necessary to maintain the value of the assets and to further the Trust's liquidating purpose, shall be limited to powers to invest in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary liquid investments, such as treasury bills; *provided, however*, that the scope of permissible investments shall be limited to include only those investments that a "liquidating trust," within the meaning of Treasury Regulation section 301.7701-4(d), may be permitted to hold pursuant to the Treasury Regulations, or any modification of the IRS guidelines ([including Revenue Procedure 94-45](#)), whether set forth in IRS rulings, IRS pronouncements, or otherwise. For the avoidance of doubt, the provisions of section 11-2.3 of the Estates, Powers, and Trusts Law of New York shall not apply to this Agreement. Notwithstanding the foregoing, the Trustee shall not be prohibited from engaging in any trade or business on its own account, provided that such activity does not interfere or conflict with the Trustee's administration of the Trust.

3.10 Maintenance and Disposition of Trust and Debtor Records. The Trustee shall maintain accurate records of the administration of the Trust Assets, including receipts and disbursements and other activity of the Trust. To the extent of any [Other](#) General Unsecured Claims reflected thereon, the Claims Register may serve as the Trust's register of beneficial interests held by Beneficiaries. The Trust shall be provided with originals or copies of or access to all documents and business records of the Debtors that are in the possession of the Debtors and reasonably necessary for the disposition of the Trust Assets and objections to Other General Unsecured Claims, except, in each case, to the extent necessary to (a) ensure compliance with any applicable law or an order of the Bankruptcy Court; (b) preserve any applicable privilege

(including the attorney-client privilege); or (c) comply with any contractual confidentiality obligations. The Debtors or ~~the~~ Reorganized Debtors Thrasio, as applicable, shall use commercially reasonable efforts to cooperate with the Trust in connection with the Trust's investigation and prosecution of the Vested Causes of Action and/or objections to Other General Unsecured Claims, including with respect to providing evidence and information as requested by the Trust, by and through the Trustee. The books and records maintained by the Trust and any records of the Debtors transferred to the Trust may be disposed of by the Trust, by and through the Trustee, at the later of (i) such time as the Trust determines that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Trust or its Beneficiaries; and (ii) upon the termination and completion of the winding down or dissolution of the Trust.

3.11 No Bond Required; Procurement of Insurance. Notwithstanding any state or other applicable law to the contrary, the Trust, by and through the Trustee (including any successor Trustee), shall be exempt from giving any bond or other security in any jurisdiction and shall serve hereunder without bond. The Trust, by and through the Trustee, shall obtain insurance coverage with respect to the duties and obligations of the Thrasio Legacy Trust Committee on terms reasonably acceptable to the Thrasio Legacy Trust Committee. In addition, the Trust, by and through the Trustee, is hereby authorized, but not required, to obtain all reasonable insurance coverage for itself, its agents, representatives, employees, or independent contractors, including, without limitation, coverage with respect to the liabilities, duties, and obligations of the Trustee and its agents, representatives, employees, or independent contractors under this Agreement. The cost of any such insurance coverage shall be paid out of the Trust Assets as Thrasio Legacy Trust Fees and Expenses.

3.12 Fiduciary and Other Duties. Notwithstanding anything in the Plan or this Agreement to the contrary, the Trust, by and through the Trustee, shall always act in the best interests of the Beneficiaries and in furtherance of the purpose of the Trust as set forth in the Plan. The Trust, by and through the Trustee, shall have fiduciary duties to the Beneficiaries consistent with the fiduciary duties that a member of an official committee appointed pursuant to section 1102 of the Bankruptcy Code has to the creditor constituents represented by such committee and shall exercise his, her or its responsibilities accordingly. Except for obligations expressly imposed on the Trust by this Agreement, to the extent that, at law or in equity, the Trust has duties (including fiduciary duties) to the Beneficiaries or to any other person that is a party to or is otherwise bound by this Agreement, such duties are hereby eliminated by this Agreement to the fullest extent permitted by applicable law; *provided, however*, that this Agreement does not eliminate the implied contractual covenant of good faith and fair dealing.

3.13 Reporting Requirements. The Trustee shall provide the Thrasio Legacy Trust Committee, the U.S. Trustee and the Bankruptcy Court the information and reports they may reasonably request concerning Trust administration.

ARTICLE IV

DISTRIBUTIONS

4.1 Distribution and Reserve of Trust Assets. Following the transfer of the Trust Assets to the Trust, the Trust, by and through the Trustee, shall make continuing efforts on behalf of the Trust to collect, liquidate, and distribute all Trust Assets, subject to the reserves deemed necessary by the Trust pursuant to this Agreement, in accordance with the Plan.

4.1.1 Distributions. The Trust, by and through the Trustee, shall make distributions only in accordance with the terms of the Plan, Confirmation Order, and this Agreement to the Holders of Allowed General Unsecured Claims in accordance with the waterfall provisions of the Plan. The Trust, by and through the Trustee, shall cause the Trust to make distributions, at least annually, to Holders of Allowed General Unsecured Claims, except the Trust may retain an amount of net income and other Trust Assets that is reasonably necessary to meet contingent liabilities and to maintain the value of the Trust Assets pending their liquidation during the term of the Trust or that are determined to be necessary to pay or be reserved for reasonably incurred or anticipated expenses or claims of the Trust and the Trustee, and retention of such amount may preclude distributions to the Holders of Allowed General Unsecured Claims.

4.1.2 Reserves; Pooling of Reserved Funds. Before any distribution can be made, the Trust, by and through the Trustee, shall, in its reasonable discretion and subject to the provisions of Article VIII, establish, supplement, and maintain a reserve in an amount sufficient to meet any and all expenses and liabilities of the Trust [in the Thrasio Legacy Trust Reserve](#), including attorneys' fees and expenses and the fees and expenses of other professionals. In accordance with the Plan and ~~Section 34.2.12~~ of this Agreement, the Trust may also maintain as necessary one or more reserves with respect to the Other General Unsecured Claims required to be administered by the Trust. For the avoidance of doubt, the Trust may withhold any distribution pending the Trust's determination of whether to object to any Other General Unsecured Claim. Any such withheld distribution shall become part of a reserve with respect to Other General Unsecured Claims and shall be distributed to the appropriate Holder of an Allowed Other General Unsecured Claim no later than the first Distribution Date after a decision

is made not to object to the pertinent Other General Unsecured Claim or the Other General Unsecured Claim becomes Allowed. The Trustee need not maintain any of the Trust's reserves in segregated bank accounts and may pool funds in the reserves with each other and other funds of the Trust; *provided, however*, that the Trust shall treat all such reserved funds as being held in a segregated manner in its books and records.

4.1.3 Distributions Net of Reserves and Costs. Distributions shall be made net of reserves in accordance with the Plan and this Agreement, and also net of the actual and reasonable costs of making the distributions.

4.1.4 Right to Rely on Professionals. Without limitation of the generality of ~~Section 6.67~~ of this Agreement, in determining the amount of any distribution or reserves, the Trust, by and through the Trustee, may rely and shall be fully protected in relying on the advice and opinion of the Trust's counsel, financial advisors, accountants, or other professionals.

4.2 Method and Timing of Distributions. Distributions to Holders of Allowed First Lien Deficiency Claims and Allowed General Unsecured Claims will be made from the Trust at least annually, except the Trust shall retain an amount of net income and other Trust Assets that is reasonably necessary to meet contingent liabilities and to maintain the value of the Trust Assets pending their liquidation during the term of the Trust or that are determined to be necessary to pay or be reserved for reasonably incurred or anticipated expenses or claims of the Trust and the Trustee, and retention of such amount may preclude distributions to ~~Holders of such Allowed General Unsecured Claims~~ Beneficiaries, all in accordance with the terms of the Plan and this Agreement. The Trust may engage disbursing agents and other Persons to assist in making such distributions.

4.3 Plan Distributions and Repayment of Thrasio Legacy Trust Initial Funding in General. Except as otherwise provided in the Plan or this Agreement, the Trust or its disbursing agent shall make distributions to (a) ~~h~~Holders of Allowed Other General Unsecured Claims at the address for each such holder of an Allowed Other General Unsecured Claim as indicated in either (~~a~~i) the address set forth on the Proof(s) of Claim, (~~b~~ii) the address reflected in the Schedules if no Proof of Claim has been filed, or (~~e~~iii) the address set forth in any written notice of change of address delivered to the Trust and filed with the Bankruptcy Court. ~~Distributions;~~ and (b) to ~~h~~Holders of Allowed First Lien Deficiency Claims shall be made to the Administrative Agent pursuant to such instructions as received by the Administrative Agent at the address set forth on the First Lien Deficiency Claim Distribution List. Repayment of the Thrasio Legacy Trust Initial Funding to ~~the~~ Reorganized ~~Debtors~~ Thrasio shall be made to ~~the~~ Reorganized ~~Debtors~~ Thrasio or pursuant to such other instructions as received ~~by~~ from a Company Representative.

4.4 Withholding from Distributions. The Trust, by and through the Trustee's discretion, may cause the Trust to deduct and withhold from amounts distributable from the Trust to ~~any Holder of an Allowed General Unsecured Claim~~ or on account of any Beneficiary, any and all amounts as may be sufficient to pay the maximum amount of any tax or other charge that has been or might be assessed or imposed by any law, regulation, rule, ruling, directive, or other governmental requirement on such ~~Holder of such Allowed General Unsecured Claim~~ Beneficiary or the Trust, including with respect to the amount to be distributed to ~~such Holder of such Allowed General Unsecured Claim,~~ or on account of such Beneficiary any amounts received by, collections of, or earnings of the Trust and any proceeds from the Trust Assets. The Trust, by and through the Trustee, shall determine such maximum amount to be

withheld by the Trust in its sole, reasonable discretion and shall cause the Trust to distribute to the ~~Holder of such Allowed General Unsecured Claim~~ Beneficiary any excess amount withheld.

All such amounts deducted or withheld and timely paid to the appropriate taxing authority shall be treated as amounts distributed to such Beneficiaries for all purposes of the Plan and this Agreement, to the extent permitted by applicable Law.

4.5 IRS Forms. The Trust, by and through the Trustee, may require ~~the Reorganized Debtors and~~ any Holder of a First Lien Deficiency Claim and/or any Holder of an Other General Unsecured Claim and/or the Administrative Agent to properly complete, execute and deliver tax identification documentation, *i.e.*, appropriate IRS Form W-8 (including any supporting documents) or IRS Form W-9, or such other appropriate documentation, as a prerequisite to receiving any distribution or repayment under the Plan or this Agreement. If a Holder of a First Lien Deficiency Claim or a Holder of an Other General Unsecured Claim does not provide to the Trustee within ninety (90) days of first written request all required documentation that, in the Trustee's reasonable business judgment, is necessary to determine the tax withholding and reporting requirements for such Claim, including an appropriate IRS Form W-8 or IRS Form W-9 (as applicable), then, without further order of the Bankruptcy Court, any present or future distribution on ~~such~~ or on account of such First Lien Deficiency Claim or Other General Unsecured Claim shall ~~be~~, at the sole discretion of the Trustee, be either (a) net of applicable withholding, in which case any amounts so withheld shall be treated as having been paid to such Holders, or (b) forfeited, the underlying First Lien Deficiency Claim or Other General Unsecured Claim shall be deemed disallowed and expunged in its entirety, and the funds in respect thereof shall become Trust Assets for all purposes, including, but not limited to, redistribution to or on

account of the other Holders of First Lien Deficiency Claims or Allowed Other General Unsecured Claims (as applicable) in accordance with the terms of the Plan and this Agreement.

4.6 Unclaimed and Undeliverable Distributions. Unclaimed property, together with any distributions to Holders of applicable Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claims returned as undeliverable, shall be held by the Trustee in an unclaimed property reserve (the “Unclaimed Property Reserve”) until the date that is ninety (90) days after first issuance by the Trust, and may be released by the Trust prior to the expiration of the ninety (90) day period set forth in this ~~s~~Section ~~{4.6}~~ if proper proof by such Holder of such Allowed First Lien Deficiency Claim or Allowed Other General Unsecured Claim of its entitlement thereto is presented to the Trust. After the expiration of the ninety (90) day period set forth in this ~~s~~Section ~~{4.6}~~, all unclaimed property or interest in property shall revert to the Trust for all purposes including, but not limited to, for redistribution to holders of Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claims (as applicable) in accordance with the terms of the Plan, the Confirmation Order, and this Agreement. Upon such revesting, the First Lien Deficiency Claim or Other General Unsecured Claim of the affected Holder or its successors with respect to such property shall be cancelled, released, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an unclaimed distribution, to the contrary.

4.7 No Responsibility to Attempt to Locate Beneficiaries. If a distribution is returned to the Trust as undeliverable, or otherwise remains unclaimed, no further distribution shall be made to a Holder of an applicable Allowed First Lien Deficiency Claims or Allowed Other General Unsecured Claim unless and until such Holder notifies the Trust of such Holder’s

then-current address and taxpayer identification number. The Trust, by and through the Trustee, may, in its sole discretion, attempt to determine a Holder of an applicable Allowed [First Lien Deficiency Claims or Allowed](#) Other General Unsecured Claim's current address or otherwise locate such Holder, but nothing in this Agreement or the Plan shall require the Trust to do so.

4.7.1 Inapplicability of Escheat, Abandoned or Unclaimed Property Laws.

Unclaimed property held by the Trust shall not be subject to the escheat, abandoned or unclaimed property laws of the United States, or any state, provincial, or local governmental unit.

4.8 Request for Reissuance. Distribution checks ~~for~~ [issued on account of First Lien Deficiency Claims and](#) Other General Unsecured Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Distribution checks for [Allowed First Lien Deficiency Claims or Allowed](#) Other General Unsecured Claims not cashed within such ninety-day period shall be treated as unclaimed property that has already been held in the Unclaimed Property Reserve for the full time period specified in ~~s~~[Section \[4.6\]](#) of this Agreement. Requests for reissuance of any check shall be made in writing directly to the Trust by the Holder of the applicable Allowed Other General Unsecured Claim that was originally issued such check. All such requests shall be made promptly and in time for the check to be reissued and cashed before the funds for the checks become unrestricted Trust Assets under ~~s~~[Section \[4.6\]](#) of this Agreement. The Holder of an applicable Allowed Other General Unsecured Claim shall bear all the risk that, and shall indemnify and hold the Trust and the Trustee harmless against any loss that may arise if, the Trustee does not reissue a check promptly after receiving a request for its reissuance.

4.9 Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to the beneficial interest of a Beneficiary under this Agreement, or if there is any disagreement between the assignees, transferees, heirs, representatives, or legatees succeeding to all or a part of such an interest resulting in adverse claims or demands being made in connection with such interest, then, in any of such events, the Trust, by and through the Trustee ~~in consultation with the Thrasio Legacy Trust Committee~~, shall be entitled, in its sole discretion, to refuse to comply with any such conflicting claims or demands.

4.9.1 The Trust, by and through the Trustee, may elect to cause the Trust to make no payment or distribution with respect to the beneficial interest subject to the conflicting claims or demand, or any part thereof, and to refer such conflicting claims or demands to the Bankruptcy Court, which shall have continuing jurisdiction over resolution of such conflicting claims or demands. Neither the Trust, the Trustee, nor the Thrasio Legacy Trust Committee shall be or become liable to any of such parties for their refusal to comply with any such conflicting claims or demands, nor shall the Trust ~~or~~ the Trustee, nor the Thrasio Legacy Trust Committee be liable for interest on any funds which may be so withheld.

4.9.2 The Trust shall be entitled to refuse to act until either (a) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction adjudicating the matter; or (b) all differences have been resolved by a valid written agreement among all such parties to the satisfaction of the Trust, which agreement shall include a complete release of the Trust and Trustee. Until the Trust receives written notice that one of the conditions of the preceding sentence is met, the Trust may deem and treat as the absolute owner under this Agreement of the beneficial interest in the Trust the Beneficiary identified as the owner of that interest in the books and records maintained by the

Trust. The Trust ~~may deem and~~shall treat such Beneficiary as the absolute owner for purposes of receiving distributions and any payments on account thereof for federal and state income tax purposes, and for all other purposes whatsoever.

4.10 Limitation on Liability. In acting or refraining from acting under and in accordance with this Agreement, the Trust, the Trustee, and the Thrasio Legacy Trust Committee (and its current and former members, in their respective capacities as such) shall be fully protected and incur no liability to any purported claimant or any other Person ~~pursuant to~~ as provided for in Article VI ~~and Article VIII~~ of this Agreement. Priority of Expenses of Trust. The Trust shall pay or reserve for all Thrasio Legacy Trust Fees and Expenses before making any distributions, ~~including but not limited to, any distribution to Holders of Allowed Other General Unsecured Claims or repaying pursuant to the Thrasio Legacy Trust Initial Funding to the Reorganized Debtors~~ Waterfall.

ARTICLE V

BENEFICIARIES

5.1 Interest Beneficial Only. The ownership of a beneficial interest in the Trust shall not entitle any Beneficiary to any title in or to the Trust Assets or to any right to call for a partition or division of such assets or to require an accounting.

5.2 Ownership of Beneficial Interests Hereunder. Each Beneficiary shall own a Thrasio Legacy Trust Interest which shall, subject to ~~fs~~Section 4.1 of this Agreement and the terms and conditions of the Plan, be entitled to a distribution in the amounts, and at the times, set forth in the Plan and hereunder.

5.3 Evidence of Beneficial Interest. Ownership of a Thrasio Legacy Trust Interest in the Trust Assets shall not be evidenced by any certificate, security, or receipt, or in any other

form or manner whatsoever, except as maintained on the books and records of the Trust by the Trustee.

5.4 No Right to Accounting. Except as otherwise provided in this Agreement, neither the Beneficiaries nor their successors, assigns, creditors, nor any other Person shall have any right to an accounting by the Trust, and the Trust, by and through the Trustee, shall not be obligated to provide any accounting to any Person. Nothing in this Agreement is intended to require the Trust at any time or for any purpose to file any accounting or seek approval of any court with respect to the administration of the Trust or as a condition for making any advance, payment, or distribution out of proceeds of Trust Assets.

5.5 No Standing. Except as expressly provided in this Agreement, a Beneficiary shall not have standing to direct or to seek to direct the Trust or Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any Person upon or with respect to the Trust Assets; *provided, however*, that, for the avoidance of doubt, this ~~§~~Section 5.5 shall not prevent a Beneficiary from seeking any appropriate or necessary relief from the Bankruptcy Court.

5.6 Requirement of Undertaking. The Trust, by and through the Trustee, may request the Bankruptcy Court to require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Trust or Trustee for any action taken or omitted by it as Trust or Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, including reasonable attorneys' fees, against any party litigant in such suit; *provided, however*, that the provisions of this ~~§~~Section 5.6 shall not apply to any suit by the Trust or Trustee.

5.7 Limitation on Transferability. It is understood and agreed that Thrasio Legacy Trust Interests shall be non-transferable and non-assignable during the term of this Agreement except by will, intestate succession or operation of law. An assignment by operation of law shall not be effective until appropriate notification and proof thereof is submitted to the Trust, and the Trust, by and through the Trustee, may continue to cause the Trust to pay all amounts to or for the benefit of the assigning Beneficiaries until receipt of proper notification and proof of assignment by will, intestate succession or operation of law. The Trust may rely upon such proof without the requirement of any further investigation.

5.8 Exemption from Registration. The rights of the Beneficiaries arising under this Agreement may be deemed “securities” under applicable law. However, such rights have not been defined as “securities” under the Plan because (a) the parties hereto intend that such rights shall not be securities; and (b) if to the extent that the rights arising under this Agreement in favor of the Beneficiaries are deemed to be “securities,” the exemption from registration under section 1145 of the Bankruptcy Code, and applicable state and local laws requiring registration of securities, is intended to be applicable to such securities. ~~No party to this Agreement shall make a contrary or different contention.~~ If the Trustee determines, with the advice of counsel, that the Trust is required to comply with any of the registration, reporting, or other requirements of the federal securities laws, including the Securities Act or the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or the Investment Company Act of 1940, as amended (the “Investment Company Act”), then the Trustee shall take any and all actions necessary to comply with such requirements or may seek exemption from the Securities and Exchange Commission therefor, and, if granted, shall comply with the terms of any such exemption.. Notwithstanding the foregoing procedure, nothing herein shall be deemed to preclude the Trustee

from amending this Agreement to make such changes as are deemed necessary or appropriate by the Trustee, with the advice of counsel, to ensure that the Trust is not subject to the registration or reporting requirements of the Exchange Act, or the Investment Company Act, or any applicable state and local laws requiring registration of securities.

5.9 Delivery of Distributions. Subject to the terms of this Agreement, the Trust, by and through the Trustee, shall cause the Trust to make distributions to Beneficiaries in the manner provided in the Plan and in this Agreement.

5.10 Limited Liability. No provision of this Agreement, the Plan, or the Confirmation Order, and no mere enumeration herein of the rights or privileges of any Beneficiary, shall give rise to any liability of such Beneficiary solely in its capacity as such, whether such liability is asserted by any Reorganized Debtor, by the Debtors' or ~~the~~ Reorganized ~~Debtors'~~ Thrasio's creditors, successors, representatives, employees, or equity interests, or by any other Person. The Beneficiaries are deemed to receive the Trust Assets in accordance with the provisions of this Agreement, the Plan, and the Confirmation Order in exchange for their claims as set forth in the Plan without further obligation or liability of any kind, but subject to the provisions of this Agreement.

ARTICLE VI

THIRD-PARTY RIGHTS AND LIMITATION OF LIABILITY

6.1 Parties Dealing With the Trust. In the absence of actual knowledge to the contrary, any Person dealing with the Trust, the Trustee, or the Thrasio Legacy Trust Committee shall be entitled to rely on the authority of the Trust, the Trustee, the Thrasio Legacy Trust Committee, or any of the Trustee's agents to act in connection with the Trust Assets. There is no

obligation of any Person dealing with the Trust to inquire into the validity or expediency or propriety of any transaction by the Trust, the Trustee or any agent of the Trustee.

6.2 Limitation of Liability.

6.2.1 Limitation of Trustee Liability. In exercising the rights granted herein, the Trustee shall exercise its best judgment in accordance with its fiduciary duties, to the end that the affairs of the Trust shall be properly managed and the interests of all of the Beneficiaries safeguarded. However, notwithstanding anything herein to the contrary, neither the Trust, the Trustee, nor any of its respective firms, companies, affiliates, partners, officers, directors, members, employees, designees, professionals, advisors, attorneys, representatives, or disbursing agents, or agents, and any of such Person's successors and assigns, shall incur any responsibility or liability by reason of any error of law or fact or of any matter or thing done or suffered or omitted to be done under or in connection with this Agreement, whether sounding in tort, contract, or otherwise, except for fraud, gross negligence, or willful misconduct that is found by a Final Order of the Bankruptcy Court to be the direct and primary cause of loss, liability, damage, or expense suffered by the Trust. In no event shall the Trust or Trustee be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Trust, by and through the Trustee, has been informed of the likelihood of such loss or damages and regardless of the form of action. Without limiting the foregoing, the Trust and Trustee shall be entitled to the benefits of the limitation of liability and exculpation provisions set forth in the Plan and the Confirmation Order.

6.2.2 Limitation of Thrasio Legacy Trust Committee Liability. In exercising the rights granted herein, the Thrasio Legacy Trust Committee shall exercise its best judgment in accordance with its fiduciary duties, to the end that the affairs of the Trust shall be properly

managed and the interests of all of the Beneficiaries safeguarded. However, notwithstanding anything herein to the contrary, neither the Thrasio Legacy Trust Committee, nor any of its respective current or former members, firms, companies, affiliates, partners, officers, directors, members, employees, designees, professionals, advisors, attorneys, representatives, or disbursing agents, or agents, and any of such Person's successors and assigns, each in their respective capacities as such, shall incur any responsibility or liability by reason of any error of law or fact or of any matter or thing done or suffered or omitted to be done under or in connection with this Agreement, whether sounding in tort, contract, or otherwise, except for ~~actual~~-fraud, gross negligence, or willful misconduct that is found by a Final Order of the Bankruptcy Court to be the direct and primary cause of loss, liability, damage, or expense suffered by the Trust. In no event shall the Thrasio Legacy Trust Committee or its current or former members, in their respective capacities as such, be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Thrasio Legacy Trust Committee, by and through the Trustee, has been informed of the likelihood of such loss or damages and regardless of the form of action. Without limiting the foregoing, the Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall be entitled to the benefits of the limitation of liability and exculpation provisions set forth in the Plan and the Confirmation Order.

6.3 No Liability for Acts of Other Persons. None of the Persons identified in the immediately preceding ~~§~~Section 6.2 of this Agreement shall be liable for the act or omission of any other Person identified in that ~~s~~Section.

6.4 Limitation of Debtors' Liability. The Debtors or their respective successors shall have no liabilities or obligations to the Beneficiaries, the Trust, the Trustee, or the Thrasio

Legacy Trust Committee (each in its capacity as such), other than the liabilities and obligations expressly contemplated by this Agreement and the Plan.

6.5 No Liability for Acts of Predecessors. No successor Trustee shall be in any way responsible for the acts or omissions of any Trustee in office prior to the date on which such successor becomes the Trustee, unless a successor Trustee expressly assumes such responsibility.

6.6 No Liability for Good Faith Error of Judgment. Neither the Trust nor the Trustee shall be liable for any error of judgment made in good faith, unless it shall be finally determined by a Final Order of the Bankruptcy Court that the Trust or Trustee (as applicable) was grossly negligent.

6.7 Reliance by Trust on Documents and Advice of Counsel or Other Persons. Except as otherwise provided herein, the Trust, by and through the Trustee, may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trust, by and through the Trustee, also may engage and consult with its respective legal counsel and other agents and advisors, and shall not be liable for any action taken, omitted, or suffered in good faith reliance upon the advice of such counsel, agents, or advisors to the Trust to the extent permitted by law. Without limiting the generality of the foregoing, the Trust conclusively shall be entitled to rely on the First Lien Deficiency Claim Distribution List and shall have no duty to inquire as to its validity or to independently verify any information contained therein; provided, however, that the parties listed in Section 3.4.18 hereof may make clarifying modifications to the First Lien Deficiency Claim Distribution List after the Distribution Record Date, which modifications must be

delivered to the Trustee in writing no later than ten (10) business days prior to any proposed distribution date, and in such event the provisions of this Section 6.7 shall apply to the First Lien Deficiency Claim Distribution List as so modified; *provided further* that, for the avoidance of doubt, the First Lien Deficiency Claim Distribution List may not be modified to effect the transfer of any Class A Trust Interests or First Lien Deficiency Claims except by will, intestate succession, or operation of law.

6.8 No Liability For Acts Approved by Bankruptcy Court. The Trust, by and through the Trustee, shall have the right (but not the obligation) at any time to seek an order from the Bankruptcy Court concerning the administration or disposition of the Trust and the General Unsecured Claims required to be administered by the Trust. Following the entry of any such order of the Bankruptcy Court, neither the Trust, the Trustee, nor the Thrasio Legacy Trust Committee (including its current and former members, in their respective capacities as such) shall be liable for any act or omission expressly taken in accordance with, and not inconsistent with, any such order, and all such actions or omissions shall be deemed not to constitute ~~actual~~ fraud, gross negligence, or willful misconduct.

6.9 No Personal Obligation for Trust Liabilities. Persons dealing with the Trust or Trustee shall have recourse only to the Trust Assets to satisfy any liability incurred by the Trust or Trustee to any such Person in carrying out the terms of this Agreement, and the Trustee shall have no personal, individual obligation to satisfy any such liability.

6.10 Indemnification. The Thrasio Legacy Trust Indemnified Parties ~~(as defined in the Plan)~~ shall, to the fullest extent permitted by applicable law, be indemnified by the Trust for, and defended and held harmless by the Trust against, solely from the Trust Assets, any losses, liability, claims, damages, judgment, fine, penalty, claim, demand, settlement, cost, or expenses

occurring after the Effective Date (including reasonable attorneys' fees and expenses which the Thrasio Legacy Trust Indemnified Parties may incur in connection therewith) or damages of any kind, type or nature, whether sounding in tort, contract, or otherwise, that the Thrasio Legacy Trust Indemnified Parties may incur or sustain in connection with the exercise or performance of any of the Trust's, Trustee's or Thrasio Legacy Trust Committee's respective powers and duties under this Agreement or the Plan or in rendering services by the Thrasio Legacy Trust Indemnified Party to the Trust or Trustee, including, without limitation, the costs of counsel or others in investigating, preparing, defending, or settling any action or claim (whether or not litigation has been initiated against the Thrasio Legacy Trust Indemnified Party) or in enforcing this Agreement (including its indemnification provisions), except if such loss, liability, expense, or damage is finally determined by a final judgment (not subject to further appeal or review) of a court of competent jurisdiction to result directly and primarily from the ~~actual~~-fraud, gross negligence, or willful misconduct of the Thrasio Legacy Trust Indemnified Party asserting this provision. The Thrasio Legacy Trust Indemnified Parties shall be entitled to obtain advances from the Trust to cover their reasonable expenses of defending themselves in any action brought against them as a result of the acts or omissions, actual or alleged, of a Thrasio Legacy Trust Indemnified Party in its capacity as such, except for any actions or omissions arising from their own respective ~~actual~~-fraud, gross negligence, or willful misconduct; *provided, however*, that the Thrasio Legacy Trust Indemnified Parties receiving such advances shall repay the amounts so advanced to the Trust immediately upon the entry of a final, non-appealable judgment or order finding that such Thrasio Legacy Trust Indemnified Parties were not entitled to any indemnity under the provisions of this ~~Section 6.910~~ of this Agreement. The Trustee and the Thrasio Legacy Trust Committee (and its current and former members, in their respective capacities as

such) shall not be personally liable for the payment of any Trust expense or claim or other liability of the Trust, and no Person shall look to the Trustee or the Thrasio Legacy Trust Committee (or its current and former members, in their respective capacities as such) personally for the payment of any such expense or liability.

6.10.1 Indemnification of Reorganized Thrasio. Reorganized Thrasio will be entitled to reasonable, third party expenses, if any, on account of any actions required of Reorganized Thrasio at the direction of the Trust.

6.10.2 ~~6.10.1~~ Expense of Trust; Limitation on Source of Payment of Indemnification. All indemnification liabilities of the Trust under this ~~Section 6.910~~ shall be expenses of the Trust. The amounts necessary for such indemnification and reimbursement shall be paid by the Trust out of the available Trust Assets after reserving for all other actual and anticipated expenses and liabilities of the Trust. Neither the Trustee nor the Thrasio Legacy Trust Committee or its current or former members shall be personally liable for the payment of any Trust expense or claim or other liability of the Trust, and no Person shall look to the Trustee, the Thrasio Legacy Trust Committee or its current or former members, or other Thrasio Legacy Trust Indemnified Parties personally for the payment of any such expense or liability.

6.10.3 ~~6.10.2~~ Procedure for Current Payment of Indemnified Expenses;

Undertaking to Repay. The Trust shall promptly pay a Thrasio Legacy Trust Indemnified Party all amounts subject to indemnification under this ~~Section 6.910~~ on submission of invoices for such amounts by the Thrasio Legacy Trust Indemnified Party. By accepting any indemnification payment, the Thrasio Legacy Trust Indemnified Party undertakes to repay such amount promptly if it is determined that the Thrasio Legacy Trust Indemnified Party is not entitled to be indemnified under this Agreement. The Bankruptcy Court shall hear and finally determine any dispute arising out of this ~~Section 6.910~~.

6.10.4 ~~6.10.3~~ No Implied Obligations. The Trust or Trustee shall not be liable

except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Trust or Trustee.

6.11 Confirmation of Survival of Provisions. Without limitation in any way of any provision of this Agreement, the provisions of ~~this Article VI~~ of this Agreement shall survive the death, dissolution, liquidation, incapacity, resignation, replacement, or removal, as may be applicable, of the Trustee or, as it relates to ~~Section 6.910~~, a Thrasio Legacy Trust Indemnified Party, or the termination of the Trust or this Agreement, and shall inure to the benefit of the Trustee's and the Thrasio Legacy Trust Indemnified Parties' heirs and assigns.

ARTICLE VII

TAX MATTERS

7.1 Tax Treatment of Trust. Pursuant to and in accordance with the Plan, for all ~~United States~~ U.S. federal income tax purposes, the Debtors, ~~the~~ Reorganized ~~Debtors~~ Thrasio, the Beneficiaries, the Trustee, and the Trust shall treat (a) the Trust as a "liquidating trust" within

the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 124 and (b) the transfer of the Thrasio Legacy Trust Assets to the Trust (subject to any obligations relating to such Thrasio Legacy Trust Assets) as a transfer to the Beneficiaries in satisfaction of their Allowed First Lien Deficiency Claims and Allowed Other General Unsecured Claims, followed by a transfer of the Trust Assets by the Beneficiaries to the Trust in exchange for their pro rata ~~beneficial~~ Thrasio Legacy Trust Interests. The Beneficiaries shall be treated as the grantors and owners of the Trust ~~for United States~~ (other than to the extent the Trust Assets are allocable to Disputed Claims) for U.S. federal income tax purposes.

7.2 Annual Reporting and Filing Requirements. Pursuant to and in accordance with the terms of the Plan and this Agreement, the Trust, by and through the Trustee, shall file tax returns (including applicable state, local, and non-U.S. tax returns, if any) for the Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) ~~to the extent~~ as otherwise required by applicable tax law.

7.3 Tax Treatment of Reserves for Disputed Claims. The Trust may, at the Trustee's sole discretion, determine the best way to report for United States tax purposes with respect to any Disputed Claims Reserve, if applicable, including (a) filing a tax election to treat any and all Disputed Claims Reserve as a Disputed Ownership Fund ("DOF") or other separate entity within the meaning of Treasury Regulation section 1.468B-9 ~~U.S.~~ for federal income tax purposes rather than to ~~tax~~ treat such reserve as a part of the Trust (and, to the extent permitted by applicable law, report consistently with the foregoing for ~~United States~~ U.S. federal, state, and local income tax purposes); or (b) electing to report as a separate trust or sub-trust or other entity. If and to the extent ~~that an~~ an election is made to report the Disputed Claims Reserve as a DOF or other separate entity, the Trust shall comply with all U.S. federal and state tax reporting and tax

compliance requirements of the DOF or other separate entity, including, but not limited to, the filing of a separate U.S. federal income tax return for the DOF or other separate entity and the payment of U.S. federal and/or state income tax due.

7.3.1 If an election is made to report the Disputed Claims Reserve as a DOF or other separate entity, all parties (including the Debtors, ~~the~~ Reorganized ~~Debtors~~ Thrasio, the Trust, the Trustee, and the Beneficiaries) shall report for ~~United States~~ U.S. federal, state, and local income tax purposes consistently with the foregoing. The Trust shall be responsible for payment, out of the Trust Assets, of any taxes imposed on the Trust or the Trust Assets, including the Disputed Claims Reserve. In the event, and to the extent, any Cash retained on account of a Disputed Claim in the Disputed Claims Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, such Disputed Claims, the Trust may, through the Trustee's discretion, (a) sell any non-Cash assets relating to such Claim (including any assets distributable as a result of disallowance of such Claim) to pay such taxes; or (b) ~~reimburse~~ utilize the remaining Trust ~~for the payment of~~ Assets to pay such taxes and replenish such Trust Assets from any subsequent Cash amounts allocable to, or retained on account of such Disputed Claim (including any Cash distributable by the Trustee as a result of disallowance of such Disputed Claim).

7.4 Valuation of Trust Assets. After the Effective Date, but in no event later than the due date for timely filing of the Trust's first ~~United States~~ U.S. federal income tax return (taking into account applicable tax filing extensions), the Trust, by and through the Trustee, shall determine the fair market value of the Trust Assets as of the Effective Date, based on the Trustee's good faith determination, and establish appropriate means to apprise, in writing, the Beneficiaries of such valuation, from time to time as relevant for tax reporting purposes. The

valuation shall be used consistently by all parties (including, without limitation, the Debtors or ~~the Reorganized Debtors~~ Thrasio, as applicable, the Trust, the Trustee, and the Beneficiaries) for all applicable ~~United States~~ U.S. federal, state and local income tax purposes.

7.5 In the event that the Trust, by and through the Trustee, determines that the Trust may be required to withhold from amounts distributable from the Trust pursuant to ~~sSections~~ 3.4.13 and 4.4 above, it shall endeavor to promptly notify the relevant Beneficiary.

7.6 Allocations of Trust taxable income among the Beneficiaries shall be determined by reference to the manner in which an amount of Cash representing such taxable income would be distributed (were such cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Trust had distributed all its assets (valued at their tax book value) to the holders of the Thrasio Legacy Trust Interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Trust. Similarly, taxable loss of the Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Trust Assets. The tax book value of the Trust Assets for purposes of this ~~Section 7.6~~ shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the ~~IRC~~ Tax Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

ARTICLE VIII

THRASIO LEGACY TRUST COMMITTEE

8.1 Appointment, Composition, and Governance of Thrasio Legacy Trust Committee. As provided for in Article IV.J.5 of the Plan, the Thrasio Legacy Trust Committee shall consist of those initial five (5) members identified on Exhibit A hereto, including the Trustee. In the

event that a member of the Thrasio Legacy Trust Committee resigns, the Trust, by and through the Trustee, may appoint a new member, subject to the approval of a majority of the remaining members of the Thrasio Legacy Trust Committee; *provided, however*, that if such member is the Trustee, the successor Trustee shall replace the prior Trustee as a member of the Thrasio Legacy Trust Committee. If the remaining members do not approve, either the Trustee or such remaining members may, upon motion, request that the Bankruptcy Court determine the matter.

Notwithstanding the foregoing, in the event that, at any given time, fewer than three (3) persons are willing to serve on the Thrasio Legacy Trust Committee or there shall have been fewer than three (3) Thrasio Legacy Trust Committee members for a period of thirty (30) consecutive days, then solely during such vacancy all references to the Thrasio Legacy Trust Committee's ongoing rights and duties in the Plan, this Agreement and the Confirmation Order ~~will be null and void~~ may be temporarily disregarded until such time as there are three (3) or more members of the Thrasio Legacy Trust Committee.

8.2 Meetings of the Thrasio Legacy Trust Committee. Meetings of the Thrasio Legacy Trust Committee are to be held not less often than quarterly. Special meetings of the Thrasio Legacy Trust Committee may be held whenever and wherever called for by the Trustee or ~~any~~ a majority of Thrasio Legacy Trust Committee members; *provided, however*, that notice of any such meeting shall be duly given in writing no less than 48 hours prior to such meeting (such notice being subject to waiver by the members). Any action required or permitted to be taken by the Thrasio Legacy Trust Committee ~~at a meeting~~ may be taken without a meeting if ~~the action is taken by unanimous written consent~~, absent objection to the taking of action without a meeting by any member after reasonable notice, the action is approved by majority vote of Thrasio Legacy Trust Committee members; provided, however that no action may be taken without a

meeting in respect of (i) any matter concerning the removal and/or replacement of the Trustee or a member of the Thrasio Legacy Trust Committee~~as evidenced by one or more written consents describing the action taken, signed by all members and recorded in the minutes, if any, or other transcript, if any, of proceedings of the Thrasio Legacy Trust Committee.~~, or (ii) amendment to this Agreement. Votes may be taken by email on negative notice.

8.2.1 Each Thrasio Legacy Trust Committee member shall recuse itself from participation in meetings regarding, or from voting on, matters in connection with any actual conflict of interest it may have with respect to such matter, including, but not limited to, any deliberations concerning its claims against the Debtors and their Estates and/or the claims, if any, against it by the Debtors and their Estates. The existence of a conflict of interest shall be determined by an affirmative vote of a majority in number of members of the Thrasio Legacy Trust Committee present at a given meeting (less the vote(s) of the members having the apparent conflict of interest).

8.3 Resignation of Thrasio Legacy Trust Committee Members. Any member of the Thrasio Legacy Trust Committee (other than the Trustee, which is governed by Article IX of this Agreement) may resign upon reasonable notice to the Trust, the Trustee, counsel for the Trustee, and other members of the Thrasio Legacy Trust Committee. Fourteen (14) days' prior written notice shall constitute reasonable notice under this Section 8.3. Any member of the Thrasio Legacy Trust Committee (other than the Trustee, which is governed by Article IX of this Agreement) may be removed by order of the Bankruptcy Court for cause. The Thrasio Legacy Trust Committee may authorize its own dissolution by filing with the Bankruptcy Court an appropriate notice that its responsibilities under the Plan have concluded. Unless earlier dissolved in accordance with the Plan, the Thrasio Legacy Trust Committee shall be

automatically dissolved on the date the last of the Debtors' Chapter 11 Cases are closed.

8.4 Fiduciary Duties. Members of the Thrasio Legacy Trust Committee shall have fiduciary duties to the Beneficiaries in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by such a committee, and shall be entitled to indemnification from the Trust in the same manner as the Trustee for service as members of the Thrasio Legacy Trust Committee from and after the Effective Date of the Plan under or in connection with this Agreement.

8.5 Limitations on Trustee's Actions. Notwithstanding anything to the contrary herein, but subject to Section 8.15 of this Agreement:

8.5.1 the Trustee shall obtain the approval of the Thrasio Legacy Trust Committee by at least a majority vote prior to:

(a) ~~8.5.1 enforcing, settling, compromising, dismissing, releasing, waiving, withdrawing, abandoning, resolving,~~ or seeking to abandon or otherwise dispose of, any Vested Causes of Action, where the amount in dispute (as reasonably determined by the Trustee ~~in its sole discretion~~) in the complaint or other document initiating such Vested Cause of Action exceeds ~~[\$25100,000];~~

~~8.5.2 any distribution dates with respect to any reserves to be established by the Trust to fund the projected reasonable expenses of the Trust; and~~

(b) ~~8.5.3 making or agreeing to make any lump sum disbursements of Trust Assets or proceeds of Trust Assets of more than \$100,000 other than payment of the reasonable and documented fees and expenses of Trust professionals, disbursements related to Claims that are on account of Allowed or First Lien Deficiency Claims or Allowed General Unsecured Claims, or disbursements~~ that are approved by the Bankruptcy Court in accordance with the terms of the Plan;

(c) employing or retaining professionals, disbursing and other agents, independent contractors, and other third-party professionals, including with respect to making agreements with respect to the compensation of such individuals; provided, however, that upon the effective date of this Agreement, the Trustee shall be authorized to retain Morrison & Foerster LLP and Kelley Drye & Warren LLP on such terms as are reasonably acceptable to the

Thrasio Legacy Trust Committee;

(d) abandoning Cash or non-Cash assets with a value in excess of \$50,000; and

(e) winding down or terminating the Trust.

8.5.2 the Trustee shall consult with the Thrasio Legacy Trust Committee prior to:

(a) establishing and making adjustments to the Thrasio Legacy Trust Reserve to fund the present and projected reasonable expenses of the Trust; and

(b) repaying or agreeing to repay the Thrasio Legacy Trust Initial Funding, and making or agreeing to make distributions of Trust Assets to Beneficiaries.

8.6 Payment of Fees and Expenses. The Trust, by and through the Trustee, shall pay from the Trust Assets the reasonable and documented out-of-pocket expenses of the members of the Thrasio Legacy Trust Committee incurred solely in connection with each of their roles as a Thrasio Legacy Trust Committee member, and not in their individual capacity. ¶For the avoidance of doubt, attorneys' fees incurred by a Thrasio Legacy Trust Committee member, including, but not limited to, attendance at any meetings of the Thrasio Legacy Trust Committee shall not be paid out of the Trust Assets pursuant to this ~~s~~Section 8.~~56~~7. The Bankruptcy Court shall hear and finally determine any dispute arising out of this ~~s~~Section.

8.7 ~~8.6~~ Conflicts of Interest. If any matter under consideration by the Thrasio Legacy Trust Committee involves a potential conflict of interest with any member serving on the Thrasio Legacy Trust Committee, the member with the potential conflict shall: (a) disclose to the Thrasio Legacy Trust Committee, in writing, the existence of the potential conflict promptly upon learning of the potential conflict; and (b) the member shall be excluded from the discussion and any voting of the matter if a conflict is determined by majority vote of the remaining members of the Thrasio Legacy Trust Committee as provided herein. In the absence of

affirmative disclosure by a member having a potential conflict of interest, another member may raise such a conflict of interest. A majority of the remaining members shall have the authority to exclude the conflicting member from any meeting and/or vote on the basis of the existence of a potential conflict of interest after such member has had an opportunity to be heard regarding the potential conflict of interest. Any excluded member shall be granted a reasonable opportunity to address the Thrasio Legacy Trust Committee with respect to such matter upon request. For purposes of a vote to exclude a member, such member shall be counted for purposes of determining a quorum but shall not be entitled to vote on whether a conflict of interest exists. The member having a potential conflict of interest shall not have access to reports or work product (including draft pleadings) prepared by the Trust's advisors with respect to the matter in which the potential conflict of interest exists except to the extent determined to be appropriate by the majority of the remaining members. For the avoidance of doubt, a Thrasio Legacy Trust Committee member shall have a conflict of interest with respect to any matter related to such member's claim against the Estates and shall recuse itself from voting or making any decision related to such claim.

8.8 ~~8.7~~ No Liability for Acts of Predecessors. No successor Thrasio Legacy Trust Committee member shall be in any way responsible for the acts or omissions of any Thrasio Legacy Trust Committee member in office prior to the date on which such successor becomes a member.

8.9 ~~8.8~~ No Liability for Good Faith Error of Judgment. The Thrasio Legacy Trust Committee members shall not be liable for any error of judgment made in good faith, unless it shall be finally determined by a Final Order of the Bankruptcy Court that the ~~member~~error (as applicable) constituted ~~actual~~-fraud, gross negligence, or willful misconduct.

8.10 ~~8.9~~ Reliance by the Thrasio Legacy Trust Committee on Documents and Advice of Counsel or Other Persons. Except as otherwise provided herein, the Thrasio Legacy Trust Committee members may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Thrasio Legacy Trust Committee members may ~~engage and consult with its respective legal counsel and other agents and advisors~~ rely on, and shall not be liable for any action taken, omitted, or suffered in good faith reliance upon the advice of ~~such~~ counsel, agents, or advisors to the Trust to the extent permitted by law.

8.11 ~~8.10~~ No Personal Obligation for Trust Liabilities. Persons dealing with the Thrasio Legacy Trust Committee have recourse only to the Trust Assets to satisfy any liability incurred by the Trust or Trustee to any such Person in carrying out the terms of this Agreement, and the Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall have no personal, individual obligation to satisfy any such liability.

8.12 ~~8.11~~ No Implied Obligations. The Thrasio Legacy Trust Committee and its current and former members, in their respective capacities as such, shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Thrasio Legacy Trust Committee or its current and former members.

8.13 ~~8.12~~ Confirmation of Survival of Provisions. Without limitation in any way of any provision of this Agreement, the provisions of this ~~{Article VIII}~~ shall survive the death, dissolution, liquidation, incapacity, resignation, replacement, or removal, as may be applicable, of the Thrasio Legacy Trust Committee members or, as it relates to ~~{s}Section 6.910~~, a Thrasio

Legacy Trust Indemnified Party, or the termination of the Trust or this Agreement, and shall inure to the benefit of the Thrasio Legacy Trust Committee members and the Thrasio Legacy Trust Indemnified Parties' heirs and assigns.

8.14 ~~8.13~~ Compensation and Reimbursement of Expenses. Unless otherwise determined by the Trustee with the consent of the Thrasio Legacy Trust Committee as a reasonable and appropriate expenditure of the Trust Assets, no ~~M~~member shall be entitled to compensation in connection with his or her service to the Thrasio Legacy Trust Committee. However, the Trust will reimburse the ~~M~~members for all reasonable and documented out-of-pocket expenses incurred by the ~~M~~members in connection with the performance of each of their duties hereunder (~~including reasonable~~other than any fees, costs and expenses of independent legal counsel of any Thrasio Legacy Trust Committee member).

8.15 The Bankruptcy Court shall retain jurisdiction to resolve all disputes under this Article VIII.

ARTICLE IX

SELECTION, REMOVAL, REPLACEMENT AND COMPENSATION OF TRUSTEE

9.1 Initial Trustee. The initial trustee shall be the Trustee.

9.2 Term of Service. The Trustee shall serve until the earliest of (a) the completion of the administration of the Trust Assets and the Trust, including the winding up of the Trust, in accordance with this Agreement and the Plan; (b) termination and dissolution of the Trust in accordance with the terms of this Agreement and the Plan; or (c) the Trustee's resignation, death, dissolution, incapacity, liquidation, or removal. In the event that the Trustee's appointment terminates by reason of resignation, death, dissolution, incapacity, liquidation, or removal, the

Trustee shall be immediately compensated for all reasonable fees and expenses accrued but unpaid through the effective date of termination, whether or not previously invoiced. The provisions of Article VI of this Agreement shall survive the resignation or removal of any Trustee.

9.3 Removal of Trustee. Any party in interest, on notice and hearing before the Bankruptcy Court, may seek removal of the Trustee for cause. The Bankruptcy Court shall hear and finally determine any dispute arising out of this ~~s~~Section 9.3.

9.4 Resignation of Trustee. The Trustee may resign at any time on written notice to the Thrasio Legacy Trust Committee, the U.S. Trustee, and Bankruptcy Court. The resignation shall be effective on the later of (a) the date specified in the notice of resignation; and (b) the date that is thirty days (30) after the date such notice is filed with the Bankruptcy Court and served on the Thrasio Legacy Trust Committee members and the United States Trustee. In the event of a resignation, the resigning Trustee shall render to the Thrasio Legacy Trust Committee and the U.S. Trustee a full and complete accounting of monies and assets received, disbursed, and held during the term of office of that Trustee.

9.5 Appointment of Successor Trustee. Upon the resignation, death, or removal of the Trustee, the Thrasio Legacy Trust Committee shall appoint a successor upon notice to the Bankruptcy Court. Any party in interest (including, in the case of resignation, the Trustee) may file an objection in the Bankruptcy Court if they object to the appointment of the successor Trustee. In the event no party in interest seeks the appointment of a successor Trustee, the Bankruptcy Court may do so on its own motion. Any successor Trustee so appointed (a) shall consent to and accept his, her or its appointment as successor Trustee, which may be done by e-mail or through acquiescence in not objecting to a motion for approval of his, her or its

appointment as successor Trustee; and (b) shall not have any liability or responsibility for the acts or omissions of any predecessor(s). Any successor Trustee may be appointed to serve only on an interim basis.

9.6 Powers and Duties of Successor Trustee. A successor Trustee shall have all the rights, privileges, powers, and duties of his, her, or its predecessor under this Agreement, the Plan, and the Confirmation Order.

9.7 Trust Continuance. The resignation, death, dissolution, incapacity, liquidation, or removal of the Trustee shall not terminate the Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Trustee.

9.8 Compensation of Trustee and Costs of Administration. The Trustee shall receive fair and reasonable compensation for its services in accordance with the terms and conditions ~~of the Plan~~ set forth on Exhibit B to this Agreement, which shall be a charge solely against and solely paid out of the Trust Assets. All costs, expenses, and obligations incurred by the Trustee (or professionals who may be employed by the Trust or Trustee in administering the Trust, in carrying out their other responsibilities under this Agreement, or in any manner connected, incidental, or related thereto) shall be paid by the Trust solely from the Trust Assets prior to any distribution to Holders of applicable Allowed First Lien Deficiency Claims or Allowed General Unsecured Claims.

9.9 Appointment of Supplemental Trustee. If the Trustee has a conflict or any of the Trust Assets are situated in any state or other jurisdiction in which the Trustee is not qualified to act as trustee, the Trustee shall nominate and appoint a Person duly qualified to act as trustee (the "Supplemental Trustee") solely with respect to such conflict (but, for the avoidance of doubt, such Supplemental Trustee shall not be a member of the Thrasio Legacy Trust

Committee), or in such state or jurisdiction, and require from each such Supplemental Trustee such security as may be designated by the Trustee in its discretion. In the event the Trustee is unwilling or unable to appoint a disinterested Person to act as Supplemental Trustee to handle any such matter, the Bankruptcy Court, on notice and hearing, may do so. The Trustee or the Bankruptcy Court, as applicable, may confer upon such Supplemental Trustee any or all of the rights, powers, privileges, and duties of the Trustee hereunder (other than serving as a member of the Thrasio Legacy Trust Committee), subject to the conditions and limitations of this Agreement, except as modified or limited by the laws of the applicable state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such Supplemental Trustee is acting shall prevail to the extent necessary). To the extent the Supplemental Trustee is appointed by the Trustee, the Trustee shall require such Supplemental Trustee to be answerable to the Trustee for all monies, assets, and other property that may be received in connection with the administration of all property. The Trustee or the Bankruptcy Court, as applicable, may remove such Supplemental Trustee, with or without cause, and appoint a successor Supplemental Trustee at any time by executing a written instrument declaring such Supplemental Trustee removed from office and specifying the effective date and time of removal.

ARTICLE X

DURATION OF TRUST

10.1 Duration. Once the Trust becomes effective upon the Effective Date of the Plan, the Trust and this Agreement shall remain and continue in full force and effect until the Trust is terminated in accordance with the terms hereof.

10.2 Termination on Payment of Trust Expenses and Distribution of Trust Assets.

Upon the payment of all costs, expenses, and obligations incurred in connection with

administering the Trust, and the distribution of all Trust Assets in accordance with the provisions of the Plan, the Confirmation Order, and this Agreement, the Trust shall automatically terminate and dissolve and the Trustee shall have no further responsibility in connection therewith except as may be required to effectuate such termination under relevant law.

10.3 Termination after Five Years Unless Extended. If the Trust has not been previously terminated pursuant to ~~s~~Section ~~10.2~~ hereof, on the fifth (5th) anniversary of the Effective Date, the Trust shall terminate and dissolve unless the Bankruptcy Court, upon motion made within the six (6) month period before such fifth (5th) anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made within six (6) months before the end of the preceding extension), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Trust as a liquidating trust for U.S. federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation and distribution of, the Trust Assets. Upon such termination, the Trustee shall distribute all of the Trust Assets to the Beneficiaries in accordance with the Plan and this Agreement, and immediately thereafter the Trust shall terminate and the Trustee shall have no further responsibility in connection therewith except to the limited extent set forth in Section ~~10.5~~ of this Agreement.

10.4 No Termination by Beneficiaries. The Trust may not be terminated and dissolved at any time by the Beneficiaries.

10.5 Continuance of Trust for Winding Up; Discharge and Release of Trustee. After the termination of the Trust and solely for the purpose of liquidating and winding up the affairs

of the Trust, the Trustee shall continue to act as such until its responsibilities have been fully performed. Except as otherwise specifically provided herein, upon the distribution of the Trust Assets, including all excess reserves, the Trustee and the Trust's professionals and agents shall be deemed discharged and have no further duties or obligations hereunder. In connection with the foregoing, upon a motion by the Trustee, the Bankruptcy Court may enter an order relieving the Trustee, the Thrasio Legacy Trust Committee, and the Trust and Trustee's employees, professionals, and agents of any further duties, discharging and releasing the Trustee and its employees, professionals, and agents from all liability related to the Trust.

ARTICLE XI

MISCELLANEOUS

11.1 Cumulative Rights and Remedies. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies under law or in equity.

11.2 Notices. All notices to be given to Beneficiaries may be given by ordinary mail, email (to the extent of available email addresses) or may be delivered personally, at the addresses for such Beneficiaries appearing on the books kept by the Trustee. Any notice or other communication which may be or is required to be given, served, or sent to the Trustee shall be in writing and shall be sent by email, registered or certified United States mail, return receipt requested, postage prepaid, or transmitted by hand delivery or facsimile (if receipt is confirmed) addressed as follows:

If to the Trust or Trustee:

~~If to the Trust:~~

~~[]~~ META Advisors LLC
3 World Trade Center
175 Greenwich Street, 67th Floor
New York, NY 10007

Attn: James S. Carr, Dana P. Kane, Grace Marie Codispoti
Email: jcarr@kelleydrye.com, dkane@kelleydrye.com, gcodispoti@kelleydrye.com

With a copy to:

Morrison & Foerster LLP
250 West 55th Street
New York, New York 10019-9601
Attn: Lorenzo Marinuzzi, Theresa A. Foudy, Doug Mannal,
Raff Ferraioli, Darren Smolarski
Email: lmarinuzzi@mofo.com, tfoudy@mofo.com,
dmannal@mofo.com, rferraioli@mofo.com,
dsmolarski@mofo.com

and

Kelley Drye & Warren LLP
One Jefferson Road, 2nd Floor
Parsippany, NJ 07054
Attn: Eric Wilson, Maeghan J. McLoughlin, Connie Y. Choe
Email: ewilson@kelleydrye.com, mmcloughlin@kelleydrye.com,
cchoe@kelleydrye.com

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or to such other address as may from time to time be provided in written notice by the Trustee.

11.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to rules governing the conflict of laws.

11.4 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

11.5 Particular Words. Reference in this Agreement to any Section or Article is, unless otherwise specified, to that such Section or Article under this Agreement. The words “hereof,” “herein,” and similar terms shall refer to this Agreement and not to any particular Section or Article of this Agreement.

11.6 Execution. All funds in the Trust shall be deemed *in custodia legis* until such times as the funds have actually been paid to or for the benefit of a Beneficiary, and no Beneficiary or any other Person can execute upon, garnish or attach the Trust Assets or the Trustee in any manner or compel payment from the Trust except by Final Order of the Bankruptcy Court. Payments will be solely governed by the Plan, the Confirmation Order and this Agreement.

11.7 Amendment. This Agreement may be amended by written agreement of the Trustee with the consent of the Thrasio Legacy Trust Committee or by order of the Bankruptcy Court; *provided, however*, that such amendment may not be inconsistent with the Plan or the Confirmation Order. No amendment, supplement or waiver of or to this Agreement shall (a) adversely affect the interests, rights or treatment of the holders of Allowed Claims under the Plan or Confirmation Order or the Beneficiaries, (b) adversely affect the payments and/or distributions to be made under the Plan, the Confirmation Order or this Agreement, (c) adversely affect the U.S. federal income tax status of the Trust as a “liquidating trust”; or (d) be inconsistent with the purpose and intention of the Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulation section 301.7701-4(d). No failure by the Liquidating Trust, the Trustee, or the Thrasio Legacy Trust Committee to exercise or delay in exercising any right, power, or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any further exercise thereof, or of any other right, power, or privilege.

11.8 No Waiver. No failure or delay of any party to exercise any right or remedy pursuant to this Agreement shall affect such right or remedy or constitute a waiver thereof.

11.9 No Relationship Created. Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership or joint venture of any kind.

11.10 Severability. If any term, provision, covenant, or restriction contained in this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable, or against its regulatory policy, the remainder of the terms, provisions, covenants, and restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

11.11 Further Assurances. Without limitation of the generality of ~~fs~~Section [2.3.1 and Section 2.5](#) of this Agreement, the Parties agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes and provide for the full implementation of this Agreement and the pertinent provisions of the Plan and to consummate the transactions contemplated hereby.

11.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.13 Limitations. Except as otherwise specifically provided in this Agreement, the Plan, or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or to give any person other than the parties hereto any rights or remedies under or by reason of this Agreement. The parties hereby acknowledge and agree that nothing herein is intended to, does, or shall be construed to prejudice or harm in any way the rights, remedies, or treatment (including any releases, exculpation, indemnification, or otherwise) of any Released Party or

Exculpated Party, solely in their capacity as a Released Party or Exculpated Party, under the Plan.

11.13 Jurisdiction. The Bankruptcy Court shall have jurisdiction regarding the Debtors, ~~the~~ Reorganized Debtors Thrasio, the Trust, the Trustee, the Thrasio Legacy Trust Committee, and the Trust Assets, including, without limitation, the determination of all disputes arising out of or related to administration of the Trust. The Bankruptcy Court shall have continuing jurisdiction and venue to hear and finally determine all disputes and related matters among the Parties arising out of or related to this Agreement or the administration of the Trust. The Parties expressly consent to the Bankruptcy Court hearing and exercising such judicial power as is necessary to finally determine all such disputes and matters. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in this Agreement, the provisions of this Agreement shall have no effect on and shall not control, limit, or prohibit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter, and all applicable references in this Agreement to an order or decision of the Bankruptcy Court shall instead mean an order or decision of such other court of competent jurisdiction.

IN WITNESS WHEREOF, the Parties have or are deemed to have executed this Agreement as of the day and year written above.

Thrasio Holdings, Inc. and the Other Debtors/Reorganized
~~Debtors~~ Thrasio

By: _____

Name: _____

Title: _____

~~f-1~~ META Advisors LLC, not individually, but solely in its capacity as Trustee of the Thrasio Legacy Trust

By: _____

Name: _____

Title: _____

~~Accepted and agreed solely
as to Section 2.5 hereof:~~

~~Stephanie Fox~~

~~Michael Fahey~~

EXHIBIT A

THRASIO LEGACY TRUST COMMITTEE

- ~~1.~~
 1. [META Advisors LLC](#)
 2. [Daniel Wallitt](#)
- ~~2.~~
 3. [Lucia Kim](#)
- ~~3.~~
 4. ~~4~~[Your Home Goods, Inc.](#)
 5. [Thomas Pitta](#)

[Execution Version](#)

EXHIBIT B

~~5.~~

[\[Excluded for Filing\]](#)

[Different first page link-to-previous setting changed from on in original to off in modified.]

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Changes:	
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Delete	318
Move From	8
Move To	8
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	732

Exhibit K

Identities of the New Board and Officers of the Reorganized Debtors

Certain documents, or portions thereof, contained or to be contained in this **Exhibit K** and the Plan Supplement remain subject to continued review and comment by the Debtors and the Required Consenting Lenders in accordance with the consent rights set forth in the Plan and the Restructuring Support Agreement. The respective rights of the Debtors and the Required Consenting Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; *provided* that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

On the Effective Date, the term of the current board of directors of the Debtors shall expire, and the directors for the initial term of the New Board shall be appointed in accordance with the terms set forth in the New Organizational Documents and the New Stockholders Agreement. The New Board will be comprised of five members:

- ***Stephanie Fox***
- ***John Goodman***
- ***Mayu Sris***
- ***Lucia Kim***
- ***Matt Carter***

Those persons who will serve as officers of the Reorganized Debtors are:

- ***Stephanie Fox as Chief Executive Officer***
- ***Steve Nee as Chief Financial Officer***
- ***Michael Fahey as Chief Legal Officer and Secretary***

Additionally, as set forth in **Exhibit A** to the Thrasio Legacy Trust Agreement, the members of the Thrasio Legacy Trust Committee are:

- ***META Advisors LLC***
- ***Daniel Wallitt***
- ***Lucia Kim***
- ***YH Goods***
- ***Thomas Pitta***

Exhibit K-1

(Redline to Previous) Identities of the New Board and Officers of the Reorganized Debtor

Exhibit K

Identities of the New Board and Officers of the Reorganized Debtors

Certain documents, or portions thereof, contained or to be contained in this **Exhibit K** and the Plan Supplement remain subject to continued review and comment by the Debtors and the Required Consenting Lenders in accordance with the consent rights set forth in the Plan and the Restructuring Support Agreement. The respective rights of the Debtors and the Required Consenting Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; *provided* that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

On the Effective Date, the term of the current board of directors of the Debtors shall expire, and the directors for the initial term of the New Board shall be appointed in accordance with the terms set forth in the New Organizational Documents and the New Stockholders Agreement. The New Board will be comprised of five members:

- *Stephanie Fox*
- *John Goodman*
- *Mayu Sris*
- *Lucia Kim*
- ~~*A director to be designated by the Nominating and Selection Committee (as defined in the Corporate Governance Term Sheet)*~~ *Matt Carter*

Those persons who will serve as officers of the Reorganized Debtors are:

- *Stephanie Fox as Chief Executive Officer*
- *Steve Nee as Chief Financial Officer*
- *Michael Fahey as ~~General Counsel~~ Chief Legal Officer and Secretary*

Additionally, as set forth in Exhibit A to the Thrasio Legacy Trust Agreement, the members of the Thrasio Legacy Trust Committee are:

- *META Advisors LLC*
- *Daniel Wallitt*
- *Lucia Kim*
- *YH Goods*
- *Thomas Pitta*

Exhibit L

Exit Facilities Documents

Certain documents, or portions thereof, contained or to be contained in this **Exhibit L** and the Plan Supplement remain subject to continued review and comment by the Debtors and the Required Consenting Lenders in accordance with the consent rights set forth in the Plan and the Restructuring Support Agreement. The respective rights of the Debtors and the Required Consenting Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; *provided* that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

TERM LOAN CREDIT AGREEMENT

dated as of June 18, 2024

among

**THRASIO, LLC,
as the Borrower,**

**THRASIO INTERMEDIATE SUB, LLC,
as Intermediate Holdings,**

**THRASIO HOLDINGS, INC.,
as Holdings,**

**THE FINANCIAL INSTITUTIONS PARTY HERETO,
as Lenders,**

and

**WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent**

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EXHIBITS:

- Exhibit A-1 – Form of Affiliated Lender Assignment and Assumption
- Exhibit A-2 – Form of Assignment and Assumption
- Exhibit B – Form of Borrowing Request
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- Exhibit P – Form of Solvency Certificate

TERM LOAN CREDIT AGREEMENT

This TERM LOAN CREDIT AGREEMENT, dated as of June 18, 2024 (this “Agreement”), is by and among Thrasio Holdings, Inc., a Delaware corporation (“Holdings”), Thrasio Intermediate Sub, LLC, a Delaware limited liability company (“Intermediate Holdings”), Thrasio, LLC, a Delaware limited liability company (the “Borrower”), the Lenders from time to time party hereto (the “Lenders”) and Wilmington Savings Fund Society, FSB (“WSFS”), in its capacities as administrative agent for the Lenders and collateral agent for the Secured Parties (in such capacities and together with its successors and assigns, the “Administrative Agent”).

RECITALS

WHEREAS, on February 28, 2024 (the “Petition Date”) Holdings, Intermediate Holdings, the Borrower and certain other Subsidiary Guarantors (together with any of their Subsidiaries and Affiliates that were or became debtors under the Chapter 11 Cases referred to below, collectively, the “Debtors”, and each individually, a “Debtor”) voluntarily commenced Chapter 11 Cases, jointly administered under Chapter 11 Case No. 24-11840 (CMG) (collectively, the “Chapter 11 Cases” and each individually, a “Chapter 11 Case”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”);

WHEREAS, prior to the Closing Date, the Lenders (or certain Affiliates or Related Funds thereof) provided financing to the Borrower pursuant to that SUPER-PRIORITY SENIOR SECURED DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of March 1, 2024 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “DIP Credit Agreement”), among Intermediate Holdings, the Borrower, WSFS as administrative and collateral agent (the “DIP Administrative Agent”), the lenders from time to time party thereto (the “DIP Lenders”) and the other parties thereto;

WHEREAS, on the Closing Date, the outstanding principal balance of the Loans (as defined in the DIP Credit Agreement (the “Existing Loans”)) under the DIP Credit Agreement was approximately 366,189,517.11;

WHEREAS, the Borrower has requested, and, upon the terms and subject to the conditions set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured first lien credit facility of up to \$366,189,517.11 (the “Exit Facility”), consisting of (i) first lien “first out” term loans in an aggregate principal amount not to exceed \$90,000,000 (the “First Out Take Back Loans”) and (ii) first lien “second out” term loans in an aggregate principal amount not to exceed \$276,189,517.11 (the “Second Out Take Back Loans”), which First Out Take Back Loans and Second Out Take Back Loans result from the exchange of the Existing Loans, in each case, subject to certain conditions set forth herein and the Chapter 11 Confirmed Plan (as hereinafter defined), in order to (a) provide for the ongoing working capital needs of the Borrower and its Subsidiaries in connection with the Debtors’ exit from the Chapter 11 Cases, and (b) pay fees and expenses related to the Transactions (as hereinafter defined), in each case subject to the terms and conditions set forth in this Agreement;

WHEREAS, the Chapter 11 Confirmed Plan has been confirmed in the Chapter 11 Cases by the Bankruptcy Court and, concurrently with the making of the initial loans hereunder, the Plan Effective Date (as hereinafter defined) shall have occurred; and

WHEREAS, subject to the terms of this Agreement, the other Loan Documents and the Chapter 11 Confirmed Plan, Holdings, Intermediate Holdings, the Borrower and the other Subsidiary Guarantors have agreed to secure all of their Obligations under the Loan Documents by granting to the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, a first priority security interest in and lien upon substantially all of their property, whether now existing or acquired after the date hereof, subject to exceptions specified herein or in the other Loan Documents.

NOW, THEREFORE, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“ABR” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

“ACH” means automated clearing house transfers.

“Additional Agreement” has the meaning assigned to such term in Article 8.

“Adjusted Daily Simple SOFR” means an interest rate per annum equal to (a) Daily Simple SOFR plus (b) 0.26161%.

“Adjusted Term SOFR” means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided that, if the Interest Period with respect to the applicable SOFR Loan is a SOFR Non-Standard Interest Period, then Adjusted Term SOFR shall be the SOFR Interpolated Rate.

“Administrative Agent” has the meaning assigned to such term in the preamble to this Agreement.

“Administrative Agent Fee Letter” means that certain Fee Letter, dated as of the Closing Date, by and among the Borrower and the Administrative Agent.

“Administrative Questionnaire” means a customary administrative questionnaire in the form provided by the Administrative Agent.

“Adverse Proceeding” means any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claim), whether pending or, to the knowledge of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries, threatened in writing, against or affecting Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any property of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries.

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

“Affiliate” means, as applied to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, that Person. None of the Administrative Agent, any Lender or any of their respective Affiliates shall be considered an Affiliate of Holdings or any subsidiary thereof.

“Affiliated Lender” means Holdings, Intermediate Holdings, the Borrower and/or any of their Subsidiaries.

“Affiliated Lender Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Affiliated Lender (with the consent of any party whose consent is required by Section 9.05)

and accepted by the Administrative Agent in the form of Exhibit A-1 or any other form approved by the Administrative Agent and the Borrower.

“Agreement” has the meaning assigned to such term in the preamble to this Credit Agreement.

“Alternate Base Rate” means, for any day, a rate per annum equal to the highest of (a) the Federal Funds Effective Rate in effect on such day plus 0.50%, (b) Adjusted Term SOFR for a one-month tenor in effect for such day plus 1.00%, (c) the Prime Rate and (d) 2.00%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or Adjusted Term SOFR, as the case may be, shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or Adjusted Term SOFR, as the case may be.

“Applicable Percentage” means with respect to any Lender and with respect to any applicable Class of Loans and Commitments, a percentage equal to a fraction the numerator of which is the aggregate outstanding principal amount of the Loans and unused Commitments of such Class of such Lender and the denominator of which is the aggregate outstanding principal amount of the Loans and unused Commitments of such Class of all Lenders of the applicable Class. When the term “Applicable Percentage” is used with respect to any Lender generally and without reference to any applicable Class, the term means a percentage equal to a fraction the numerator of which is the aggregate outstanding principal amount of the Loans and unused Commitments of such Lender and the denominator of which is the aggregate outstanding principal amount of the Loans and unused Commitments of all Lenders regardless of Class.

“Applicable Rate” means, for any day, (a) with respect to any First Out Take Back Loans, (i) for any Interest Period ending on an Interest Payment Date occurring during the period commencing on the Closing Date through, but excluding, the one-year anniversary of the Closing Date, (x) for ABR Loans, 9.00% per annum, and for (y) SOFR Loans, 10.00% per annum, (ii) for any Interest Period ending on an Interest Payment Date occurring during the period commencing on the first anniversary of the Closing Date through, but excluding, the second-year anniversary of the Closing Date, (A) if the Liquidity Threshold is met on the date that is 3 Business Days prior to the first day of such Interest Period, (x) for ABR Loans, 7.00% per annum, and for (y) SOFR Loans, 8.00% per annum, and (B) if the Liquidity Threshold is not met on the date that is 3 Business Days prior to the first day of such Interest Period, (x) for ABR Loans, 9.00% per annum, and for (y) SOFR Loans, 10.00% per annum and (iii) for any Interest Period ending on an Interest Payment Date occurring during the period commencing on the second anniversary of the Closing Date and at all times thereafter, (x) for ABR Loans, 7.00% per annum, and for (y) SOFR Loans, 8.00% per annum and (b) with respect to any Second Out Take Back Loans, (i) for any Interest Period ending on an Interest Payment Date occurring during the period commencing on the Closing Date through, but excluding, the one-year anniversary of the Closing Date, (x) for ABR Loans, 9.00% per annum, and for (y) SOFR Loans, 10.00% per annum and (ii) for any Interest Period ending on an Interest Payment Date occurring during the period commencing on the first anniversary of the Closing Date and at all times thereafter, (A) if the Liquidity Threshold is met on the date that is 3 Business Days prior to the first day of such Interest Period, (x) for ABR Loans, 7.00% per annum, and for (y) SOFR Loans, 8.00% per annum, and (B) if the Liquidity Threshold is not met on the date that is 3 Business Days prior to the first day of such Interest Period, (x) for ABR Loans, 9.00% per annum, and for (y) SOFR Loans, 10.00% per annum.

“Approved Fund” means, with respect to any Lender, any Person (other than a natural Person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities and is administered, advised or managed (including pursuant to a separately managed account) on an exclusive discretionary basis by (a) such Lender, (b) any Affiliate of such Lender or (c) any entity or any Affiliate of any entity that administers, advises or manages such Lender.

“Assignment Agreement” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.05), and accepted by the

Administrative Agent in the form of Exhibit A-2 or any other form approved by the Administrative Agent and the Borrower.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to clause (e) of Section 2.14.

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

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

“Banking Services” means each and any of the following bank services: commercial credit cards, stored value cards, purchasing cards, treasury management services, netting services, overdraft protections, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs, cash pooling services and any arrangements or services similar to any of the foregoing and/or otherwise in connection with Cash management and Deposit Accounts.

“Banking Services Obligations” means any and all obligations of any Loan Party, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under any arrangement in connection with Banking Services that is in effect on the Closing Date or entered into at any time on or after the Closing Date between any Loan Party and (a) a counterparty that is (or is an Affiliate of) the Administrative Agent or any Lender as of the Closing Date or at the time such arrangement is entered into and/or (b) any other Person designated by the Borrower to the Administrative Agent, in each case, that have been designated to the Administrative Agent in writing by the Borrower as being Banking Services Obligations for the purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03 and Section 9.10.

“Bankruptcy Code” means Title 11 of the United States Code (11 USC § 101 *et seq.*), as it has been, or may be, amended, from time to time.

“Bankruptcy Court” has the meaning assigned to such term in the recitals to this Agreement.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time, in effect and applicable to the Chapter 11 Cases.

“Benchmark” means, initially, Term SOFR; provided that if a Benchmark Transition Event has occurred with respect to Term SOFR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 2.14.

“Benchmark Replacement” means with respect to any Benchmark Transition Event, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent (acting at the Direction of the Required Lenders) for the applicable Benchmark Replacement Date:

(a) Adjusted Daily Simple SOFR; or

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Required Lenders (in consultation with the Administrative Agent) and the Borrower as the replacement for the then-current Benchmark giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (ii) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than 1.00% with respect to the Loans, the Benchmark Replacement will be deemed to be 1.00% for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, 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 Required Lenders (in consultation with the Administrative Agent) and the Borrower giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities. Each Benchmark Replacement Adjustment shall be subject to the consent of the Borrower (not to be unreasonably withheld or delayed).

“Benchmark Replacement 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 “Alternate Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 2.14 and other technical, administrative or operational matters) that the Administrative Agent decides, in consultation with the Borrower, 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).

“Benchmark Replacement Date” means a date and time determined by the Administrative Agent (acting at the Direction of the Required Lenders), in consultation with the Borrower, which date shall be no later than the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event”, the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which

the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

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

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

(2) 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 Board, the Federal Reserve Bank of New York, the Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

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

“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14.

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

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

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

“Blocked Account Agreement” has the meaning assigned to such term in Section 5.13.

“Board” means the Board of Governors of the Federal Reserve System of the US.

“Borrower” has the meaning assigned to such term in the recitals to this Agreement.

“Borrower Materials” has the meaning assigned to such term in Section 9.01(d).

“Borrowing” means any Loans of the same Type made, converted or continued on the same date and, in the case of Term SOFR Loans, as to which a single Interest Period is in effect.

“Borrowing Request” means a written request by the Borrower for a Borrowing in accordance with Section 2.03 and substantially in the form attached hereto as Exhibit B or such other form that is reasonably acceptable to the Administrative Agent and the Borrower.

“Budget” has the meaning assigned to such term in Section 5.01(h).

“Building” means a structure with two (2) or more outside rigid walls and a fully secured roof that, that is principally above ground and affixed to a permanent site, other than a gas or liquid storage tank, including while in the course of construction as defined in (and to the extent eligible for coverage under) the Flood Program.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City or London are authorized or required by law to remain closed; provided that when used in connection with a Term SOFR Loan, or any other calculation or determination involving SOFR, the term “Business Day” means any day that is a U.S. Government Securities Business Day.

“Capital Expenditures” means, with respect the Borrower and its Subsidiaries for any period, the aggregate amount, without duplication, of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capital Leases) that would, in accordance with GAAP, are, or are required to be included as, capital expenditures on the consolidated statement of cash flows of the Borrower and its Subsidiaries for such period.

“Capital Lease” means, subject to Section 1.04, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease or finance lease on the balance sheet of that Person; provided, that for the avoidance of doubt, the amount of obligations attributable to any Capital Lease shall be the amount thereof accounted for as a liability in accordance with GAAP.

“Capital Stock” means any and all shares, interests, participations, preferred equity certificates, convertible preferred equity certificates or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other

arrangements or rights to acquire any of the foregoing, but excluding for the avoidance of doubt any Indebtedness convertible into or exchangeable for any of the foregoing.

“Captive Insurance Subsidiary” means any Subsidiary of Holdings that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash” means money, currency or a credit balance in any Deposit Account, in each case determined in accordance with GAAP.

“Cash Equivalents” means, as at any date of determination, (a) readily marketable securities (i) issued or directly and unconditionally guaranteed or insured as to interest and principal by the US government or (ii) issued by any agency or instrumentality of the US the obligations of which are backed by the full faith and credit of the US, in each case maturing within one year after such date and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (b) readily marketable direct obligations issued by any state of the US or any political subdivision of any such state or any public instrumentality thereof or by any foreign government, in each case maturing within one year after such date and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (c) commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency); (d) deposits, money market deposits, time deposit accounts, certificates of deposit or bankers’ acceptances (or similar instruments) maturing within one year after such date and issued or accepted by any Lender or by any bank organized under, or authorized to operate as a bank under, the laws of the US, any state thereof or the District of Columbia or any political subdivision thereof or any foreign bank or its branches or agencies and that has capital and surplus of not less than \$100,000,000 and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (e) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank having capital and surplus of not less than \$100,000,000; (f) shares of any money market mutual fund that has (i) substantially all of its assets invested in the types of investments referred to in clauses (a) through (e) above, (ii) net assets of not less than \$250,000,000 and (iii) a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, if at any time either S&P or Moody’s are not rating such fund, an equivalent rating from another nationally recognized statistical rating agency); and (g) solely with respect to any Captive Insurance Subsidiary, any investment that such Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law. “Cash Equivalents” shall also include (x) Investments of the type and maturity described in clauses (a) through (g) above of foreign obligors, which Investments or obligors (or the parent companies thereof) have the ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (y) other short-term Investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in Investments that are analogous to the Investments described in clauses (a) through (g) and in this paragraph.

“Change in Law” means (a) the adoption of any law, treaty, rule or regulation after the Closing Date, (b) any change in any law, treaty, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date (other than any such request, guideline or directive to comply with any law, rule or regulation that was in effect on the Closing Date). For purposes of this definition and Section 2.15, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or US or

foreign regulatory authorities, in each case pursuant to Basel III, shall in each case described in clauses (a), (b) and (c) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented.

“Change of Control” means the earliest to occur of:

- (a) [reserved];
- (b) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) (including any group acting for the purpose of acquiring, holding or disposing of Securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), but excluding (i) any employee benefit plan and/or Person acting as the trustee, agent or other fiduciary or administrator therefor and (ii) one or more Permitted Holders), of Capital Stock representing more than 50% of the outstanding voting power of the Qualified Capital Stock of Holdings (on an as-converted-to-common-stock basis);
- (c) Holdings ceasing to own, directly or indirectly, 100% of the Capital Stock of Intermediate Holdings; and
- (d) Intermediate Holdings ceasing to own, directly or indirectly, 100% of the Capital Stock of the Borrower.

For purposes of this definition, (1) a Person or group shall not be deemed to beneficially own Capital Stock or voting power subject to a stock or asset purchase agreement, merger agreement or similar agreement (or voting or similar agreement related thereto) until the consummation of the acquisition of the Capital Stock or voting power pursuant to the transactions contemplated by such agreement, (2) if any group includes one or more Permitted Holders, the issued and outstanding Capital Stock of the relevant Person that are directly or indirectly owned by the Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of this definition and (3) a Person or group will not be deemed to beneficially own the Capital Stock of another Person as a result of its ownership of the Capital Stock or other securities of such other Person’s parent company (or any related contractual right) unless it owns 50% or more of the total voting power of the Capital Stock entitled to vote for the election of directors of such Person’s parent company having a majority of the aggregate votes on the board of directors (or equivalent governing body) of such Person’s parent company.

“Charge” means any fee, loss, charge, expense, cost, accrual or reserve of any kind.

“Charged Amounts” has the meaning assigned to such term in Section 9.19.

“Chapter 11 Case” or “Chapter 11 Cases” has the meaning assigned to such term in the recitals to this Agreement.

“Chapter 11 Confirmed Plan” shall mean that certain First Amended Joint Plan of Reorganization of Holdings and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Further Technical Modifications) confirmed on June 13, 2024 with respect to the jointly administered Chapter 11 Case No. 24-11840 (CMG), Docket No. 1124, as amended, modified or supplemented, confirmed by the Confirmation Order.

“Class” when used in reference to any Commitment, Loan or Borrowing, means whether such Loan, or the Loans comprising such Borrowing, or the Loans that would be disbursed under such Commitment, are First Out Take Back Loans or Second Out Take Back Loans.

“Closing Date” means June 18, 2024.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” means any and all property of any Loan Party subject (or purported to be subject) to a Lien under any Collateral Document and any and all other property of any Loan Party, now existing or hereafter acquired, that is or becomes subject (or purported to be subject) to a Lien pursuant to any Collateral Document to secure the Secured Obligations. For the avoidance of doubt, in no event shall “Collateral” include any Excluded Asset.

“Collateral and Guarantee Requirement” means, at any time, subject to (x) the applicable limitations set forth in this Agreement and/or any other Loan Document and (y) solely after the Closing Date, the time periods (and extensions thereof) set forth in Section 5.12, Section 5.13 and/or Section 5.15, as applicable, the requirement that:

(a) on the Closing Date, the Administrative Agent shall have received from each Loan Guarantor, a counterpart of the Loan Guaranty, in each case duly executed and delivered on behalf of such person;

(b) on the Closing Date, the Administrative Agent shall have received from each Loan Guarantor, the following:

(i) if the applicable Loan Guarantor owns registrations of or applications for U.S. Patents, Trademarks, Copyrights and/or material exclusive licenses to third-party U.S. registered Copyrights that constitute Collateral, an Intellectual Property Security Agreement;

(ii) a completed Perfection Certificate;

(iii) Uniform Commercial Code financing statements in appropriate form for filing in such jurisdictions as the Administrative Agent may reasonably request;

(iv) [reserved]; and

(v) each item of Collateral that such Loan Guarantor is required to deliver under Section 4.02 of the Security Agreement (which, for the avoidance of doubt, shall be delivered within the time periods set forth in Section 5.12(a));

(c) on the Closing Date, the Administrative Agent shall have received a duly executed and delivered copy of each UK Security Document;

(d) on the Closing Date (i) (x) all outstanding Capital Stock of the Borrower and all other outstanding Capital Stock, in each case, directly owned by the Loan Parties (other than Excluded Assets), and (y) all Indebtedness owing to any Loan Party, other than Excluded Assets, shall have been pledged or assigned for security purposes pursuant to the Loan Documents and (ii) the Administrative Agent shall have received certificates, updated share registers (where necessary under the laws of any applicable jurisdiction in order to create a perfected security interest in such Capital Stock) or other instruments (if any) representing such Capital Stock (and any notes or other instruments required to be delivered pursuant to the applicable Loan Documents), together with stock powers, note powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(e) in the case of any person that becomes a Loan Guarantor after the Closing Date, the Administrative Agent shall have received (i) a counterpart of a Loan Guaranty duly executed and delivered on behalf of such person and (ii) Loan Documents, or supplements to one or more of the Loan Documents, if applicable, in the form specified therefor or otherwise reasonably acceptable to

the Administrative Agent (in each case, acting at the Direction of the Required Lenders in their reasonable discretion), in each case, duly executed and delivered on behalf of such Loan Guarantor;

(f) after the Closing Date, (x) all outstanding Capital Stock of any person that becomes a Subsidiary Guarantor after the Closing Date and (y) all Capital Stock directly acquired by a Loan Party after the Closing Date, in each case, other than Excluded Assets, shall have been pledged pursuant to the Loan Documents, together with stock powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(g) except as otherwise contemplated by this Agreement or any other Loan Document, all documents and instruments and all other actions reasonably requested by the Required Lenders (including those required by applicable Requirements of Law) to be delivered, filed, registered or recorded to create the Liens intended to be created by the Loan Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Loan Documents, shall have been delivered, filed, registered or recorded or delivered to the Administrative Agent for filing, registration or the recording concurrently with, or promptly following, the execution and delivery of each such Loan Document;

(h) on the Closing Date, evidence of the insurance required by the terms of Section 5.05 hereof shall have been delivered to the Administrative Agent;

(i) after the Closing Date, the Administrative Agent shall have received (i) such other Loan Documents as may be required to be delivered pursuant to Section 5.14 or the Loan Documents, and (ii) upon reasonable request by the Administrative Agent (acting at the Direction of the Required Lenders), evidence of compliance with any other requirements of Section 5.14; and

(j) within 90 days after the Closing Date, the Administrative Agent shall have received with respect to any Material Real Estate Asset, a Mortgage, and, to the extent the Mortgage is not sufficient therefor, any necessary UCC fixture filing in respect thereof, in each case together with, to the extent customary and appropriate (as reasonably determined by Administrative Agent and the Required Lenders) the following:

(i) evidence that (A) counterparts of such Mortgage have been duly executed, acknowledged and delivered and such Mortgage and, to the extent the same does not serve as a fixture filing in the relevant jurisdiction, any corresponding UCC or equivalent fixture filing each in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may reasonably deem necessary in order to create a valid and subsisting Lien on such Material Real Estate Asset in favor of the Administrative Agent for the benefit of the Secured Parties, (B) such Mortgage and any corresponding UCC or equivalent fixture filings have been duly recorded or filed or delivered for recordation or filing, as applicable, and (C) all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(ii) customary legal opinions of local counsel for the relevant Loan Party in the jurisdiction in which such Material Real Estate Asset is located, and if applicable, in the jurisdiction of formation of the relevant Loan Party, in each case as the Administrative Agent and Required Lenders may reasonably request;

(iii) in the case of any Material Real Estate Asset, appraisals upon request of the Administrative Agent (but solely if required under the Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended); provided that the Administrative Agent may in its reasonable discretion accept any such existing appraisal so long as such existing appraisal satisfies any applicable Requirements of Law; and

(iv) in the case of any Material Real Estate Asset, (A) a completed Flood Certificate with respect to such Material Real Estate Asset, which Flood Certificate shall (1) be addressed to the Administrative Agent and (2) otherwise comply with the Flood Program (including a written acknowledgment from the applicable Loan Party with respect to any Flood Hazard Property) and (B) if such Material Real Estate Asset is a Flood Hazard Property and is located in a community that participates in the Flood Program, evidence reasonably satisfactory to the Administrative Agent that the applicable Loan Party has obtained a policy of flood insurance or coverage that is in compliance with all applicable regulations of the Flood Program and naming the Administrative Agent as a loss payee on behalf of the Lenders (the requirements set forth in this clause (iv) are referred to herein as the “Flood Insurance Requirements”).

Notwithstanding any provision of any Loan Document to the contrary, (a) if any mortgage tax or similar tax or charge is or will be owed on the entire amount of the Obligations evidenced hereby, then, to the extent permitted by, and in accordance with, applicable Requirements of Law, the amount of such mortgage tax or similar tax or charge shall be calculated based on the lesser of (x) the amount of the Obligations allocated to the applicable Material Real Estate Assets and (y) the fair market value of the applicable Material Real Estate Assets at the time the Mortgage is entered into and determined in a manner reasonably acceptable to Administrative Agent and the Borrower, which in the case of clause (y) will result in a limitation of the Obligations secured by the Mortgage to such amount, (b) no Loan Party will be required to procure title insurance or any survey with respect to any Mortgaged Property and (c) no Loan Party shall be required to register, apply to register, or escrow any intellectual property.

“Collateral Documents” means, collectively (i) the Security Agreement, (ii) the Loan Guaranty, (iii) [reserved], (iv) any Non-US Security Agreement, including the UK Security Documents, (v) each Intellectual Property Security Agreement, (vi) each Mortgage, (vii) any supplement to any of the foregoing delivered to the Administrative Agent pursuant to the terms hereof, the foregoing documents or the definition of “Collateral and Guarantee Requirement” and (viii) each of the other instruments and documents pursuant to which any Loan Party grants (or purports to grant) a Lien on any Collateral as security for payment of the Secured Obligations.

“Commercial Tort Claim” has the meaning set forth in Article 9 of the UCC.

“Commitment” means, with respect to each Lender, the commitment of such Lender’s allocation of First Out Take Back Loans and Second Out Take Back Loans hereunder, as set forth on the Commitment Schedule.

“Commitment Schedule” means the Schedule attached hereto as Schedule 1.01(a).

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

“Company Competitor” means any competitor of the Borrower and/or any of its subsidiaries.

“Competitor Debt Fund Affiliate” means, with respect to any Company Competitor or any Affiliate thereof, any debt fund, investment vehicle, regulated bank entity or unregulated lending entity (in each case, other than any Disqualified Lending Institution) that is (a) primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business for financial investment purposes and (b) managed, sponsored or advised by any person that is controlling, controlled by or under common control with the relevant Company Competitor or Affiliate thereof, but only to the extent that no personnel involved with the investment in the relevant Company Competitor or its Affiliates, or the management, control or operation thereof, (i) makes (or has the right to make or participate with others in making) investment decisions on behalf of, or otherwise cause the direction of the investment policies of, such debt fund, investment vehicle, regulated bank entity or unregulated entity or (ii) has access to any

information (other than information that is publicly available) relating to the Borrower and/or any entity that forms part of its business (including any of its subsidiaries).

“Compliance Certificate” means a Compliance Certificate substantially in the form of Exhibit D.

“Concentration Accounts” has the meaning assigned to such term in Section 5.13.

“Confidential Information” has the meaning assigned to such term in Section 9.13.

“Confirmation Order” shall mean the Findings of Fact, Conclusions of Law, and Order Confirming the First Amended and Restated Joint Plan of Reorganization of Holdings and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code Chapter 11 Case No. 24-11840 (CMG), Docket No. 1124, entered by the Bankruptcy Court confirming the Plan on June 18, 2024.

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

“Consolidated Adjusted EBITDA” means, with respect to any Person on a consolidated basis for any period, the sum of:

(a) Consolidated Net Income for such period; plus

(b) to the extent not otherwise included in the determination of Consolidated Net Income for such period, the amount of any proceeds of any business interruption insurance policy in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not then received so long as such Person in good faith expects to receive such proceeds within the next four Fiscal Quarters (it being understood that to the extent such proceeds are not actually received within such Fiscal Quarters, such proceeds shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters)); plus

(c) without duplication, those amounts which, in the determination of Consolidated Net Income for such period, have been deducted for:

(i) Consolidated Interest Expense; plus

(ii) [reserved]; plus

(iii) Taxes paid and any provision for Taxes, including income, capital, state and similar Taxes and foreign withholding Taxes (including penalties and interest related to any such Tax or arising from any Tax examination, and including pursuant to any Tax sharing arrangement or as a result of any intercompany distribution) of such Person paid or accrued during such period; plus

(iv) (A) all depreciation, amortization (including, without limitation, amortization of goodwill, software and other intangible assets), (B) all impairment Charges, including any bad debt expense, and (C) all asset write-offs and/or write-downs; plus

(v) any earn-out and contingent consideration obligations (including to the extent accounted for as bonuses, compensation or otherwise) incurred in connection with the Transaction and/or any acquisition and/or other Investment (whether consummated prior to, on or after the Closing Date) which is paid or accrued during such period and, in each case, adjustments thereof; plus

(vi) any non-cash Charge, including the excess of GAAP rent expense over actual cash rent paid during such period due to the use of straight line rent for GAAP purposes (provided that to the extent that any such non-cash Charge represents an accrual or reserve for any potential cash item in

any future period, (A) such Person may elect not to add back such non-cash Charge in the current period and (B) to the extent such Person elects to add back such non-cash Charge, the cash payment in respect thereof in such future period shall not be added back to Consolidated Adjusted EBITDA to such extent); plus

(vii) (A) Transaction Costs, (B) Charges incurred in connection with any transaction (in each case, regardless of whether consummated), and whether or not permitted under this Agreement, including any incurrence or issuance of Indebtedness and/or any issuance and/or offering of Capital Stock (including, in each case, by any Parent Company), any Investment (including any acquisition), any Disposition, any recapitalization, any merger, consolidation or amalgamation, any option buyout or any repayment, redemption, refinancing, amendment or modification of Indebtedness (including any amortization or write-off of debt issuance or deferred financing costs, premiums and prepayment penalties) or any similar transaction, (C) the amount of any Charge that is actually reimbursed or reimbursable by any third party pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that in respect of any Charge that is added back in reliance on clause (C) above, the relevant Person in good faith expects to receive reimbursement for such Charge within the next four Fiscal Quarters (it being understood that to the extent any reimbursement amount is not actually received within such Fiscal Quarters, such reimbursement amount shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters) and/or (D) Public Company Costs; plus

(viii) any Charge or deduction that is associated with any Subsidiary of such Person and attributable to any non-controlling interest and/or minority interest of any third party; plus

(ix) the amount of (A) any Charge to the extent that a corresponding amount is received in cash by such Person from a Person other than such Person or any Subsidiary of such Person under any agreement providing for reimbursement of such Charge or (B) any Charge with respect to any liability or casualty event, business interruption or any product recall, (i) so long as such Person has submitted in good faith, and reasonably expects to receive payment in connection with, a claim for reimbursement of such amounts under its relevant insurance policy (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within the next four Fiscal Quarters) or (ii) without duplication of amounts included in a prior period under clause (B)(i) above, to the extent such Charge is covered by insurance proceeds received in cash during such period (it being understood that if the amount received in cash under any such agreement in any period exceeds the amount of Charge paid during such period such excess amounts received may be carried forward and applied against any Charge in any future period); plus

(x) (A) any Charge attributable to the undertaking and/or implementation of cost savings initiatives, cost rationalization programs, operating expense reductions and/or cost synergies and/or similar initiatives and/or programs (including in connection with any integration, restructuring or transition, any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, any facility opening and/or pre-opening), any inventory optimization program and/or any curtailment, any business optimization Charge, any restructuring and integration Charge (including any Charge relating to any Tax restructuring), any Charge relating to the closure or consolidation of any facility (including but not limited to rent termination costs, moving costs and legal costs), any systems implementation Charge, any severance Charge, any Charge relating to any retention or completion bonus, any Charge associated with any modification to any pension and post-retirement employee benefit plan, and any Charge in connection with unused warehouse space or unused manufacturing facilities, and any implementation Charge, project startup Charge, or consulting Charge related to any of the foregoing; and (B) any Charge in connection with any exit from, wind down or termination of any line of business; provided that amounts added back in any four Fiscal Quarter period in reliance on this clause (c)(x) shall, on or after first anniversary following the Closing Date, be subject to an aggregate cap, together with clause (d) of 10% of Consolidated Adjusted

EBITDA (with such capped amount being determined as a percentage of Consolidated Adjusted EBITDA calculated without giving effect to the foregoing cap or any other cap in the definition of “Consolidated Adjusted EBITDA”); plus

(xi) any Charge incurred or accrued in connection with any single or one-time event, including in connection with (A) any acquisition or similar Investment consummated after the Closing Date, (B) the opening, closing, consolidation or reconfiguration of any facility during such period, (C) any restructuring Charge and/or (D) one-time consulting costs or expenses; plus

(xii) any Charge from (A) any extraordinary item (as determined in good faith by such Person) and/or (B) any nonrecurring or unusual items (as determined in good faith by such Person); provided that the amounts added back in any four Fiscal Quarter Period in reliance on this clause (xv) shall not exceed 15% of Consolidated Adjusted EBITDA (with such capped amount being determined as a percentage of Consolidated Adjusted EBITDA calculated without giving effect to the foregoing cap or any other cap in the definitions of “Consolidated Adjusted EBITDA”); minus

(d) the full pro forma “run rate” expected cost savings, operating expense reductions, operational improvements and other cost synergies (net of actual amounts realized) that are reasonably identifiable and factually supportable (in the good faith determination of such Person) related to inventory sales, dispositions of any brands or businesses and restructurings and/or reorganizations that are otherwise not prohibited by this Credit Agreement provided that amounts added back in any four Fiscal Quarter period in reliance on this clause (d) shall be subject to an aggregate cap, together with clause (c)(x) of 10% of Consolidated Adjusted EBITDA (with such capped amount being determined as a percentage of Consolidated Adjusted EBITDA calculated without giving effect to the foregoing cap or any other cap in the definition of “Consolidated Adjusted EBITDA”); minus

(e) any amount which, in the determination of Consolidated Net Income for such period, has been added for any non-cash income or non-cash gain, all as determined in accordance with GAAP (provided that if any non-cash income or non-cash gain represents an accrual or deferred income in respect of potential cash items in any future period, such Person may determine not to deduct the relevant non-cash gain or income in the then-current period); minus

(f) the amount of any cash payment made during such period in respect of any noncash accrual, reserve or other non-cash Charge that is accounted for in a prior period which was added to Consolidated Net Income to determine Consolidated Adjusted EBITDA for such prior period and which does not otherwise reduce Consolidated Net Income for the current period.

“Consolidated Interest Expense” means, with respect to any Person for any period, the sum of (a) consolidated total interest expense of such Person and its Subsidiaries for such period, whether paid or accrued and whether or not capitalized, (including, without limitation (and without duplication), amortization of any debt issuance cost and/or original issue discount, any premium paid to obtain payment, financial assurance or similar bonds, any interest capitalized during construction, any non-cash interest payment, the interest component of any deferred payment obligation, the interest component of any payment under any Capital Lease (regardless of whether accounted for as interest expense under GAAP), any commission, discount and/or other fee or charge owed with respect to any letter of credit and/or bankers’ acceptance, any fee and/or expense paid to the Administrative Agent in connection with its services hereunder, any other bank, administrative agency (or trustee) and/or financing fee and any cost associated with any surety bond in connection with financing activities (whether amortized or immediately expensed)) plus (b) any cash dividend paid or payable in respect of Disqualified Capital Stock during such period other than to such Person or any Loan Party, plus (c) any net losses or obligations arising from any Hedge Agreement and/or other derivative financial instrument issued by such Person for the benefit of such Person or its subsidiaries, in each case determined on a consolidated basis for such period plus, (d) any (i) write-off or amortization made of any deferred financing cost and/or premium paid and (ii) Charge attributable to the early extinguishment of

Indebtedness (and the termination of any associated Hedge Agreement). For purposes of this definition, interest in respect of any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capital Lease in accordance with GAAP.

“Consolidated Net Income” means, in respect of any period and as determined for any Person on a consolidated basis, an amount equal to the sum of net income, determined in accordance with GAAP, but excluding:

- (a) Any gain or Charge attributable to any asset Dispositions (including asset retirement costs and including any abandonment of assets) or of returned surplus assets outside the ordinary course of business,
- (b) any Charge associated with and/or payment of any actual or prospective legal settlement, fine, judgment or order that relates any action, suit, investigation, litigation, or other proceeding commenced on or prior to the Closing,
- (c) (i) (x) any Charge incurred as a result of, pursuant to or in connection with any management equity plan, bonus or other incentive plan, profits interest plan or stock option plan or any other management or employee benefit plan or agreement, pension plan or other long-term or post-employment plan (including any post-employment benefit scheme which has been agreed with the relevant pension trustee), any stock subscription or shareholder agreement, any employee benefit trust, any employment benefit scheme or any similar equity plan or agreement (including (x) any deferred compensation arrangement, (y) any stock appreciation right and (z) in each case, any repricing, amendment, modification, substitution or change of any such management equity plan or any similar equity plan or agreement) and (y) any non-cash compensation Charge and (ii) any Charge incurred in connection with the rollover, acceleration or payout of Capital Stock held by management of the Borrower, Holdings (or any other Parent Company) and/or any Subsidiary; provided, that, in the case of this subclause (ii), to the extent that any such Charge is a cash charge, such Charge shall only be excluded to the extent the same is funded with net cash proceeds contributed to relevant Person as a capital contribution or as a result of the sale or issuance of Qualified Capital Stock,
- (d) Any Charge that is established, adjusted and/or incurred, as applicable, as a result of any change in, or the adoption or modification of, accounting principles and/or policies in accordance with GAAP, and
- (e) any realized or unrealized gain and/or loss in respect of (A) any obligation under any Hedge Agreement as determined in accordance with GAAP and/or (B) any other derivative instrument pursuant to, in the case of this clause (B), Financial Accounting Standards Board’s Accounting Standards Codification No. 815-Derivatives and Hedging and/or (ii) any realized or unrealized foreign currency translation or transaction gain or loss (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk resulting from any intercompany Indebtedness, any foreign currency translation or transaction or any other currency-related risk).

“Consolidated Total Debt” means, as to any Person at any date of determination, the aggregate principal amount of all third party debt for borrowed money (including LC Disbursements that have not been reimbursed within three Business Days and the outstanding principal balance of all third party Indebtedness for borrowed money of such Person represented by notes, bonds and similar instruments and excluding, for the avoidance of doubt, undrawn letters of credit) and Capital Leases and purchase money Indebtedness, as such amount may be adjusted to reflect the effect (as determined by the Borrower in good faith) of any Debt FX Hedge, calculated on a mark-to-market basis; provided that “Consolidated Total Debt” shall be calculated (i) net of the Unrestricted Cash Amount and (ii) excluding any obligation, liability or indebtedness of such Person

if, upon or prior to the maturity thereof, such Person has irrevocably deposited with the proper Person in trust or escrow the necessary funds (or evidences of indebtedness) for the payment, redemption or satisfaction of such obligation, liability or indebtedness, and thereafter such funds and evidences of such obligation, liability or indebtedness or other security so deposited are not included in the calculation of the Unrestricted Cash Amount.

“Consolidated Working Capital” means, as at any date of determination, the excess of Current Assets over Current Liabilities.

“continuing” means, with respect to any Default, that such Default has not been cured or waived or, with respect to any Event of Default, that such Event of Default has not been waived.

“Contractual Obligation” means, as applied to any Person, any provision of any Security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

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

“Copyright” means the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications; (b) all renewals of any of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (d) the right to sue for past, present, and future infringements of any of the foregoing; and (e) all rights corresponding to any of the foregoing.

“Current Assets” means, at any date, all assets of Holdings and its Subsidiaries which under GAAP would be classified as current assets (excluding any (i) cash or Cash Equivalents (including cash and Cash Equivalents held on deposit for third parties by Holdings and/or any of its Subsidiaries), (ii) permitted loans to third parties, (iii) deferred bank fees and derivative financial instruments related to Indebtedness, and (iv) the current portion of current and deferred Taxes).

“Current Liabilities” means, at any date, all liabilities of Holdings and its Subsidiaries which under GAAP would be classified as current liabilities, other than (i) current maturities of long term debt, (ii) outstanding revolving loans and letter of credit exposure, (iii) accruals of Consolidated Interest Expense (excluding Consolidated Interest Expense that is due and unpaid), (iv) obligations in respect of derivative financial instruments related to Indebtedness, (v) the current portion of current and deferred Taxes, (vi) liabilities in respect of unpaid earn-outs or unpaid acquisition, disposition or refinancing related expenses and deferred purchase price holdbacks, (vii) accruals relating to restructuring reserves, (viii) liabilities in respect of funds of third parties on deposit with Holdings and/or any of its Subsidiaries, (ix) the current portion of any Capital Lease obligation, (x) the current portion of any other long term liability for Indebtedness, (xi) accrued settlement costs, (xii) non-cash compensation costs and expenses, (xiii) deferred revenue arising from cash receipts that are earmarked for specific projects and (xiv) any other liabilities that are not Indebtedness and will not be settled in Cash or Cash Equivalents during the next succeeding twelve month period after such date.

“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; provided that, if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“Debt FX Hedge” means any Hedge Agreement entered into for the purpose of hedging currency related risks in respect of any Indebtedness of the type described in the definition of “Consolidated Total Debt”.

“Debtor” and “Debtors” has the meaning assigned to such term in the recitals to this Agreement.

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

“Declined Proceeds” has the meaning assigned to such term in Section 2.11(b)(v).

“Default” means the non-compliance with any provision of a Loan Document which upon notice, lapse of time or both would become an Event of Default.

“Defaulting Lender” means any Person that has (a) defaulted in (or is otherwise unable to perform) its obligations under this Agreement, including its obligations, to make a Loan within two (2) Business Days of the date required to be made by it hereunder unless such Person notifies the Administrative Agent in writing that such failure is the result of such Person’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) notified the Administrative Agent or the Borrower in writing that it does not intend to satisfy or perform any such obligation or has made a public statement to the effect that it does not intend to comply with its funding or other obligations under this Agreement or under agreements in which it commits to extend credit generally (unless such writing indicates that such position is based on such Person’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan cannot be satisfied), (c) failed, within two (2) Business Days after the request of the Administrative Agent or the Borrower, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans; provided that such Person shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent, (d) become (or any parent company thereof has become) insolvent or been determined by any Governmental Authority having regulatory authority over such Person or its assets, to be insolvent, or the assets or management of which has been taken over by any Governmental Authority or (e)(i) become (or any parent company thereof has become) either the subject of (A) a bankruptcy or insolvency proceeding or (B) a Bail-In Action, (ii) has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian, appointed for it, or (iii) has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment, unless in the case of any Person subject to this clause (e), the Borrower and the Administrative Agent have each determined that such Person intends, and has all approvals required to enable it (in form and substance satisfactory to the Borrower and the Administrative Agent (acting at the Direction of the Required Lenders)), to continue to perform its obligations hereunder; provided that no Person shall be deemed to be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in such Person or its parent by any Governmental Authority; provided that such action does not result in or provide such Person with immunity from the jurisdiction of courts within the US or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contract or agreement to which such Person is a party.

“Delaware Divided LLC” means any Delaware LLC which has been formed upon the consummation of a Delaware LLC Division.

“Delaware LLC” means any limited liability company organized or formed under the laws of the State of Delaware.

“Delaware LLC Division” means the statutory division of any Delaware LLC into two or more Delaware LLCs pursuant to Section 18-217 of the Delaware Limited Liability Company Act.

“Deposit Account” means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

“Derivative Transaction” means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap, collar or floor), and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument linked to commodities that gives rise to similar credit risks; provided, that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management, managers or consultants of the Borrower or its subsidiaries shall be a Derivative Transaction.

“Direction of the Required Lenders” means a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any Specified Lender Advisor delivered in accordance with Section 9.01. Each Lender and Specified Lender Advisor hereby acknowledges and agrees that any such email or other communication from a Specified Lender Advisor shall be conclusively presumed to have been authorized by a written direction or instruction from the Required Lenders and such Specified Lender Advisor shall be conclusively presumed to have acted on behalf of and at the written direction or instruction from the Required Lenders (and the Administrative Agent and Loan Parties shall be entitled to rely on such presumption). For the avoidance of doubt, with respect to each reference herein to (i) documents, agreements or other matters being “satisfactory”, “acceptable”, “reasonably satisfactory” or “reasonably acceptable” (or any expression of similar import) to the Required Lenders, such determination may be communicated by a Direction of the Required Lenders as contemplated above and/or (ii) any matter requiring the consent or approval of, or a determination by, the Required Lenders, such consent, approval or determination may be communicated by a Direction of the Required Lenders as contemplated above. The Administrative Agent and Loan Parties shall be entitled to rely upon, and shall not incur any liability for relying upon, any purported Direction of the Required Lenders, and the Administrative Agent and the Loan Parties shall not have any responsibility to independently determine whether such direction has in fact been authorized by the Required Lenders.

“DIP Administrative Agent” has the meaning assigned to such term in the recitals to this Agreement.

“DIP Credit Agreement” has the meaning assigned to such term in the recitals to this Agreement.

“DIP Lenders” has the meaning assigned to such term in the recitals to this Agreement.

“Discretionary Guarantor” has the meaning assigned to such term in Section 5.12(c).

“Disposition” or “Dispose” means the sale, lease, sublease, license, or other disposition of any property of any Person, including any disposition of property to a Delaware Divided LLC pursuant to a Delaware LLC Division. For the purposes of the definition of “Prepayment Asset Sale” and Section 6.06(h), any series of related Dispositions shall be treated as a single Disposition under this Agreement and the other Loan Documents.

“Disqualified Capital Stock” means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such redemption is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock), (b) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock that would constitute Disqualified Capital Stock, in each case at any time on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, (c) contains any mandatory repurchase obligation (other than for Qualified Capital Stock), in whole or in part, which may come into effect prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such repurchase obligation is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock) or (d) provides for the scheduled payments of dividends in Cash on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued; provided that any (x) Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Capital Stock upon the occurrence of any change of control or other liquidity event or any Disposition occurring prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued shall not constitute Disqualified Capital Stock if the documentation governing such Capital Stock provides that the issuer thereof will not redeem any such Capital Stock pursuant to such provisions unless either (1) the relevant redemption is permitted under this Agreement or (2) the Termination Date has occurred and (y) for purposes of clause (a) through (d) above, it is understood and agreed that if any such maturity, redemption conversion, exchange, repurchase obligation or scheduled payment is in part, only such part coming into effect prior to the date that is 91 days following the Latest Maturity Date (determined at the time such Capital Stock is issued) shall constitute Disqualified Capital Stock.

Notwithstanding the preceding sentence, (A) if such Capital Stock is issued pursuant to any plan for the benefit of directors, officers, employees, members of management, managers or consultants or by any such plan to such directors, officers, employees, members of management, managers or consultants, in each case in the ordinary course of business of the Borrower or any of its Subsidiaries, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the issuer thereof in order to satisfy applicable statutory or regulatory obligations and (B) no Capital Stock held by any future, present or former employee, director, officer, manager, member of management or consultant (or their respective Affiliates or Immediate Family Members) of the Borrower (or any Parent Company or any subsidiary) shall be considered Disqualified Capital Stock because such stock is redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time.

“Disqualified Institution” means:

(a) (i) any Person identified in writing to the Administrative Agent on or prior to the Closing Date, (ii) any Person that is identified in writing to the Administrative Agent after the Closing Date; provided that such identification after the Closing Date must be reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders)), (iii) any Affiliate of any Person described in subclause (i) and/or (ii) above that is reasonably identifiable on the basis of their name as an Affiliate of such Person, and (iv) any other Affiliate of any Person described in subclauses (i), (ii) and/or (iii) above that is identified in a written notice to the Administrative Agent after the Closing Date (each such person, a “Disqualified Lending Institution”); and/or

(b) (i) any Person that is a Company Competitor and/or any Affiliate of any Company Competitor (other than a Competitor Debt Fund Affiliate, unless the Borrower has other reasonable grounds on which to, and does in fact, withhold its consent), in each case, that is identified in writing to the Administrative Agent, (ii) any Affiliate of any Person described in subclause (i) above (other than any Competitor Debt Fund Affiliate) that is reasonably identifiable on the basis of their name as an Affiliate of such Person and (iii) any other Affiliate of any Person described in subclauses (i) and/or (ii) above that is identified in a written notice to the Administrative Agent after the Closing Date; it being understood and agreed that no Competitor Debt Fund Affiliate of any Company Competitor may be designated as a Disqualified Institution pursuant to this subclause (iii);

provided that no written notice delivered pursuant to clause (a) or (b) above shall apply retroactively to disqualify any Person that has previously acquired an assignment or participation interest in the Loans under the applicable Exit Facility prior to the delivery of such notice.

“Disqualified Lending Institution” has the meaning assigned to such term in the definition of “Disqualified Institution”.

“Disqualified Person” has the meaning assigned to such term in Section 9.05(f)(ii).

“Dollars” or “\$” refers to lawful money of the US.

“Domestic Subsidiary” means any subsidiary of Holdings incorporated or organized under the laws of the US, any state thereof or the District of Columbia.

“ECF Prepayment Amount” has the meaning assigned to such term in Section 2.11(b)(i).

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

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

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Yield” means, as to any Indebtedness, the effective yield applicable thereto calculated by the Administrative Agent in consultation with the Borrower in a manner consistent with generally accepted financial practices, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and arranger, commitment, structuring, underwriting, backstop, exit, upfront or similar fees (based on an assumed four-year average life to maturity or lesser remaining average life to maturity); provided, however, that (A) to the extent that the Adjusted Term SOFR or Alternate Base Rate (without giving effect to any floor specified in the definition thereof) is less than any floor applicable to the Term Loans in respect of which the Effective Yield is being calculated on the date on which the Effective Yield is determined, the amount of the resulting difference will be deemed added to the interest rate margin applicable to the relevant Indebtedness for purposes of calculating the Effective Yield and (B) to the extent that the Adjusted Term SOFR or Alternate Base Rate (without giving effect to any floor

specified in the definition thereof) is greater than any applicable floor on the date on which the Effective Yield is determined, the floor will be disregarded in calculating the Effective Yield.

“Eligible Assignee” means (a) any Lender, (b) any commercial bank, insurance company, or finance company, financial institution, any fund that invests in loans or any other “accredited investor” (as defined in Regulation D of the Securities Act), (c) any Affiliate of any Lender and (d) any Approved Fund of any Lender; provided that in any event, “Eligible Assignee” shall not include (i) any natural person, (ii) any Disqualified Institution or (iii) Holdings or any of its Affiliates.

“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata & natural resources such as wetlands, flora and fauna.

“Environmental Claim” means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) in connection with any actual or alleged damage, injury, threat or harm to the Environment.

“Environmental Laws” means any and all current or future applicable foreign or domestic, federal or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other applicable requirements of Governmental Authorities and the common law relating to (a) environmental matters, including those relating to any Hazardous Materials Activity; or (b) the generation, use, storage, transportation or disposal of or exposure to Hazardous Materials, in any manner applicable to Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any Facility.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), directly or indirectly resulting from or based upon (a) any actual or alleged violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the Environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries and is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations at any facility of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate as described in Section 4062(e) of ERISA, in each case, resulting in liability pursuant to Section 4063 of ERISA; (c) a complete or partial withdrawal by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate from a Multiemployer Plan resulting in the imposition of Withdrawal Liability on Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate, notification of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate concerning the imposition of Withdrawal Liability or notification that a Multiemployer Plan is “insolvent” within the meaning of Section 4245 of ERISA; (d) the filing of a notice of intent to terminate a Pension Plan under

Section 4041(c) of ERISA, the treatment of a Pension Plan amendment as a termination under Section 4041(c) of ERISA, the commencement of proceedings by the PBGC to terminate a Pension Plan or the receipt by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate of notice of the treatment of a Multiemployer Plan amendment as a termination under Section 4041A of ERISA or of notice of the commencement of proceedings by the PBGC to terminate a Multiemployer Plan; (e) the occurrence of an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any ERISA Affiliate, with respect to the termination of any Pension Plan; or (g) the conditions for imposition of a Lien under Section 303(k) of ERISA have been met with respect to any Pension Plan.

“Erroneous Payment” has the meaning assigned to it in Section 8.14(a).

“Erroneous Payment Return Deficiency” has the meaning assigned to it in Section 8.14(d).

“Escrow” has the meaning assigned to such term in the definition of “Indebtedness”.

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

“Event of Default” has the meaning assigned to such term in Article 7.

“Excess Cash Flow” means, for any Excess Cash Flow Period, any amount (if positive) equal to:

(a) Consolidated Adjusted EBITDA of the Borrower for such Excess Cash Flow Period (without giving effect to clause (b) of the definition thereof, the amounts added back in reliance on which shall be deducted in determining Excess Cash Flow); plus

(b) any extraordinary, unusual or non-recurring cash gain during such Excess Cash Flow Period (whether or not accrued in such Excess Cash Flow Period) to the extent not otherwise included in Consolidated Adjusted EBITDA (including any component definitions used therein); plus

(c) any foreign currency exchange gain actually realized and received in cash in Dollars (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk resulting from any intercompany Indebtedness, any foreign currency translation or transaction or any other currency-related risk), net of any loss from foreign currency translation; plus

(d) [reserved]; plus

(e) an amount equal to all Cash received for such period on account of any net non-Cash gain or income from any Investment deducted in a previous period pursuant to clause (s) of this definition; plus

(f) the decrease, if any, in Consolidated Working Capital from the first day to the last day of such Excess Cash Flow Period, but excluding any such decrease in Consolidated Working Capital arising from (i) the acquisition or Disposition of any Person by the Borrower or any of its Subsidiaries, (ii) the reclassification during such period of current assets to long term assets and current liabilities to long term liabilities, (iii) the application of purchase and/or recapitalization accounting and/or (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Hedge Agreement; minus

(g) the amount, if any, which, in the determination of Consolidated Adjusted EBITDA (including any component definitions used therein) for such Excess Cash Flow Period, has been included in respect of income or gain from any Disposition outside of the ordinary course of business (including Dispositions constituting

covered losses or taking of assets referred to in the definition of “Net Insurance/Condemnation Proceeds”) of the Borrower or any of its Subsidiaries; minus

(h) cash payments actually made in respect of the following (without duplication):

(i) any Investment permitted by Section 6.05 (other than Investments (i) in Cash or Cash Equivalents, (ii) in any Loan Party or (iii) made pursuant to Section 6.05(r)(i)) and/or any Restricted Payment permitted by Section 6.03(a) (other than pursuant to Section 6.03(a)(iii)(A)) and actually made in cash during such Excess Cash Flow Period or, at the option of the Borrower, made prior to the date the Borrower is required to make a payment of Excess Cash Flow in respect of such Excess Cash Flow Period, (A) except to the extent the relevant Investment and/or Restricted Payment is financed with the proceeds of long term funded Indebtedness (other than revolving Indebtedness) and (B) without duplication of any amount deducted from Excess Cash Flow for a prior Excess Cash Flow Period;

(ii) any realized foreign currency exchange losses actually paid or payable in cash (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk resulting from any intercompany Indebtedness, any foreign currency translation or transaction or any other currency-related risk);

(iii) the aggregate amount of any extraordinary, unusual or non-recurring cash Charge (whether or not incurred in such Excess Cash Flow Period) excluded in calculating Consolidated Adjusted EBITDA (including any component definitions used therein);

(iv) consolidated Capital Expenditures actually made in cash during such Excess Cash Flow Period or, at the option of the Borrower, in the case of any Excess Cash Flow Period, made prior to the date the Borrower is required to make a payment of Excess Cash Flow in respect of such Excess Cash Flow Period, (A) except to the extent financed with the proceeds of long term funded Indebtedness (other than revolving Indebtedness) and (B) without duplication of any amount deducted from Excess Cash Flow for a prior Excess Cash Flow Period;

(v) any long-term liability, excluding the current portion of any such liability (other than Indebtedness) of the Borrower or any of its Subsidiaries;

(vi) any cash Charge added back in calculating Consolidated Adjusted EBITDA pursuant to clause (c) of the definition thereof;

(vii) the aggregate amount of expenditures actually made by the Borrower or any of its Subsidiaries during such Fiscal Year (including any expenditure for the payment of financing fees) to the extent that such expenditures are not expensed; minus

(i) without duplication of any amounts applied to reduce mandatory prepayments pursuant to Section 2.11(b)(i), the aggregate principal amount of any optional prepayment, repurchase, redemption or other retirement of any Loans, in each case, made during such Fiscal Year and/or, at the option of the Borrower, prior to the date that the applicable prepayment is due, in each case, excluding any such optional prepayments, repurchases, redemptions or other retirements made during such Fiscal Year that reduced Excess Cash Flow or mandatory prepayments required to be made pursuant to Section 2.11(b)(i) in the prior Fiscal Year of the Borrower; minus

(j) Consolidated Interest Expense actually paid or payable in cash by the Borrower and/or any of its Subsidiaries during such Excess Cash Flow Period; minus

(k) Taxes (inclusive of Taxes paid or payable under tax sharing agreements or arrangements and/or in connection with any intercompany distribution) paid or payable by the Borrower and/or any of its Subsidiaries with respect to such Excess Cash Flow Period; minus

(l) the increase, if any, in Consolidated Working Capital from the first day to the last day of such Excess Cash Flow Period, but excluding any such increase in Consolidated Working Capital arising from (i) the acquisition or Disposition of any Person by the Borrower or any of its Subsidiaries, (ii) the reclassification during such period of current assets to long term assets and current liabilities to long term liabilities, (iii) the application of purchase and/or recapitalization accounting and/or acquisition method accounting and/or (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Hedge Agreement; minus

(m) the amount of any Tax obligation of the Borrower and/or any of its Subsidiaries that is estimated in good faith by the Borrower as due and payable (but is not currently due and payable) by the Borrower and/or any of its Subsidiaries as a result of the repatriation of any dividend or similar distribution of net income of any Foreign Subsidiary to the Borrower and/or any of its Subsidiaries; minus

(n) [reserved]; minus

(o) [reserved]; minus

(p) cash payments (other than in respect of Taxes, which are governed by clause (k) above) made during such Excess Cash Flow Period for any liability the accrual of which in a prior Excess Cash Flow Period resulted in an increase in Excess Cash Flow in such prior period (provided that there was no other deduction to Consolidated Adjusted EBITDA or Excess Cash Flow related to such payment), except to the extent financed with long term funded Indebtedness (other than revolving Indebtedness); minus

(q) cash expenditures made in respect of any Hedge Agreement during such period to the extent (i) not otherwise deducted in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA and (ii) not financed with long term funded Indebtedness (other than revolving Indebtedness); minus

(r) amounts paid in Cash (except to the extent financed with long term funded Indebtedness (other than revolving Indebtedness)) during such period on account of (i) items that were accounted for as non-Cash reductions of Consolidated Net Income or Consolidated Adjusted EBITDA in a prior period and (ii) reserves or amounts established in purchase accounting to the extent such reserves or amounts are added back to, or not deducted from, Consolidated Net Income; minus

(s) an amount equal to the sum of the aggregate net non-Cash gain or income from any non-ordinary course Investment to the extent included in arriving at Consolidated Adjusted EBITDA.

“Excess Cash Flow Period” means each Fiscal Year of the Borrower, commencing with the Fiscal Year of the Borrower ending on December 31, 2024.

“Exchange Act” means the Securities Exchange Act of 1934 and the rules and regulations of the SEC promulgated thereunder.

“Excluded Account” means any Deposit Account (a) which is an escrow, fiduciary, trust, payroll, withholding or other tax account or similar account, (b) holding cash collateral for a third party (other than Holdings and/or any of its Subsidiaries) subject to a Lien permitted under Section 6.02, (c) used by any Loan Party exclusively for disbursements and/or payments of payroll in the ordinary course of business, (d) which is a zero balance account or (e) which has an average daily balance measured on a weekly basis of less than (1) for the first 90 days following the Closing Date, \$1,000,000 individually or \$2,000,000 in the aggregate in the aggregate for all such Deposit Accounts that are Excluded Accounts pursuant to this clause (e) and (2) any

time after the first 90 days following the Closing Date, \$200,000 individually or \$2,000,000 in the aggregate for all such Deposit Accounts that are Excluded Accounts pursuant to this clause (e).

“Excluded Assets” means each of the following:

(a) all licenses and any other property and assets (including any lease, license, permit or agreement) (i) to the extent that the Administrative Agent may not validly possess a security interest therein under, or such security interest is restricted by, (x) applicable laws (including, without limitation, rules and regulations of any Governmental Authority or agency) or (y) by contract, lease, license or other agreement with a counterparty that is not a Loan Party or an affiliate thereof and that exists on the Closing Date and (ii) the pledge or creation of a security interest in which would require the consent, approval, license or authorization of (x) a Governmental Authority or (y) a third party that is not a Loan Party or an affiliate thereof, which third party right to consent, approve or authorize such a pledge or creation of a security interest exists on the Closing Date and, in each case of clause (i) and (ii), other than to the extent such prohibition or limitation is rendered ineffective under the UCC, other applicable insolvency laws or other applicable law notwithstanding such prohibition or limitation;

(b) any intent-to-use (or similar) Trademark application prior to the filing with, and acceptance by, the U.S. Patent and Trademark Office of a “Statement of Use”, “Declaration of Use”, “Amendment to Allege Use” or similar filing with respect thereto, only to the extent, if any, that, and solely during the period if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use (or similar) Trademark application (or any Trademark registration resulting therefrom) under applicable Requirements of Law;

(c) any asset with respect to which the Administrative Agent (acting at the Direction of the Required Lenders) and the Borrower have reasonably determined that the cost, burden, difficulty or consequence (including any effect on the ability of the relevant Loan Party to conduct its operations and business in the ordinary course of business and including the cost of flood insurance (if necessary) or mortgage, stamp, intangible or other taxes or expenses) of obtaining a security interest therein outweighs, or is excessive in light of, the practical benefit of a security interest to the relevant Secured Parties afforded thereby (and the Collateral that may be provided by any Loan Party may be limited by agreement of the Administrative Agent and the Borrower to minimize stamp duty, notarization, registration or other applicable fees, taxes and duties where the Required Lenders and the Borrower have reasonably determined that the benefit to the Secured Parties of increasing the secured amount is disproportionate to the level of such fees, taxes and duties);

(d) (i) any leasehold Real Estate Asset, (ii) except to the extent a security interest therein can be perfected by the filing of a UCC-1 financing statement, any leasehold interest in any other assets and (iii) any owned Real Estate Asset that is not a Material Real Estate Asset,

(e) any Commercial Tort Claim with a value (as estimated by the Borrower in good faith) of less than \$250,000;

(f) any Excluded Account;

(g) motor vehicles and other assets subject to certificates of title, except to the extent the security interest therein may be perfected by filing of a financing statement under the UCC of any applicable jurisdiction;

(h) any asset of a Person acquired by Holdings, the Borrower or any other Subsidiary of the Borrower that, at the time of the relevant acquisition, is encumbered to secure assumed Indebtedness permitted by this Agreement to the extent (and for so long as) the documentation governing the applicable assumed Indebtedness prohibits such asset from being pledged to secure the

Secured Obligations and the relevant prohibition was not implemented in contemplation of the applicable acquisition; and/or

- (i) Margin Stock;

provided, however, that Excluded Assets shall not include any proceeds, substitutions or replacements of any Excluded Assets unless such proceeds, substitutions or replacements constitute Excluded Assets in accordance with clause (a) or (b) above.

“Excluded Subsidiary” means:

- (a) any Subsidiary of Holdings with respect to which the burden or cost of providing a Loan Guaranty (including tax consequences) outweighs, or would be excessive in light of, the practical benefits afforded thereby, as reasonably determined by the Administrative Agent (acting at the Direction of the Required Lenders);

- (b) any Foreign Subsidiary where the provision by such Foreign Subsidiary of a Loan Guaranty would conflict with the fiduciary duties of such subsidiary’s directors or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for such Foreign Subsidiary or any of its officers or directors or to the extent it is not within the legal capacity of such Foreign Subsidiary to provide a Loan Guaranty (whether as a result of financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance or similar rules or otherwise),

- (c) any Subsidiary of Holdings listed on Schedule 1.01(e); and

- (d) any UK Subsidiary that is not required to provide a Loan Guaranty or Collateral as a result of the application of the Guarantee Limitations.

“Excluded Swap Obligation” means, with respect to any Loan Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Loan Guaranty of such Loan Guarantor of, or the grant by such Loan Guarantor of a security interest to secure, such Swap Obligation (or any Loan Guaranty 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) (a) by virtue of such Loan Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to Section 3.20 of the Loan Guaranty and any other “keepwell”, support or other agreement for the benefit of such Loan Guarantor) at the time the Loan Guaranty of such Loan Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation or (b) in the case of any Swap Obligation that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act, because such Loan Guarantor is a “financial entity,” as defined in section 2(h)(7)(C) of the Commodity Exchange Act, at the time the guarantee provided by (or grant of such security interest by, as applicable) such Loan Guarantor becomes or would become effective with respect to such Swap Obligation. If any Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Loan Guaranty or security interest is or becomes illegal.

“Excluded Taxes” means, with respect to the Administrative Agent or any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) any Taxes imposed on (or measured by) such recipient’s net income (however denominated) or overall gross income, franchise Taxes, and branch profits tax, in each case, (i) imposed as a result of such recipient being organized or having its principal office located in or, in the case of any Lender, having its applicable lending office located in, the taxing jurisdiction or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is 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 Requirement of Law

in effect on the date on which such Lender (i) acquires such interest in the applicable Commitment or, if such Lender did not fund the applicable Loan pursuant to a prior Commitment, on the date such Lender acquires its interest in such Loan or (ii) designates a new lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Tax were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or Commitment or to such Lender immediately before it designated a new lending office, (c) any Tax imposed as a result of a failure by any Lender, the Administrative Agent or any other recipient to comply with Section 2.17(f) or (j), and (d) any Tax imposed under FATCA.

"Existing Loans" has the meaning assigned to such term in the recitals to this Agreement.

"Exit Facility" has the meaning assigned to such term in the recitals to this Agreement.

"Extension Effective Date" has the meaning assigned to such term in Section 2.23(a).

"Facility" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or, except with respect to Articles 5 and 6, previously owned, leased, operated or used by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries or any of their respective predecessors or Affiliates.

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

"FCPA" has the meaning assigned to such term in Section 3.17(c).

"Federal Funds Effective Rate" means, for any day, 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 that is a Business Day, the average of the quotations for such day for such transactions received by the Administrative Agent from three major US banks of recognized standing selected by it. If the Federal Funds Effective Rate is less than zero, it shall be deemed to be zero hereunder.

"First Out Take Back Loans" has the meaning assigned to such term in the recitals to this Agreement.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of the Borrower ending December 31 of each calendar year.

"Flood Certificate" means a "Life-of-Loan" "Standard Flood Hazard Determination Form" of the Federal Emergency Management Agency and any successor Governmental Authority performing a similar function.

"Flood Compliance Event" means the occurrence of any of the following: (a) a Flood Redesignation with respect to any Real Estate Asset constituting Collateral or (b) the addition of any Flood Hazard Property as Collateral pursuant to Section 5.12.

"Flood Hazard Property" means any Real Estate Asset constituting Collateral that on the relevant date of determination includes a Building and, as shown on a Flood Certificate, such Building is located in a Flood Zone.

“Flood Insurance” means (a) federally-backed flood insurance available under the Flood Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the Flood Program or (b) to the extent permitted by the Flood Program, a private flood insurance policy from a financially sound and reputable insurance company that is not an Affiliate of the Borrower.

“Flood Insurance Requirements” has the meaning assigned to such term in the definition of “Collateral and Guarantee Requirement”.

“Flood Program” means the National Flood Insurance Program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004, in each case as amended from time to time, and any successor statutes.

“Flood Redesignation” means the designation of any Real Estate Asset constituting Collateral as a Flood Hazard Property, where such property was not a Flood Hazard Property previous to such designation.

“Flood Zone” means areas having special flood hazards as described in the National Flood Insurance Act of 1968, as amended from time to time, and any successor statute.

“Foreign Lender” means any Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“Foreign Subsidiary” means any existing or future direct or indirect subsidiary of Holdings that is not a Domestic Subsidiary, including a UK Subsidiary.

“GAAP” means generally accepted accounting principles in the US in effect and applicable to the accounting period in respect of which reference to GAAP is made.

“Governmental Authority” means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with the US, a foreign government or any political subdivision thereof, including any applicable supranational body (such as the European Union or the European Central Bank).

“Governmental Authorization” means any permit, license, authorization, approval, plan, directive, consent order or consent decree of or from any Governmental Authority.

“Granting Lender” has the meaning assigned to such term in Section 9.05(e).

“Guarantee” of or by any Person (the “Guarantor”) means any obligation, contingent or otherwise, of the Guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the “Primary Obligor”) in any manner and including any obligation of the Guarantor (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the Primary Obligor so as to enable the Primary Obligor to pay such Indebtedness or other monetary obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation, (e) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (f) secured by any Lien on any assets of such Guarantor

securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or monetary other obligation is assumed by such Guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness or other monetary obligation to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition, Disposition or other transaction permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

“Guarantee Limitations” has the meaning specified in the Loan Guaranty, as may be supplemented or modified from time to time in accordance with the terms hereof.

“Hazardous Materials” means any chemical, material, substance or waste, or any constituent thereof, which is prohibited, limited or regulated under any Environmental Law or by any Governmental Authority or which poses a hazard to the Environment or to human health and safety, including without limitation, petroleum and petroleum by-products, asbestos and asbestos-containing materials, polychlorinated biphenyls, medical waste and pharmaceutical waste.

“Hazardous Materials Activity” means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Material, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Material, and any corrective action or response action with respect to any of the foregoing.

“Hedge Agreement” means any agreement with respect to any Derivative Transaction (or any master agreement which is intended to govern multiple Derivative Transactions) between any Loan Party or any Subsidiary and any other Person.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Hedge Agreement.

“Holdings” has the meaning assigned to such term in the preamble to this Agreement.

“IFRS” means international accounting standards within the meaning of the IAS Regulation 1606/2002, as in effect from time to time (subject to the provisions of Section 1.04), to the extent applicable to the relevant financial statements.

“Immediate Family Member” means, with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and/or daughter-in-law (including any adoptive relationship), any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals, such individual’s estate (or an executor or administrator acting on its behalf), heirs or legatees or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“Incremental Cap” means \$25,000,000 minus the aggregate principal amount of all Incremental Facilities incurred or issued in reliance on the Incremental Cap.

“Incremental Commitment” means any commitment made by a Lender to provide all or any portion of any Incremental Facility or Incremental Loan.

“Incremental Facilities” has the meaning assigned to such term in Section 2.22(a).

“Incremental Facility Amendment” means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (solely for purposes of giving effect to Section 2.22) and the Borrower executed by each of (a) Holdings and the Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Incremental Facility being incurred pursuant thereto and in accordance with Section 2.22.

“Incremental Lender” has the meaning assigned to such term in Section 2.22(b).

“Incremental Loans” has the meaning assigned to such term in Section 2.22(a).

“Indebtedness” as applied to any Person means, without duplication:

- (a) all indebtedness for borrowed money;
- (b) that portion of obligations with respect to Capital Leases to the extent recorded as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;
- (c) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments to the extent the same would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;
- (d) any obligation of such Person owed for all or any part of the deferred purchase price of property or services (excluding (i) any earn-out obligation or purchase price adjustment until such obligation (A) becomes a liability on the statement of financial position or balance sheet (excluding the footnotes thereto) in accordance with GAAP and (B) has not been paid within 30 days after becoming due and payable, (ii) any such obligations incurred under ERISA, (iii) accrued expenses and trade accounts payable in the ordinary course of business (including on an inter-company basis) and (iv) liabilities associated with customer prepayments and deposits), which purchase price is (A) due more than six months from the date of incurrence of the obligation in respect thereof or (B) evidenced by a note or similar written instrument);
- (e) all Indebtedness of others secured by any Lien on any asset owned or held by such Person regardless of whether the Indebtedness secured thereby have been assumed by such Person or is non-recourse to the credit of such Person;
- (f) the face amount of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings;
- (g) the Guarantee by such Person of the Indebtedness of another;
- (h) all obligations of such Person in respect of any Disqualified Capital Stock; and
- (i) all net obligations of such Person in respect of any Derivative Transaction, including any Hedge Agreement, whether or not entered into for hedging or speculative purposes;

provided that (i) the amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith and (ii) the term “Indebtedness”, as it applies to Holdings and its Subsidiaries, shall exclude (A) any Indebtedness owed by any Loan Party to any Subsidiary that is not a Loan Party so long as such Indebtedness is unsecured and subordinated to the

Obligations and evidenced by the Intercompany Note and (B) intercompany advances among Loan Parties arising from ordinary course cash management, tax and accounting operations.

For all purposes hereof, the Indebtedness of any Person shall (i) include the Indebtedness of any third person (including any partnership in which such Person is a general partner and any unincorporated joint venture in which such Person is a joint venture) to the extent such Person would be liable therefor under applicable Requirements of Law or any agreement or instrument by virtue of such Person's ownership interest in such Person; provided that notwithstanding anything herein to the contrary, the term "Indebtedness" shall not include, and shall be calculated without giving effect to, (x) the effects of Accounting Standards Codification Topic 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose hereunder as a result of accounting for any embedded derivatives created by the terms of such Indebtedness (it being understood that any such amounts that would have constituted Indebtedness hereunder but for the application of this proviso shall not be deemed an incurrence of Indebtedness hereunder) and (y) the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivative created by the terms of such Indebtedness (it being understood that any such amounts that would have constituted Indebtedness under this Agreement but for the application of this sentence shall not be deemed to be an incurrence of Indebtedness under this Agreement) and (ii) exclude obligations incurred in advance of, and the proceeds of which are to be applied in connection with, the consummation of any transaction solely to the extent the proceeds thereof are and continue to be held in an escrow, trust, collateral or similar account or arrangement and are required to be applied to satisfy such obligations in the event that the applicable transaction is terminated or is not consummated (collectively, an "Escrow") and are not otherwise made available to such Person.

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

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Initial Lenders" means, collectively, each of the Persons that is party to this Agreement as a Lender on the Closing Date.

"Initial Loans" means the First Out Take Back Loans and the Second Out Take Back Loans.

"Intellectual Property Security Agreement" means any agreement, or a supplement thereto, executed on or after the Closing Date confirming or effecting the grant of any Lien on IP Rights owned by any Loan Party to the Administrative Agent, for the benefit of the Secured Parties, required in accordance with this Agreement and the Security Agreement, including an Intellectual Property Security Agreement substantially in the form of Exhibit E.

"Intercompany Note" means a promissory note substantially in the form of Exhibit F hereto.

"Intercreditor Agreement" means with respect to any junior lien Indebtedness or any Indebtedness that is contractually subordinated in right of payment to the Obligations (other than, in each case, Indebtedness among Holdings, Intermediate Holdings, the Borrower or any of their respective subsidiaries), any intercreditor or subordination agreement or arrangement (which may take the form of a "waterfall" or similar provision), as applicable, the terms of which are approved by the Administrative Agent, acting at the Direction of the Required Lenders and acknowledged by the Borrower.

“Interest Election Request” means a written request by the Borrower in the form of Exhibit H hereto or another form reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders) to convert or continue a Borrowing in accordance with Section 2.08.

“Interest Payment Date” means (a) with respect to any ABR Loan, the date numerically corresponding to each monthly anniversary of the date of the applicable Borrowing and the maturity date applicable to such Loan and (b) with respect to any Term SOFR Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part; provided that (i) if any Interest Payment Date would be a day other than a Business Day, such Interest Payment Date shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Payment Date shall be the next preceding Business Day, (ii) if any Interest Payment Date would be a day for which there is no numerically corresponding day in the applicable calendar month, then the Interest Payment Date shall be the last Business Day of the applicable calendar month and (iii) with respect to any Interest Period longer than three months, “Interest Payment Date” means each three month anniversary of the date of the applicable Borrowing and the last day of the Interest Period applicable thereto. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interest Period” means with respect to any Term SOFR Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months (or, to the extent available to all relevant affected Lenders, twelve months or a shorter period), thereafter, as the Borrower may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no tenor that has been removed from this definition pursuant to Section 2.14 shall be available for specification in a Borrowing Request or an Interest Election Request. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing and (iv) solely for purposes of determining the Applicable Rate with respect to an Interest Period, any Interest Period that is longer than 3 months, shall be deemed to be three (3) months for the purposes of determining the Applicable Rate.

“Intermediate Holdings” has the meaning assigned to such term in the preamble to this Agreement.

“Investment” means (a) any purchase or other acquisition for consideration by Holdings or any of its Subsidiaries of any of the Capital Stock of any other Person, (b) the acquisition for consideration by Holdings or any of its Subsidiaries by purchase or otherwise (other than any purchase or other acquisition of inventory, materials, supplies and/or equipment in the ordinary course of business) of all or a substantial portion of the business, property or fixed assets of any other Person or any division or line of business or other business unit of any other Person and (c) any loan, advance or capital contribution by Holdings or any of its Subsidiaries to any other Person. The amount of any Investment shall be the original cost of such Investment, plus the cost of any addition thereto that otherwise constitutes an Investment, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect thereto, but giving effect to any repayments of principal in the case of any Investment in the form of a loan and any return of capital or return on Investment in the case of any equity Investment (whether as a distribution, dividend, redemption or sale but not in excess of the amount of the relevant initial Investment).

“IP Rights” has the meaning assigned to such term in Section 3.05(c).

“IP Separation Transaction” means (a) any Disposition (other than non-exclusive licenses) by any Loan Party of any Material Intellectual Property to any Affiliate that is not a Loan Party and/or (b) any

Investment by any Loan Party in the form of a contribution of Material Intellectual Property to any Affiliate that is not a Loan Party; provided that, in the event that any such Disposition or Investment is made by a Loan Party to a Discretionary Guarantor, upon the release of such Discretionary Guarantor from its Loan Guaranty for any reason other than such Discretionary Guarantor ceasing to be a direct or indirect subsidiary of the Borrower, each such Disposition or Investment (as the case may be) shall be deemed to constitute an “IP Separation Transaction” to the extent the applicable Material Intellectual Property has not been transferred, contributed or otherwise Disposed to a Loan Party.

“IRS” means the United States Internal Revenue Service.

“Joinder Agreement” means a Joinder Agreement substantially in the form of Exhibit K or such other form that is reasonably satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) and the Borrower.

“Latest Maturity Date” means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or commitment hereunder at such time, including the latest maturity or expiration date of any Loan.

“Legal Reservations” means the application of the relevant Debtor Relief Laws, general principles of equity and/or principles of good faith and fair dealing.

“Lenders” means any Lender with a Commitment or an outstanding Loan and any other Person that becomes a party hereto pursuant to an Assignment Agreement, other than any such Person that ceases to be a party hereto pursuant to an Assignment Agreement.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing), in each case, in the nature of security; provided that in no event shall an operating lease in and of itself be deemed to constitute a Lien.

“Liquidity” means unrestricted Cash of the Loan Parties.

“Liquidity Threshold” means that, on any Interest Payment Date, unrestricted Cash of the Loan Parties is greater than or equal to \$50,000,000.

“Loan Documents” means this Agreement, any Promissory Note, each Loan Guaranty, the Collateral Documents, the Administrative Agent Fee Letter, any Incremental Facility Amendment, any Intercreditor Agreement to which the Borrower is a party, and any other document or instrument designated by the Borrower and the Required Lenders (in consultation with the Administrative Agent) as a “Loan Document”. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto.

“Loan Guarantor” means Holdings, Intermediate Holdings and any Subsidiary Guarantor.

“Loan Guaranty” means the Loan Guaranty, substantially in the form of Exhibit I, executed by each Loan Party thereto and the Administrative Agent for the benefit of the Secured Parties, as supplemented in accordance with the terms of Section 5.12 hereof.

“Loan Parties” means the Borrower and each Loan Guarantor.

“Loans” means the Initial Loans and any Incremental Loans.

“Margin Stock” has the meaning assigned to such term in Regulation U.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, financial condition or results of operations, in each case, of Holdings and its Subsidiaries, taken as a whole, (b) the rights and remedies (taken as a whole) of the Administrative Agent under the applicable Loan Documents or (c) the ability of the Loan Parties (taken as a whole) to perform their payment obligations under the applicable Loan Documents.

“Material Intellectual Property” means any intellectual property owned by any Loan Party that is, in the good faith determination of the Borrower, material to the operation of the business of Holdings and its Subsidiaries, taken as a whole.

“Material Real Estate Asset” means (a) on the Closing Date, each Real Estate Asset listed on Schedule 1.01(c) and (b) each other “fee-owned” Real Estate Asset located in the United States, any state thereof or the District of Columbia that is acquired by any Loan Party after the Closing Date having a fair market value (as reasonably determined by the Borrower after taking into account any liabilities with respect thereto that impact such fair market value) in excess of \$1,000,000 as of the date of the acquisition thereof.

“Maturity Date” means, as the context may require, the date that is the earliest of: (1) with respect to all First Out Take Back Loans and Second Out Take Back Loans, June [18], 2029 and (2) the date on which the Obligations become due and payable by acceleration or otherwise in accordance with the law or the terms of this Agreement and the other Loan Documents.

“Maximum Rate” has the meaning assigned to such term in Section 9.19.

“MFN Provision” has the meaning assigned to such term in Section 2.22(a)(v).

“Minimum Liquidity Threshold” means \$30,000,000.

“Moody’s” means Moody’s Investors Service, Inc.

“Mortgage” means any mortgage, deed of trust or other agreement which conveys or evidences a Lien in favor of the Administrative Agent, for the benefit of the Administrative Agent and the relevant Secured Parties, on any Material Real Estate Asset constituting Collateral, which shall contain such terms as may be necessary under applicable local Requirements of Law to perfect a Lien on the applicable Material Real Estate Asset.

“Mortgaged Property” means any Material Real Estate Asset that is encumbered by a Mortgage.

“Multiemployer Plan” means any employee benefit plan which is a “multiemployer plan” as defined in Section 3(37) of ERISA that is subject to the provisions of Title IV of ERISA, and in respect of which Holdings, Intermediate Holdings, Borrower or any of its Subsidiaries, or any of their respective ERISA Affiliates, makes or is obligated to make contributions or with respect to which any of them has any ongoing obligation or liability, contingent or otherwise.

“Net Insurance/Condemnation Proceeds” means an amount equal to: (a) any Cash payments or proceeds (including Cash Equivalents) received by Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) (i) under any casualty insurance policy in respect of a covered loss thereunder of any assets of Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) or (ii) as a result of the taking of any assets of Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, in each case, other than any amount that is

attributable to business interruption proceeds, minus (b)(i) any actual out-of-pocket costs and expenses incurred by Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) in connection with the adjustment, settlement or collection of any claims of Holdings or the relevant Subsidiary of Holdings in respect thereof, (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest and other amounts on any Indebtedness (other than the Loans and any Indebtedness secured by a Lien on the Collateral that is *pari passu* with or expressly subordinated to the Lien on the Collateral securing any Secured Obligation) that is secured by a Lien on the assets in question and that is required to be repaid or otherwise comes due or would be in default under the terms thereof as a result of such loss, taking or sale, (iii) in the case of a taking, the reasonable out-of-pocket costs of putting any affected property in a safe and secure position, (iv) any selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith transfer and similar Taxes and the Borrower's good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements or any intercompany distribution)) in connection with any sale or taking of such assets as described in clause (a) of this definition, (v) any amount provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustments associated with any sale or taking of such assets as referred to in clause (a) of this definition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Insurance/Condemnation Proceeds) and (vi) in the case of any covered loss or taking from any non-Wholly-Owned Subsidiary, the pro rata portion thereof (calculated without regard to this subclause (vi)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a Wholly-Owned Subsidiary as a result thereof.

"Net Proceeds" means (a) with respect to any Disposition (including any Prepayment Asset Sale), the Cash proceeds (including Cash Equivalents and Cash proceeds subsequently received (as and when received) in respect of non-Cash consideration initially received), net of (i) selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith and transfer and similar Taxes and the Borrower's good faith estimate of income Taxes paid or payable (including pursuant to any Tax sharing arrangement and/or any intercompany distribution or Tax distribution, as applicable) in connection with such Disposition), (ii) amounts provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustment associated with such Disposition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Proceeds), (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness (other than the Loans and any other Indebtedness secured by a Lien on the Collateral that is *pari passu* with or expressly subordinated to the Lien on the Collateral securing any Secured Obligation) which is secured by the asset sold in such Disposition and which is required to be repaid or otherwise comes due or would be in default and is repaid (other than any such Indebtedness that is assumed by the purchaser of such asset), (iv) Cash escrows (until released from escrow to Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower)) from the sale price for such Disposition and (v) in the case of any Disposition by any non-Wholly-Owned Subsidiary, the pro rata portion of the Net Proceeds thereof (calculated without regard to this clause (v)) attributable to any minority interest and not available for distribution to or for the account of Holdings or a Wholly-Owned Subsidiary (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) as a result thereof; and (b) with respect to any issuance or incurrence of Indebtedness or Capital Stock, the Cash proceeds thereof, net of all Taxes and customary fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith.

"Non-Consenting Lender" has the meaning assigned to such term in Section 2.19(b).

“Non-US Collateral” means any Collateral granted by, or over the share capital of, a Non-US Loan Party.

“Non-US Loan Party” means any Loan Party other than a US Loan Party.

“Non-US Security Agreement” means (a) each security or pledge agreement executed by any Non-US Loan Party and (b) each other security or pledge agreement executed by any Non-US Loan Party pursuant to Section 5.13 in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, including the UK Security Documents.

“Obligations” means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, all accrued and unpaid fees and premiums (including, for the avoidance of doubt, any Prepayment Premium) and all expenses (including fees and expenses accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), reimbursements, indemnities and all other advances to, debts, liabilities and obligations of any Loan Party to the Lenders or to any Lender, the Administrative Agent or any indemnified party arising under the Loan Documents in respect of any Loan, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

“OFAC” has the meaning assigned to such term in Section 3.17(a).

“Organizational Documents” means (a) with respect to any corporation, its certificate or articles of incorporation or organization and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited liability company, its articles of organization or certificate of formation, and its operating agreement, and (e) with respect to any other form of entity, such other organizational documents required by local Requirements of Law or customary under such jurisdiction to document the formation and governance principles of such type of entity. In the event that any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such “Organizational Document” shall only be to a document of a type customarily certified by such governmental official.

“Other Connection Taxes” means, with respect to any Lender, the Administrative Agent or any other 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 solely from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or 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 Taxes or any intangible, recording, filing or other similar Taxes arising from any payment made under any Loan Document or from the execution, delivery, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, but excluding any such Taxes that are Other Connection Taxes imposed with respect to an assignment or participation.

“Parent Company” means any Person of which Holdings, Intermediate Holdings, or the Borrower is a direct or indirect Wholly-Owned Subsidiary.

“Participant” has the meaning assigned to such term in Section 9.05(c)(i).

“Participant/SPC Register” has the meaning assigned to such term in Section 9.05(c).

“Patent” means the following: (a) any and all patents and patent applications; (b) all inventions described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions and continuations in part thereof; (d) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements thereof; and (f) all rights corresponding to any of the foregoing.

“Payment Notice” has the meaning assigned to it in Section 8.14(a).

“Payment Recipient” has the meaning assigned to it in Section 8.14(a).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, which Holdings, Intermediate Holdings, the Borrower or any of its Subsidiaries, or any of their respective ERISA Affiliates, maintains or contributes to or has an obligation to contribute to, or otherwise has any liability, contingent or otherwise.

“Perfection Certificate” means a certificate substantially in the form of Exhibit J.

“Perfection Requirements” means (a) with respect to the Loan Parties, the filing of appropriate financing statements with the office of the Secretary of State or other appropriate office of the state of organization of each Loan Party, the filing of Intellectual Property Security Agreements or other appropriate instruments or notices with the US Patent and Trademark Office and the US Copyright Office, the proper recording or filing, as applicable, of Mortgages and fixture filings with respect to any Material Real Estate Asset constituting Collateral, the entry into Blocked Account Agreements or other control agreements with respect to Deposit Accounts (other than Excluded Accounts), in each case in favor of the Administrative Agent for the benefit of the Secured Parties, and the delivery to the Administrative Agent of any stock certificate or promissory note, together with instruments of transfer executed in blank and (b) with respect to any UK Loan Party, the making or the procuring of the appropriate registrations, filing, endorsements, consents, notarization, stampings and/or notifications of or under the Collateral Documents and/or the security created thereunder and any other actions or steps, necessary in any jurisdiction or under any laws or regulations in order to create or perfect any security or the Collateral Documents or to achieve the relevant priority expressed therein, in each case of the foregoing clauses (a) and (b), that are required under the Collateral Documents.

“Permitted Holders” shall mean (a) each Holder of New Common Stock as of the Effective Date (each as defined in the Chapter 11 Confirmed Plan), (b) any Affiliate of any person described in clause (a), and (c) any person (other than a natural person) that is administered or managed by (i) any person described in clauses (a) and (b) or (ii) any person or Affiliate of any person that administers or manages any person described in clauses (a) and (b).

“Permitted Liens” means Liens permitted pursuant to Section 6.02.

“Permitted Tax Restructuring” means any reorganizations and other activities related to Tax planning and Tax reorganization entered into on or after the date hereof so long as such Permitted Tax Restructuring could not reasonably be expected to impair in any material respect the Guarantee or the security interests in favor of, and is not otherwise adverse to the Lenders in their capacity as such; provided that (i) any such reorganizations or activities shall not involve any Disposition by a Loan Party to, any Investment by a Loan Party in, or any Restricted Payment by a Loan Party to, any Person that is not a Loan Party without the prior written consent of the Required Lenders in their sole discretion and (ii) any such reorganizations or other activities shall not involve any Disposition by a Loan Party to, any Investment by a Loan Party in, or any

Restricted Payment by a Loan Party to, any UK Subsidiary without the prior written consent of the Required Lenders in their reasonable discretion.

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

“PIK Interest” shall mean accrued interest with respect to any Loans which is capitalized by adding such amount of accrued interest to the principal balance of such Loans on the applicable Interest Payment Date.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) maintained by Holdings and/or any Subsidiary or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of its ERISA Affiliates, other than any Multiemployer Plan.

“Platform” has the meaning assigned to such term in Section 5.01.

“Prepayment Asset Sale” means any Disposition by Holdings, Intermediate Holdings, the Borrower or any Subsidiary made pursuant to Section 6.06(h) and/or (x).

“Prepayment Premium” has the meaning assigned to such term in Section 2.11(f).

“Primary Obligor” has the meaning assigned to such term in the definition of “Guarantee”.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the 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 (acting at the Direction of the Required Lenders)) or any similar release by the Board (as determined by the Administrative Agent (acting at the Direction of the Required Lenders)).

“Pro Forma Basis” or “pro forma effect” means, with respect to any determination of the Total Net Leverage Ratio or Consolidated Adjusted EBITDA (including any component definition thereof), that:

(a) (i) in the case of (A) any Disposition of all or substantially all of the Capital Stock of any Subsidiary or any division and/or product line of the Borrower and/or any Subsidiary, and/or (B) if applicable, any transaction described in clauses (g) and/or (h) of the definition of “Subject Transaction,” income statement items (whether positive or negative) attributable to the property or Person subject to such Subject Transaction, shall be excluded as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made and (ii) in the case of (A) any Permitted Acquisition or other Investment, and/or (B) if applicable, any transaction described in clauses (g) and (h) of the definition of “Subject Transaction,” income statement items (whether positive or negative) attributable to the property or Person subject to such Subject Transaction shall be included as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made,

(c) any retirement or repayment of Indebtedness by the Borrower or any of its Subsidiaries that constitutes a Subject Transaction shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made,

(d) any Indebtedness incurred by the Borrower or any of its Subsidiaries in connection therewith that constitutes a Subject Transaction shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is

being made; provided that, (x) if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable Test Period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination (taking into account any interest hedging arrangements applicable to such Indebtedness), (y) interest on any obligation with respect to any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such obligation in accordance with GAAP and (z) interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower,

(e) the acquisition of any asset included in calculating the amount of Cash or Cash Equivalents, whether pursuant to any Subject Transaction or any Person becoming a subsidiary or merging, amalgamating or consolidating with or into the Borrower or any of its subsidiaries, or the Disposition of any asset shall be deemed to have occurred as of the last day of the applicable Test Period with respect to any test or covenant for which such calculation is being made,

(f) each other Subject Transaction shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which such calculation is being made, and

(g) the Unrestricted Cash Amount shall be calculated as of the date of the consummation of such Subject Transaction after giving pro forma effect thereto (other than, for the avoidance of doubt, the cash proceeds of any Indebtedness that is the Subject Transaction for which such a calculation is being made or is incurred to finance such Subject Transaction).

“Projections” means the financial projections and pro forma financial statements of the Borrower and its Subsidiaries included in the Financial Model (or a supplement thereto).

“Promissory Note” means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit L, evidencing the aggregate outstanding principal amount of Loans of the Borrower to such Lender resulting from the Loans made by such Lender.

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

“Public Company Costs” means Charges associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 (and, in each case, similar Requirements of Law under other jurisdictions) and the rules and regulations promulgated in connection therewith and Charges relating to compliance with the provisions of the Securities Act and the Exchange Act (and, in each case, similar Requirements of Law under other jurisdictions), as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors’ or managers’ compensation, fees and expense reimbursement, Charges relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees (including auditors’ and accountants’ fees), listing fees, filing fees and other costs and/or expenses associated with being a public company.

“Public Lender” has the meaning assigned to such term in Section 9.01(d).

“QFC Credit Support” has the meaning assigned to such term in Section 9.25.

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

“Real Estate Asset” means, at any time of determination, all right, title and interest (fee, leasehold or otherwise) of any Person in and to real property (including, but not limited to, land, improvements and fixtures thereon).

“Refunding Capital Stock” has the meaning assigned to such term in Section 6.03(a)(viii).

“Register” has the meaning assigned to such term in Section 9.05(b).

“Regulation D” means Regulation D of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation H” means Regulation H of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation U” means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Funds” means with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

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

“Release” means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the Environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

“Relevant Governmental Body” means the Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board or the Federal Reserve Bank of New York, or any successor thereto.

“Remaining Existing Loans” has the meaning assigned to such term in Section 2.01(b)(i).

“Reportable Event” means, with respect to any Pension Plan, any of the events described in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30-day notice period is waived under PBGC Reg. Section 4043.

“Representatives” has the meaning assigned to such term in Section 9.13.

“Required Class Lenders” shall mean, with respect to any Class, Lenders having (a) Loans of such Class outstanding and (b) unused Commitments of such Class that, taken together, represent more than 50% of the sum of (x) Loans of such Class outstanding and (y) all unused Commitments of such Class at such time.

“Required Excess Cash Flow Percentage” means, as of any date of determination, (a) if the Total Net Leverage Ratio is greater than 3.75:1.00, 50% (b) if the Total Net Leverage Ratio is less than or equal to

3.75:1.00 and greater than 3.25:1.00, 25% and (c) if the Total Net Leverage Ratio is less than or equal to 3.25:1.00, 0%.

“Required Lenders” shall mean, at any time, Lenders having (a) Loans outstanding and (b) unused Commitments that, taken together, represent (x) more than 50% of the sum of First Out Take Back Loans outstanding and (y) more than 50% of the sum of Second Out Take Back Loans at such time; *provided* that the unused Commitments of, and the portion of the Loans held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; *provided, further*, that, at least two (2) of the Lenders included for purposes of determining each of clauses (x) and (y) are not Affiliates of each other.

“Requirements of Law” means, with respect to any Person, collectively, the common law and all 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.

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

“Responsible Officer” means, with respect to any Person, the chief executive officer, interim chief executive officer, the president, the chief financial officer, interim chief financial officer, any company secretary, assistant secretary, the treasurer, any assistant treasurer of such Person and any other individual or similar official thereof, any executive vice president, any senior vice president, any vice president or the chief operating officer or other officer responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer of the applicable Loan Party so designated in writing by the Borrower to the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of any Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Responsible Officer Certification” means, with respect to the financial statements for which such certification is required, the certification of a Responsible Officer of the Borrower that such financial statements fairly present, in all material respects, in accordance with GAAP, the consolidated financial position of the Borrower as at the dates indicated and its consolidated income and cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

“Restricted Amount” has the meaning assigned to such term in Section 2.11(b)(iv).

“Restricted Debt” means any Indebtedness for borrowed money (other than Indebtedness among the Loan Parties) of Holdings or any of its Subsidiaries that is (x) secured by a security interest in the Collateral that is expressly junior or subordinated to the Lien on the Collateral securing the Loans, (y) subordinated in right of payment to the Obligations or (z) unsecured, in each case with an aggregate principal amount outstanding in excess of \$5,000,000.

“Restricted Debt Payments” has the meaning assigned to such term in Section 6.03(b).

“Restricted Payment” means (a) any dividend or other distribution on account of any shares of any class of the Capital Stock of the Borrower, any Loan Party or any Subsidiary of any Loan Party, except a

dividend payable solely in shares of Qualified Capital Stock to the holders of such class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of any shares of any class of the Capital Stock of the Borrower, any Loan Party or any Subsidiary of any Loan Party and (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of the Capital Stock of the Borrower or any Subsidiary of any Loan Party now or hereafter outstanding.

“S&P” means S&P Global Ratings, a subsidiary of S&P Global Inc.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

“Second Out Take Back Loans” has the meaning assigned to such term in the recitals to this Agreement.

“Secured Hedging Obligations” means all Hedging Obligations (other than any Excluded Swap Obligations) under each Hedge Agreement that is in effect on the Closing Date or entered into at any time on or after the Closing Date between any Loan Party and (a) a counterparty that is (or is an Affiliate of) the Administrative Agent or a Lender as of the Closing Date or at the time such Hedge Agreement is entered into and/or (b) any other Person designated by the Borrower to the Administrative Agent, in each case for which such Loan Party agrees to provide security and in each case that has been designated to the Administrative Agent in writing by the Borrower as being a Secured Hedging Obligation for purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03 and Section 9.10 and any applicable Intercreditor Agreement as if it were a Lender.

“Secured Obligations” means all Obligations, together with (a) all Banking Services Obligations and (b) all Secured Hedging Obligations.

“Secured Parties” means (i) the Lenders, (ii) the Administrative Agent, (iii) each counterparty to a Hedge Agreement with a Loan Party the obligations under which constitute Secured Hedging Obligations, (iv) each provider of Banking Services to any Loan Party the obligations under which constitute Banking Services Obligations and (v) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document.

“Securities” means any stock, shares, units, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing; provided that the term “Securities” shall not include any earn-out agreement or obligation or any employee bonus or other incentive compensation plan or agreement.

“Securities Act” means the Securities Act of 1933 and the rules and regulations of the SEC promulgated thereunder.

“Security Agreement” means the Pledge and Security Agreement, substantially in the form of Exhibit M, among the Loan Parties, as grantors, and the Administrative Agent for the benefit of the Secured Parties.

“SOFR” means a rate per annum 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 Interpolated Rate” means, for any SOFR Non-Standard Interest Period, the rate per annum determined by the Administrative Agent (acting at the Direction of the Required Lenders) (which determination shall be presumed correct absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the sum of Term SOFR for the longest term for which the Term SOFR is available that is shorter than such SOFR Non-Standard Interest Period plus the applicable Term SOFR Adjustment for such longest term and (b) the Term SOFR for the shortest term for which the Term SOFR is available that exceeds such SOFR Non-Standard Interest Period plus the applicable Term SOFR Adjustment for such shortest term, in each case, at such time; *provided*, that when determining the SOFR Interpolated Rate for a SOFR Non-Standard Interest Period which is less than one (1) month, the SOFR Interpolated Rate shall be Adjusted Term SOFR for SOFR Loans with an Interest Period of one (1) month.

“SOFR Loan” means a Loan that bears interest at a rate based on Adjusted Term SOFR, other than pursuant to clause (b) of the definition of “Alternate Base Rate”.

“SOFR Non-Standard Interest Period” means, with respect to a SOFR Loan, an Interest Period which is for a term other than one, three, six or twelve months.

“SPC” has the meaning assigned to such term in Section 9.05(e).

“Special Flood Hazard Area” means an area that the Federal Emergency Management Agency has designated as an area subject to special flood or mud slide hazards.

“Specified Lender Advisors” means (x) Gibson, Dunn & Crutcher LLP, as legal counsel for the Required Lenders and (y) any replacement legal advisor to the Required Lenders as designated in writing by the Required Lenders to the Borrower and the Administrative Agent.

“Specified Non-US Loan Party” means each Foreign Subsidiary that is a Loan Party.

“Specified Subsidiary” has the meaning assigned to such term in Section 2.11(b)(iv).

“Subject Proceeds” has the meaning assigned to such term in Section 6.05(r).

“Subject Proceeds” has the meaning assigned to such term in Section 2.11(b)(ii).

“Subject Transaction” means, with respect to any Test Period, (a) the Transactions, (b) any Permitted Acquisition or any other acquisition or similar Investment, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or of a majority of the outstanding Capital Stock of any Person (and, in any event, including any Investment in (x) any Subsidiary the effect of which is to increase Holdings’, Intermediate Holdings’, the Borrower’s or any of their Subsidiary’s respective equity ownership in such Subsidiary or (y) any joint venture for the purpose of increasing Holdings’, Intermediate Holdings’, the Borrower’s or their relevant Subsidiary’s ownership interest in such joint venture), in each case that is permitted by this Agreement, (c) any Disposition of all or substantially all of the assets or Capital Stock of any subsidiary (or any business unit, line of business or division of Holdings, Intermediate Holdings, the Borrower and/or a Subsidiary) not prohibited by this Agreement, (d) any incurrence, retirement, redemption or repayment of Indebtedness (other than any Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (e) any capital contribution in respect of Qualified Capital Stock or any issuance of Qualified Capital Stock, and/or (f) any other event that by the terms of the Loan Documents requires pro forma compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

“Subsidiary” or “subsidiary” means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of such Person or a combination thereof, in each case to the extent the relevant entity’s financial results are required to be included in such Person’s consolidated financial statements under GAAP; provided that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interests in the nature of a “qualifying share” of the former Person shall be deemed to be outstanding. Unless otherwise specified, “subsidiary” shall mean any subsidiary of Holdings.

“Subsidiary Guarantor” means (x) each Subsidiary of Holdings that is a guarantor of the Secured Obligations on the Closing Date and (y) thereafter, each Subsidiary of Holdings that becomes a guarantor of the Secured Obligations pursuant to the terms of this Agreement, in each case, until such time as the relevant subsidiary is released from its obligations under the Loan Guaranty in accordance with the terms and provisions hereof; provided, that Subsidiary Guarantor shall exclude any Excluded Subsidiary.

“Successor Borrower” has the meaning assigned to such term in Section 6.06(a).

“Successor Holdings” has the meaning assigned to such term in Section 6.12(c).

“Supported QFC” has the meaning assigned to such term in Section 9.25.

“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 Compliance Certificate” has the meaning assigned to such term in Section 2.17(f).

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

“Termination Date” has the meaning assigned to such term in the lead-in to Article 5.

“Term SOFR” means:

(a) for any Interest Period for a duration of one-month, three-months, six-months or twelve months (or, to the extent available to all relevant affected Lenders, a shorter period, or as used for reference purposes only in determining the SOFR Interpolated Rate, as applicable) for a SOFR Loan, the greater of (i) the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (the “Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator and (ii) 1.00% per annum and; provided, however, that if as of 5:00 p.m. (New York City time) on any Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Term SOFR Determination Day; or

(b) for an Interest Period of any duration other than those specified in clause (a) of this definition of “Term SOFR”, for a SOFR Loan, the SOFR Interpolated Rate.

“Term SOFR Adjustment” means, with respect to (i) Term SOFR, for an Interest Period of a duration of (a) one-month or less 0.11448% (11.448 basis points), (b) three months, 0.26161% (26.161 basis points) and (c) six months, 0.42826% (42.826 basis points) and (d) twelve months, 0.71513% (71.513 basis points) and (ii) with respect to a SOFR Interpolated Rate, a percentage adjustment which results from interpolating on a linear basis between (a) the Term SOFR Adjustment for the longest period (for which Term SOFR is available) as determined under this definition which is less than the Interest Period of that Loan and (b) the Term SOFR Adjustment for the shortest period (for which Term SOFR is available) as determined under this definition which is greater than the Interest Period of that Loan.

“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 (acting at the Direction of the Required Lenders) in its reasonable discretion).

“Term SOFR Determination Day” has the meaning assigned to it under the definition of Term SOFR.

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

“Test Period” means, as of any date, the period of four consecutive Fiscal Quarters then most recently ended for which financial statements of the type described in Section 5.01(a) or Section 5.01(b), as applicable, have been delivered (or are required to have been delivered) or, if earlier, are internally available.

“Threshold Amount” means \$2,500,000.

“Total Net Leverage Ratio” means the ratio, as of any date of determination, of (a) Consolidated Total Debt outstanding as of the last day of the most recently ended Test Period to (b) Consolidated Adjusted EBITDA for the most recently ended Test Period, in each case of the Borrower and its Subsidiaries on a consolidated basis.

“Trademark” means the following: (a) all trademarks (including service marks), common law marks, trade names, trade dress, and logos, slogans and other indicia of origin under the Requirements of Law of any jurisdiction in the world, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all renewals of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof; (d) all rights to sue for past, present, and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (e) all rights corresponding to any of the foregoing.

“Transaction Costs” means fees, premiums, expenses and other transaction costs (including original issue discount or upfront fees) payable or otherwise borne by the Borrower, any Parent Company and/or its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

“Transactions” means, collectively, the transactions to occur pursuant to the Loan Documents on the Closing Date, including (a) the execution, delivery and performance of the Loan Documents, the creation of the Liens pursuant to the Loan Documents, and the borrowings hereunder and (b) the payment of the Transaction Costs.

“Treasury Capital Stock” has the meaning assigned to such term in Section 6.03(a)(viii).

“Treasury Regulations” means the U.S. federal income tax regulations, including temporary regulations and, to the extent taxpayers are permitted to rely on them, proposed regulations, promulgated under

the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to Adjusted Term SOFR or the Alternate Base Rate.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the creation or perfection of security interests.

“UK Debenture” means the English law governed debenture dated on or about the date of this Agreement between the UK Subsidiary Guarantors as initial chargors and the Administrative Agent, under which each UK Subsidiary Guarantor grants a (i) charge over the shares of any UK Loan Party directly owned by that UK Subsidiary Guarantor, (ii) charge over all equipment and inventory, intellectual property and bank accounts opened or maintained by that UK Subsidiary Guarantor in England and Wales, (iii) charge over intra-Group receivables owed to that UK Subsidiary Guarantor by Thrasio Holdings, Inc. or any of its direct or indirect subsidiaries and (iv) a floating charge over all of its assets, undertakings and rights. The charges contemplated by clauses (i) through (iii) are subject to customary exclusions.

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

“UK Legal Reservations” means:

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing;
- (b) applicable Debtor Relief Laws;
- (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void;
- (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge;
- (e) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (f) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (g) the principle that the creation or purported creation of collateral over any claim, other right, contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement (or contract or agreement relating to or governing the claim or other right) over which security has purportedly been created;

(h) the principle that a court may not give effect to any parallel debt provisions, covenants to pay or other similar provisions;

(i) the principle that certain remedies in relation to regulated entities may require further approval from government or regulatory bodies or pursuant to agreements with such bodies;

(j) the principles of private and procedural laws which affect the enforcement of a foreign court judgment;

(k) similar principles, rights and defenses under the laws of any relevant jurisdiction; and

(l) any other matters which are set out as qualifications or reservations (however described) in any legal opinion delivered pursuant to the Loan Documents.

“UK Loan Party” means a Loan Party incorporated under the laws of England and Wales.

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

“UK Security Documents” means the UK Debenture and the UK Share Charge.

“UK Share Charge” means the English law governed charge over shares dated on or about the date of this Agreement between the Borrower as chargor and the Administrative Agent.

“UK Subsidiary” means a Wholly-Owned Subsidiary incorporated under the laws of England and Wales.

“UK Subsidiary Guarantor” means a Subsidiary Guarantor incorporated under the laws of England and Wales.

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

“Unrestricted Cash Amount” means, as to any Person on any date of determination, the amount of (a) unrestricted Cash and Cash Equivalents of such Person and (b) Cash and Cash Equivalents of such Person that are restricted in favor of the Secured Obligations, whether or not held in a pledged account, in each case calculated in accordance with GAAP; provided that the aggregate “Unrestricted Cash Amount” as of any date of determination shall not exceed \$10,000,000.

“US” or “U.S.” means the United States of America.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“US Loan Party” means any Loan Party that is incorporated or organized under the laws of the US, any state thereof or the District of Columbia.

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

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

“U.S. Special Resolution Regimes” has the meaning assigned to such term in Section 9.25.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required scheduled payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness; provided that the effects of any prepayment made in respect of such Indebtedness shall be disregarded in making such calculation.

“Wholly-Owned Subsidiary” of any Person means a subsidiary of such Person, 100% of the Capital Stock of which (other than directors’ qualifying shares or shares required by Requirements of Law to be owned by a resident of the relevant jurisdiction) shall be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

“Withdrawal Liability” means the liability to any Multiemployer Plan as the result of a “complete” or “partial” withdrawal by Holdings, Intermediate Holdings, the Borrower or any Subsidiary or any ERISA Affiliate from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

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

“WSFS” has the meaning assigned to such term in the recitals to this Agreement.

Section 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a “Term SOFR Loan”) or by Class (e.g., a “First Out Take Back Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Term SOFR Borrowing”) or by Class (e.g., a “First Out Take Back Borrowing”).

Section 1.03. 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 or in any Loan Document (including any Loan Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified or extended, replaced or refinanced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications or extensions, replacements or refinancings set forth herein), (b) any reference to any Requirement of Law in any Loan Document shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law, (c)

any reference herein or in any Loan Document to any Person shall be construed to include such Person's successors and permitted assigns, (d) the words "herein," "hereof" and "hereunder," and words of similar import, when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision hereof, (e) all references herein or in any Loan Document to Articles, Sections, clauses, paragraphs, Exhibits and Schedules shall be construed to refer to Articles, Sections, clauses and paragraphs of, and Exhibits and Schedules to, such Loan Document, (f) in the computation of periods of time in any Loan Document from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" mean "to but excluding" and the word "through" means "to and including" and (g) the words "asset" and "property", when used in any Loan Document, shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including Cash, securities, accounts and contract rights. For purposes of determining compliance at any time with Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.06 and 6.07, in the event that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition or Affiliate transaction, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01 (other than Section 6.01(a)), 6.02 (other than Section 6.02(a)), 6.03, 6.04, 6.05, 6.06 and 6.07, the Borrower, in its sole discretion, may, from time to time, classify such transaction or item (or portion thereof) under one or more clauses of each such Section and will only be required to include the amount and type of such transaction (or portion thereof) in any one category. It is understood and agreed that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, burdensome agreement, Investment, Disposition and/or Affiliate transaction need not be permitted solely by reference to one category of permitted Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, burdensome agreement, Investment, Disposition and/or Affiliate transaction under Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.06 or 6.07, respectively, but may instead be permitted in part under any combination thereof. For purposes of any amount herein expressed as "the greater of" a specified fixed amount and a percentage of Consolidated Adjusted EBITDA "Consolidated Adjusted EBITDA" shall be deemed to refer to Consolidated Adjusted EBITDA of the Borrower and its Subsidiaries.

Section 1.04. Accounting Terms; GAAP.

(a) All financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time; provided that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date of delivery of the financial statements described in Section 3.04(a) in GAAP or in the application thereof (including the conversion to IFRS as described below) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change becomes effective until such notice have been withdrawn or such provision amended in accordance herewith; provided, further, that if such an amendment is requested by the Borrower or the Required Lenders, then the Borrower and the Administrative Agent (acting at the Direction of the Required Lenders) shall negotiate in good faith to enter into an amendment of the relevant affected provisions to preserve the original intent thereof in light of such change in GAAP or the application thereof; provided, further, that all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, Intermediate Holdings, the Borrower or any subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. If the Borrower notifies the Administrative Agent that the Borrower (or its applicable Parent Company) is required to report under

IFRS or has elected to do so through an early adoption policy, “GAAP” shall mean international financial reporting standards pursuant to IFRS (provided that after such conversion, the Borrower cannot elect to report under GAAP).

(b) Notwithstanding anything to the contrary herein, but subject to Section 1.10, all financial ratios and tests (including the Total Net Leverage Ratio and Consolidated Adjusted EBITDA (other than, for the avoidance of doubt, for purposes of calculating Excess Cash Flow)) contained in this Agreement that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a Pro Forma Basis. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (x) any Subject Transaction has occurred or (y) any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Subsidiaries or any joint venture since the beginning of such Test Period has consummated any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Subject Transaction had occurred at the beginning of the applicable Test Period (or, with respect to any determination pertaining to the balance sheet, including the acquisition of Cash and/or Cash Equivalents, as of the last day of such Test Period).

(c) Notwithstanding anything to the contrary contained in clause (a) above or in the definition of “Capital Lease”, only those leases (assuming for purposes hereof that such leases were in existence on the date hereof) that would constitute Capital Leases in conformity with GAAP as in effect prior to giving effect to the adoption of ASU No. 2016-02 “Leases (Topic 842)” and ASU No. 2018-11 “Leases (Topic 842)” shall be considered Capital Leases hereunder or under any other Loan Document, and all calculations and deliverables under this Agreement and/or any other Loan Document shall be made or prepared, as applicable, in accordance therewith; provided that all financial statements required to be provided hereunder shall be prepared in accordance with GAAP without giving effect to the foregoing treatment of Capital Leases.

(d) Notwithstanding anything in this Section 1.04 to the contrary, for purposes of calculating any financial ratios pursuant to the Loan Documents, revenue recognition will be applied in a manner consistent with the revenue recognition policies of the Borrower as in effect on the Closing Date.

Section 1.05. [Reserved].

Section 1.06. Timing of Payment or Performance When payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period”) or performance shall extend to the immediately succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

Section 1.07. Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

Section 1.08. Currency Equivalents Generally.

(a) For purposes of any determination under Article 5, Article 6 or Article 7 with respect to the amount of any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition, affiliate transaction or other transaction, event or circumstance, or any determination under any other provision of this Agreement, (any of the foregoing, a “specified transaction”), in a currency other than Dollars, (i) the Dollar equivalent amount of a specified transaction in a currency other than Dollars shall be calculated based on the rate of exchange quoted by the Bloomberg Foreign Exchange Rates & World Currencies Page (or any successor page thereto, or in the event such rate does not appear on any Bloomberg Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent (acting at the Direction of the Required Lenders) and the Borrower) for such foreign currency, as in

effect at 11:00 a.m. (London time) on the date of such specified transaction (which, in the case of any Restricted Payment, shall be deemed to be the date of the declaration thereof and, in the case of the incurrence of Indebtedness, shall be deemed to be on the date first committed); provided, that if any Indebtedness is incurred (and, if applicable, associated Lien granted) to refinance or replace other Indebtedness denominated in a currency other than Dollars, and the relevant refinancing or replacement would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing or replacement, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing or replacement Indebtedness (and, if applicable, associated Lien granted) does not exceed an amount sufficient to repay the principal amount of such Indebtedness being refinanced or replaced, except by an amount equal to (x) unpaid accrued interest and premiums (including tender premiums) thereon plus other reasonable and customary fees and expenses (including upfront fees and original issue discount) incurred in connection with such refinancing or replacement, (y) any existing commitment unutilized thereunder and (z) additional amounts permitted to be incurred under Section 6.01 and (ii) for the avoidance of doubt, no Default or Event of Default shall be deemed to have occurred solely as a result of a change in the rate of currency exchange occurring after the time of any specified transaction so long as such specified transaction was permitted at the time incurred, made, acquired, committed, entered or declared as set forth in clause (i).

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent to appropriately reflect a change in currency of any country and any relevant market convention or practice relating to such change in currency.

Section 1.09. Cashless Rollovers. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with loans incurred under a new credit facility, in each case, to the extent such extension, replacement, renewal or refinancing is effected by means of a "cashless roll" by such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made "in Dollars", "in immediately available funds", "in Cash" or any other similar requirement.

Section 1.10. Certain Calculations and Tests.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

(e) The increase in any amount secured by any Lien by virtue of the accrual of interest (other interest that is paid-in-kind), the accretion of accreted value, the payment of interest or a dividend in the form of additional Indebtedness, amortization of original issue discount and/or any increase in the amount of Indebtedness outstanding solely as a result of any fluctuation in the exchange rate of any applicable currency will not be deemed to be the granting of a Lien for purposes of Section 6.02.

(f) With respect to determination of the permissibility of any transaction by Holdings, Intermediate Holdings, the Borrower and their Subsidiaries under this agreement, the delivery by the Borrower of a third party valuation report from (x) a nationally recognized accounting, appraisal, investment banking or consulting

firm or (y) another firm reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), in each case, shall be conclusive with respect to the value of the assets covered thereby.

Section 1.11. [Reserved].

Section 1.12. Interest Rates; Benchmark Notification. The interest rate on a Loan denominated in Dollars may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 2.14 provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, the administration of, submission of, calculation of, performance of or any other matter related to any interest rate used in this Agreement (including, without limitation, the Alternate Base Rate, Daily Simple SOFR, Adjusted Daily Simple SOFR, SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR) or any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative or successor rate thereto, or replacement rate thereof (including any Benchmark Replacement), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, or have the same value or economic equivalence of as the existing interest rate (or any component thereof) being replaced or have the same volume or liquidity as did any existing interest rate (or any component thereof) prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate (or component thereof) used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/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 (acting at the Direction of the Required Lenders) to ascertain any interest rate used in this Agreement, any component thereof, or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 2

THE CREDITS

Section 2.01. Commitments and Loans. Subject to the terms and conditions set forth herein:

(a) On the Closing Date,

(i) \$90,000,000 in aggregate principal amount of Existing Loans constituting DIP Loans under and as defined in the DIP Credit Agreement shall be deemed converted into and exchanged for, on a dollar-for-dollar basis, First Out Take Back Loans, and \$90,000,000 of First Out Take Back Loans shall be deemed funded on the Closing Date, without constituting a novation, and shall satisfy and discharge \$90,000,000 in aggregate principal amount of DIP Loans. On the Closing Date, the First Out Take Back Loans shall be deemed to be made by each Lender (or an investment advisor, manager, or beneficial owner for the account of a Lender, or an affiliated fund or trade counterparty designated by such Lender) in an amount equal to the amount of Commitments set forth next to each Lender's name on Schedule 1.01(a); and

(ii) an aggregate principal amount of the Existing Loans constituting Roll Up Loans under and as defined in the DIP Credit Agreement equal to \$270,000,000 in aggregate principal amount shall be deemed converted into and exchanged, on a dollar-for-dollar basis, for Second Out Take Back Loans, and \$270,000,000 of Second Out Take Back Loans shall be deemed funded on the Closing Date, without constituting a novation, and shall satisfy and discharge \$270,000,000 in aggregate principal amount of such Roll Up Loans. On the

Closing Date, the Second Out Take Back Loans shall be deemed to be made by each Lender (or an investment advisor, manager, or beneficial owner for the account of a Lender, or an affiliated fund or trade counterparty designated by such Lender) in an amount equal to the amount of Commitments set forth next to each Lender's name on Schedule 1.01(a).

(b) Amounts repaid or prepaid in respect of the First Out Take Back Loans and the Second Out Take Back Loans may not be reborrowed.

Section 2.02. Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments.

(b) Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Term SOFR Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Term SOFR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that (i) any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement, (ii) such Term SOFR Loan shall be deemed to have been made and held by such Lender, and the obligation of the Borrower to repay such Term SOFR Loan shall nevertheless be to such Lender for the account of such domestic or foreign branch or Affiliate of such Lender and (iii) in exercising such option, such Lender shall use reasonable efforts to minimize increased costs to the Borrower resulting therefrom (which obligation of such Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it otherwise determines would be disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.15 shall apply); provided, further, that no such domestic or foreign branch or Affiliate of such Lender shall be entitled to any greater indemnification under Section 2.17 in respect of any US federal withholding tax with respect to such Term SOFR Loan than that to which the applicable Lender was entitled on the date on which such Loan was made (except in connection with any indemnification entitlement arising as a result of any Change in Law after the date on which such Loan was made).

(c) At the commencement of each Interest Period for any Term SOFR Borrowing, such Term SOFR Borrowing shall comprise an aggregate principal amount that is an integral multiple of \$100,000 and not less than \$500,000. Each ABR Borrowing when made shall be in a minimum principal amount of \$100,000 and in an integral multiple of \$500,000. Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of ten different Interest Periods in effect for Term SOFR Borrowings at any time outstanding (or such greater number of different Interest Periods as the Administrative Agent (acting at the Direction of the Required Lenders) may agree from time to time).

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not, nor shall it be entitled to, request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date applicable to the relevant Loans.

Section 2.03. Requests for Borrowings. Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Term SOFR Loans shall be made upon irrevocable written notice by the Borrower to the Administrative Agent, which shall be given by a Borrowing Request or an Interest Election Request, as applicable. Each such notice must be in the form of a Borrowing Request or an Interest Election Request, as applicable, appropriately completed and signed by a Responsible Officer of the Borrower and must be received by the Administrative Agent (by hand delivery or other electronic transmission (including “.pdf” or “.tif”)) not later than (a) 12:00 p.m. two Business Days (or in the case of the initial Borrowing on the Closing Date, one Business Day) prior to the requested day of any Borrowing of, conversion to or continuation of, Term SOFR Loans and (b) in the case of any Borrowing consisting of ABR Loans, 12:00 p.m. two Business Days prior to the requested day of any such conversion (or, in each case under clauses (a) and (b),

such later time as is reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders)); provided, however, that if the Borrower wishes to request Term SOFR Loans having an Interest Period of other than one in duration as provided in the definition of “Interest Period”, the Administrative Agent shall promptly notify the Borrower before the requested date of the relevant Borrowing, conversion or continuation, whether or not the requested Interest Period is available to the relevant Lenders.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Term SOFR Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month’s duration. The Administrative Agent shall promptly advise each Lender of the details and amount of any Loan to be made as part of the relevant requested Borrowing.

Section 2.04. Exchange. Interest shall begin to accrue on the First Out Take Back Loans and the Second Out Take Back Loans from (and including) the Closing Date.

Section 2.05. [Reserved].

Section 2.06. [Reserved].

Section 2.07. Funding of Borrowings.

(a) Subject to Section 2.04 hereof, each Lender shall make each Loan to be made by it hereunder not later than 1:00 p.m., in each case on the Business Day specified in the applicable Borrowing Request by wire transfer of immediately available funds to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender’s respective Applicable Percentage. Promptly upon receipt of funds from all relevant Lenders (other than Defaulting Lenders), the Administrative Agent will make such Loans available to the Borrower by wire transfer of the amounts so received, in like funds, to the account designated in the relevant Borrowing Request or as otherwise directed by the Borrower.

(b) Subject to Section 2.04 hereof, unless the Administrative Agent has received notice from any Lender that such Lender will not make available to the Administrative Agent such Lender’s share of any Borrowing prior to the proposed date of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with clause (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if any Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate, on an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by the Administrative Agent in the applicable offshore interbank market for such currency and a rate determined by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to Loans comprising such Borrowing at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender’s Loan included in such Borrowing and the obligation of the Borrower to repay the Administrative Agent such corresponding amount pursuant to this Section 2.07(b) shall cease. If the Borrower pays such amount to the Administrative Agent, the amount so paid shall constitute a repayment of such Borrowing by such amount. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrower or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

Section 2.08. Type; Interest Elections.

- (a) Each Borrowing shall initially be of the Type specified in the applicable Borrowing Request and, in the case of any Term SOFR Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert any Borrowing denominated in Dollars to a Borrowing of a different Type or to continue such Borrowing and, in the case of a Term SOFR Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders based upon their Applicable Percentages and the Loans comprising each such portion shall be considered a separate Borrowing.
- (b) To make an election pursuant to this Section, the Borrower shall deliver an Interest Election Request, appropriately completed and signed by a Responsible Officer of the Borrower, to the Administrative Agent in accordance with Section 2.03. If any such Interest Election Request requests a Term SOFR Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.
- (c) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.
- (d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Term SOFR Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, such Borrowing shall be converted at the end of such Interest Period to an ABR Borrowing. Notwithstanding anything to the contrary herein, if an Event of Default exists and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as such Event of Default exists (i) no outstanding Borrowing may be converted to or continued as a Term SOFR Borrowing and (ii) unless repaid, each Term SOFR Borrowing shall be converted to an ABR Borrowing at the end of the then-current Interest Period applicable thereto.
- (e) It is understood and agreed that only a Borrowing denominated in Dollars may be made in the form of, or converted into, an ABR Loan.

Section 2.09. Termination and Reduction of Commitments. On the Closing Date, after the First Out Take Back Loans and the Second Out Take Back Loans are deemed made in accordance with Section 2.01(b), the Commitments of each Lender will automatically and permanently terminate.

Section 2.10. Repayment of Loans; Evidence of Debt.

- (a) The Borrower hereby unconditionally promises to repay to the Administrative Agent for the account of each Lender on the Maturity Date, an amount equal to the principal amount of outstanding Loans on such date, together with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment.
- (b) Each repayment of Loans under this Agreement shall be applied *first*, ratably to the First Out Take Back Loans and each Class of Loans then outstanding that is *pari passu* with the First Out Take Back Loans in both right of payment and with respect to security until each such Class of Loans are repaid in full, *second*, to the Second Out Take Back Loans and each Class of Loans then outstanding that is *pari passu* with the Second Out Take Back Loans in both right of payment and with respect to security until each such Class of Loans are repaid in full, and *third* to each other Class of Loans then outstanding.
- (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, the Class, Type and currency thereof and the Interest Period (if any) applicable thereto, (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 clauses (c) or (d) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any manifest 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; provided, further, that in the event of any inconsistency between the accounts maintained by the Administrative Agent pursuant to clause (d) of this Section and any Lender's records, the accounts of the Administrative Agent shall govern; provided, further, that in the event of any inconsistency between the Register and any other accounts maintained by the Administrative Agent, the Register shall govern absent manifest error.

(f) Any Lender may request that any Loan made by it be evidenced by a Promissory Note. In such event, the Borrower shall prepare, execute and deliver a Promissory Note to such Lender payable to such Lender and its registered permitted assigns; it being understood and agreed that such Lender (and/or its applicable permitted assign) shall be required to return such Promissory Note to the Borrower in accordance with Section 9.05(b)(iii) and upon the occurrence of the Termination Date (or as promptly thereafter as practicable). If any Lender loses the original copy of its Promissory Note, it shall execute an affidavit of loss containing an indemnification provision that is reasonably satisfactory to the Borrower. The obligation of each Lender to execute and deliver an affidavit of loss containing an indemnification provision that is reasonably satisfactory to the Borrower shall survive the Termination Date.

Section 2.11. Prepayment of Loans.

(a) Optional Prepayments.

(i) Upon prior notice in accordance with clause (a)(iii) of this Section, the Borrower shall have the right at any time and from time to time to prepay any Borrowing of Loans in whole or in part without premium or penalty (but subject (A) in the case of Borrowings of Initial Loans only, to Section 2.12(f) and (B) if applicable, to Section 2.16). Each such prepayment shall be paid as set forth in Section 2.10(b) (i.e. *first*, ratably to the First Out Take Back Loans until all First Out Take Back Loans are repaid in full, and, *second*, ratably to the Second Out Take Back Loans until all Second Out Take Back Loans are repaid in full), and within each Class to the Lenders with respect to such Class of Loans in accordance with their respective Applicable Percentages of such Class.

(ii) [Reserved].

(iii) The Borrower shall notify the Administrative Agent in writing of any prepayment under this Section 2.11(a) (i) in the case of any prepayment of a Term SOFR Borrowing, not later than 1:00 p.m. three Business Days before the date of prepayment or (ii) in the case of any prepayment of an ABR Borrowing, not later than 11:00 a.m., one Business Day before the date of prepayment (or, in each case, such later time as to which the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably agree). Each such notice shall be irrevocable (except as set forth in the proviso to this sentence) and shall specify the prepayment date and the principal amount of each Borrowing or portion to be prepaid; provided that any notice of prepayment delivered by the Borrower may be conditioned upon the effectiveness of other transactions, in which case such notice may be revoked by the Borrower (by written notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to any Borrowing, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount at least equal to the amount that

would be permitted in the case of a Borrowing of the same Type as provided in Section 2.02(c), or such lesser amount that is then outstanding with respect to such Borrowing being repaid (and in increments of \$100,000 in excess thereof or such lesser incremental amount that is then outstanding with respect to such Borrowing being repaid).

(b) Mandatory Prepayments.

(i) No later than the fifth Business Day after the date on which the financial statements with respect to each Fiscal Year of the Borrower are required to be delivered pursuant to Section 5.01(b), commencing with the Fiscal Year ending on December 31, 2024, the Borrower shall prepay the outstanding principal amount of, and accrued interest on, Initial Loans and Additional Term Loans then subject to ratable prepayment requirements (the “Subject Loans”) in accordance with clause (vi) of this Section 2.11(b) below in an aggregate principal amount (the “ECF Prepayment Amount”) equal to (x) the Required Excess Cash Flow Percentage of Excess Cash Flow of the Borrower and its Subsidiaries for the Excess Cash Flow Period then ended, minus (y) at the option of the Borrower:

(A) the aggregate principal amount of any optional prepayment, repurchase, redemption or other retirement of the Loans, in each case, made during such Fiscal Year and/or, at the option of the Borrower, prior to the date that the applicable prepayment is due, in each case, excluding any such optional prepayments, repurchases, redemptions or other retirements made during such Fiscal Year that reduced the amount required to be prepaid pursuant to this Section 2.11(b)(i) in the prior Fiscal Year of the Borrower, and/or

(B) the amount of any reduction in the outstanding principal amount of any Loan resulting from any assignment to (and/or purchase by) the Borrower or any Subsidiary of any such Indebtedness, in each case, made during such Fiscal Year and/or, at the option of the Borrower, prior to the date that the applicable prepayment is due, in each case, to the extent of the amount paid in Cash by the Borrower or the applicable Subsidiary in connection with the relevant assignment and/or purchase, excluding any such assignment and/or purchase made during such Fiscal Year that reduced the amount required to be prepaid pursuant to this Section 2.11(b)(i) in the prior Fiscal Year,

and, in each case of the foregoing clauses (A) and (B), only to the extent that such amounts were not financed with the proceeds of long-term Indebtedness (other than revolving Indebtedness).

(ii) No later than the fifth Business Day following the receipt of Net Proceeds in respect of any Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, to the extent the aggregate amount of all Net Proceeds in respect of all Prepayment Asset Sales and Net Insurance/Condemnation Proceeds since the Closing Date exceeds \$10,000,000, the Borrower shall apply 100% of the Net Proceeds or Net Insurance/Condemnation Proceeds received with respect thereto in excess of such threshold (collectively, the “Subject Proceeds”) to prepay the outstanding principal amount of, and accrued interest on, the Loans; provided that (A) if prior to the date any such prepayment is required to be made in respect of Net Proceeds recovered from a Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, the Borrower notifies the Administrative Agent in writing of the Borrower’s intention to reinvest the applicable Subject Proceeds in the business (other than in Cash or Cash Equivalents) of the Borrower or any of its Subsidiaries, then the Borrower shall not be required to make a mandatory prepayment under this clause (ii) in respect of the applicable Subject Proceeds to the extent (x) the applicable Subject Proceeds are so reinvested within 12 months following receipt thereof, or (y) the Borrower or any of its Subsidiaries has committed to so reinvest the applicable Subject Proceeds during such 12-month period and the applicable Subject Proceeds are so reinvested within 180 days after the expiration of such 12-month period; it being understood that if the applicable Subject Proceeds have not been so reinvested prior to the expiration of the applicable period, the Borrower shall promptly prepay the Subject Loans with the amount of applicable Subject Proceeds not so reinvested as set forth above (without regard to the immediately preceding proviso).

(iii) In the event that Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) receives Net Proceeds from the issuance or incurrence of Indebtedness by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Indebtedness that is permitted to be incurred under Section 6.01), the Borrower shall, promptly upon (and in any event not later than three (3) Business Days thereafter) the receipt of such Net Proceeds by the Borrower or its applicable Subsidiary, apply an amount equal to 100% of such Net Proceeds to prepay the outstanding principal amount of the Loans.

(iv) Notwithstanding anything in this Section 2.11(b) to the contrary:

(A) the Borrower shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.11(b)(i) or (ii) above to the extent that the relevant Excess Cash Flow is generated or Prepayment Asset Sale is consummated, as applicable, by any Foreign Subsidiary or any Domestic Subsidiary of any Foreign Subsidiary (any such Person, a “Specified Subsidiary”) or the relevant Net Insurance/Condemnation Proceeds are received by any Specified Subsidiary, as the case may be, for so long as the repatriation and/or other transfer to the Borrower of any such amount would be, in the good faith determination of the Borrower, prohibited, restricted or delayed under any Requirement of Law (including for the avoidance of doubt Requirements of Law relating to financial assistance, corporate benefit, thin capitalization, capital maintenance and similar legal principles, restrictions on upstreaming and/or cross-streaming of Cash intra-group and Requirements of Law relating to the fiduciary and/or statutory duties of the directors (or equivalent Persons) of the Borrower or any of its Subsidiaries) or would conflict with the fiduciary and/or statutory duties of such Specified Subsidiary’s directors (or equivalent Persons), or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member of management or consultant of such Specified Subsidiary (it being agreed that, solely within 365 days following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Subject Proceeds, the Borrower shall take all commercially reasonable actions required by applicable Requirements of Law to permit such repatriation and/or other transfer) (it being understood that if the repatriation and/or other transfer of the relevant affected Excess Cash Flow or Subject Proceeds, as the case may be, is permitted under the applicable Requirement of Law and, to the extent applicable, would no longer conflict with the fiduciary and/or statutory duties of such director, or result in, or be reasonably expected to result in, a material risk of personal or criminal liability for the Persons described above, in either case, within 365 days following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Subject Proceeds, the relevant Specified Subsidiary will promptly repatriate and/or transfer the relevant Excess Cash Flow or Subject Proceeds, as the case may be, and the repatriated or transferred Excess Cash Flow or Subject Proceeds, as the case may be, will be promptly (and in any event not later than two (2) Business Days after such repatriation) applied (net of additional Taxes payable or reserved against such Excess Cash Flow as a result thereof) to the repayment of the Loans pursuant to this Section 2.11(b) to the extent required herein (without regard to this clause (iv))),

(B) the Borrower shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.11(b)(i) or (ii) to the extent that relevant Excess Cash Flow is generated by any joint venture or the relevant Subject Proceeds are received by any joint venture, in each case, for so long as the distribution and/or other transfer to the Borrower of such Excess Cash Flow or Subject Proceeds would, in the good faith determination of the Borrower, be prohibited under the Organizational Documents governing such joint venture; it being understood that if the relevant prohibition ceases to exist within the 365-day period following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Excess Cash Flow or the relevant Subject Proceeds, the relevant joint venture will promptly distribute the relevant Subject Proceeds, as the case may be, and the distributed or otherwise transferred Excess Cash Flow or Subject Proceeds, as the case may be, will be promptly (and in any event not later than two (2) Business Days after such distribution and/or other transfer) applied to the repayment of the Loans pursuant to this Section 2.11(b) to the extent required herein (without regard to this clause (iv)),

(C) the Borrower shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.11(b)(i) or (ii) to the extent that the relevant Excess Cash Flow is generated by any Foreign Subsidiary that is not a Loan Party or the relevant Subject Proceeds are received by any Foreign Subsidiary that is not a Loan Party, in each case, for so long as the Borrower determines in good faith that the distribution to the Borrower of such Excess Cash Flow or Subject Proceeds would be prohibited under an agreement permitted pursuant to Section 6.04 by which such Foreign Subsidiary is bound governing any Indebtedness; it being understood that if the relevant prohibition ceases to exist within the 365-day period following the end of the applicable Excess Cash Flow Period or the event giving rise to the relevant Subject Proceeds, the relevant Foreign Subsidiary will promptly distribute the relevant Excess Cash Flow or the relevant Subject Proceeds, as the case may be, and the distributed Excess Cash Flow or Subject Proceeds, as the case may be, will be promptly (and in any event not later than two (2) Business Days after such distribution) applied to the repayment of the Loans pursuant to this Section 2.11(b) to the extent required herein (without regard to this clause (iv));

(D) if the Borrower and the Administrative Agent (acting at the Direction of the Required Lenders) determine in good faith that the repatriation (or other intercompany distribution or transfer) to the Borrower, directly or indirectly, from a Specified Subsidiary as a distribution or dividend (or other intercompany transfer) of any amount required to mandatorily prepay the Loans pursuant to Sections 2.11(b)(ii) above would result in a material and adverse Tax liability (including any withholding Tax) being incurred by Holdings, Intermediate Holdings, the Borrower, any direct or indirect equityholders of the Borrower or any of its Subsidiaries (such amount, a “Restricted Amount”), the amount that the Borrower shall be required to mandatorily prepay pursuant to Sections 2.11(b)(ii) above, as applicable, shall be reduced by the Restricted Amount; provided that to the extent that the repatriation (or other intercompany distribution or transfer) of the relevant Subject Proceeds or Excess Cash Flow, directly or indirectly, from the relevant Specified Subsidiary would no longer have a material and adverse Tax consequence within the 365-day period following the event giving rise to the relevant Subject Proceeds or the end of the applicable Excess Cash Flow Period, as the case may be, an amount equal to the Subject Proceeds or Excess Cash Flow, as applicable and to the extent available, not previously applied pursuant to this clause (D), shall be promptly applied to the repayment of the Loans pursuant to Section 2.11(b) as otherwise required above; and

(E) the Borrower shall not be required to make any prepayment pursuant to Section 2.11(b)(i), solely to the extent that (i) immediately prior to giving pro forma effect to such prepayment, (A) no Default or Event of Default has occurred and is continuing and (B) the Borrower is in pro forma compliance with Section 6.13 as of such date and (ii) after giving pro forma effect to such the prepayment, the Borrower would fail to be in pro forma compliance with Section 6.13 as of such date; provided that such limitation on such prepayment shall be limited to solely such amount that would cause the Borrower, after giving pro forma effect to such the prepayment, to fail to be in pro forma compliance with Section 6.13 as of such date;

(v) The Borrower shall notify the Administrative Agent in writing of any prepayment under this Section 2.11(b) not later than 1:00 p.m. three Business Days before the relevant date of prepayment (or such later time as of the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably agree). Any Lender may elect, by written notice to the Administrative Agent at or prior to 1:00 p.m. one Business Day prior to any prepayment of Loans required to be made by the Borrower pursuant to this Section 2.11(b), to decline all (but not a portion) of its Applicable Percentage of such prepayment (such declined amounts, the “Declined Proceeds”); provided that in the event that any Lender elects to decline (or otherwise waives) receipt of such Declined Proceeds in accordance with the terms hereof, the remaining amount thereof may be retained by the Borrower. If any Lender fails to deliver a written notice to the Administrative Agent of its election to decline receipt of its Applicable Percentage of any mandatory prepayment within the time frame specified by the Administrative Agent, such failure will be deemed to constitute an acceptance of such Lender’s Applicable Percentage of the total amount of such mandatory prepayment of Term Loans.

(vi) Each prepayment of Term Loans pursuant to Section 2.11(b) shall be applied in the order set forth in Section 2.10(b). With respect to each relevant Class of Loans, all accepted prepayments under this Section

2.11(b) shall be applied against the remaining scheduled installments of principal due in respect of such Loans as directed by the Borrower (or, in the absence of direction from the Borrower, to the remaining scheduled amortization payments in respect of such Loans in direct order of maturity), and each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentage of the applicable Class. If no Lenders exercise the right to waive a prepayment of the Loans pursuant to Section 2.11(b)(v), the amount of such mandatory prepayments shall be applied first to the then outstanding Loans that are ABR Loans to the full extent thereof and then to the then outstanding Loans that are SOFR Loans in a manner that minimizes the amount of any payment required to be made by the Borrower pursuant to Section 2.16.

(vii) [Reserved].

(viii) Prepayments made under this Section 2.11(b) shall be (A) accompanied by accrued interest as required by Section 2.13, (B) subject to Section 2.16 and (C) in the case of prepayments of Loans under clause (iii), subject to Section 2.12(f), but shall otherwise be without premium or penalty.

Section 2.12. Fees.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) The Borrower agrees to pay to the Administrative Agent, for its own account, the annual administration fee described in the Administrative Agent Fee Letter.

(e) All fees payable hereunder shall be paid on the dates due, in Dollars and in immediately available funds, to the Administrative Agent Fee Letter. Fees paid shall not be refundable under any circumstances except as otherwise provided in the Administrative Agent Fee Letter. Fees payable hereunder shall accrue through and including the last day of the month immediately preceding the applicable fee payment date.

(f) In the event that, prior to the second anniversary of the Closing Date, (i) the Borrower prepays any Initial Loan pursuant to Section 2.11(a)(i), (ii) the Borrower prepays or refinances any Initial Loans pursuant to Section 2.11(b)(iii) or (iii) the Initial Loans are accelerated in accordance with Article 7, the Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Term Lenders (including any Non-Consenting Lender whose Initial Loans are repaid, replaced or assigned pursuant to Section 2.19(b)(iv)) (A) prior to the first anniversary of the Closing Date, a premium of 2.00% of the aggregate principal amount of the Initial Loans so prepaid, repaid, replaced or accelerated and (B) on or after the first anniversary of the Closing Date but prior to the second anniversary of the Closing Date, a premium of 1.00% of the aggregate principal amount of the Initial Loans so prepaid, repaid, replaced or accelerated. All such amounts shall be due and payable on the date of the relevant prepayment or acceleration pursuant to Sections 2.11(a)(i) or 2.11(b)(iii) or Article 7, as applicable (such premiums referred to in this Section 2.11(f), the “Prepayment Premium”). For the avoidance of doubt, no prepayment premium shall be payable hereunder in connection with any prepayment with respect to, Initial Loans after the second anniversary of the Closing Date.

(g) Unless otherwise indicated herein, all computations of fees shall be made on the basis of a 360-day year and shall be payable for the actual days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of the amount of any fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Term SOFR Borrowing shall bear interest at a rate per annum equal to Adjusted Term SOFR for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) [Reserved].

(d) Notwithstanding the foregoing but in all cases subject to Section 9.05(f), if any principal of or interest on any fee payable by the Borrower hereunder is not, in each case, paid or reimbursed when due, whether at stated maturity, upon acceleration or otherwise, the relevant overdue amount shall bear interest, to the fullest extent permitted by applicable Requirements of Law, after as well as before judgment, at a rate per annum equal 2.00% plus the rate otherwise applicable to Loans as provided in the preceding paragraphs of this Section or, if no such rate applies, 2.00% plus the rate applicable to ABR Loans; provided that no amount shall accrue pursuant to this Section 2.13(d) on any overdue amount or other amount that is payable to any Defaulting Lender so long as such Lender is a Defaulting Lender.

(e) Accrued interest on each Loan shall be payable in, subject to, for the avoidance of doubt, clause (D) below, Cash in arrears on each Interest Payment Date for such Loan and on the Maturity Date; provided that (A) interest accrued pursuant to clause (d) of this Section shall be payable in Cash on demand, (B) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable in Cash on the date of such repayment or prepayment, (C) in the event of any conversion of any Term SOFR Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable in Cash on the effective date of such conversion, and (D) interest determined on the basis of clauses (a)(i), (a)(ii)(B), (b)(i) and (b)(ii)(B) of Applicable Rate shall be PIK Interest.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted Term SOFR shall be determined by the Administrative Agent (acting at the Direction of the Required Lenders and in consultation with the Borrower), and such determination shall be conclusive absent manifest error. Interest shall accrue on each Loan for the day on which the Loan is made and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

Section 2.14. Alternate Rate of Interest.

(a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 2.14, if the Administrative Agent (acting at the Direction of the Required Lenders) determines (which determination shall be conclusive absent manifest error) that for any reason (i) adequate and reasonable means do not exist for determining Adjusted Term SOFR for any requested Interest Period; provided that no Benchmark Transition Event shall have occurred at such time or (ii) the Administrative Agent is advised by the Required Lenders that Adjusted Term SOFR for any requested Interest Period does not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans for such Interest Period, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Term SOFR Loans shall be suspended (to the extent of the affected Term SOFR Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to Adjusted Term SOFR component of the Alternate Base Rate, the utilization of the Adjusted Term SOFR component in determining the Alternate Base Rate shall be suspended, in each case until the Administrative Agent (or in the case of a determination by

the Required Lenders, until the Administrative Agent upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Term SOFR Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of ABR Loans in the amount specified therein.

(b) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred, then (x) if a Benchmark Replacement is determined in accordance with clause (a) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (b) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date on which notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. If the Benchmark Replacement is Adjusted Daily Simple SOFR, all interest payments will be payable on a quarterly basis.

(c) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent (acting at the Direction of the Required Lenders and in consultation with the Borrower) will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendment implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document other than in consultation with the Borrower in accordance with the definition of “Benchmark Replacement Conforming Changes.”

(d) 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 Benchmark Replacement Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will promptly notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.14(d) and (y) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent and/or the Borrower or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.14, 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 2.14 and/or any component definition used herein.

(e) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent (acting at the Direction of the Required Lenders) in its reasonable discretion or (B) the administrator of such Benchmark or the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent and the Borrower may modify the definition of “Interest Period” (or any similar or

analogous definition) for any Benchmark setting at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to subclause (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 or will no longer be representative, then the Administrative Agent shall 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.

(f) Benchmark Unavailability Period. Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Borrowing of, conversion to or continuation of Term SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to ABR Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Alternate Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Alternate Base Rate.

Section 2.15. Increased Costs.

(a) If any Change in Law:

(i) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in Adjusted Term SOFR);

(ii) subject any Lender to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on or with respect to its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) imposes on any Lender any other condition (other than Taxes) affecting this Agreement or Term SOFR Loans made by any Lender;

and the result of any of the foregoing is to increase the cost to the relevant Lender of making or maintaining any Term SOFR Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise) in respect of any Term SOFR Loan in an amount deemed by such Lender to be material, then, within ten (10) days after the Borrower’s receipt of the certificate contemplated by clause (c) of this Section, the Borrower will pay to such Lender, as applicable, such additional amount or amounts as will compensate such Lender, as applicable, for such additional costs incurred or reduction suffered; provided that the Borrower shall not be liable for such compensation if (x) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto, (y) such Lender invokes Section 2.20 or (z) in the case of requests for reimbursement under clause (iii) above resulting from a market disruption, (A) the relevant circumstances are not generally affecting the banking market or (B) the applicable request has not been made by Lenders constituting Required Lenders.

(b) If any Lender determines that any Change in Law regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender’s capital or on the capital of such Lender’s holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender’s holding company could have achieved but for such Change in Law other than due to Taxes (taking into consideration such Lender’s policies and the policies of such Lender’s holding company with respect to liquidity or capital adequacy), then within ten (10) days of receipt by the Borrower of the certificate contemplated by clause (c) of this Section the Borrower will pay to such

Lender, as applicable, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Any Lender requesting compensation under this Section 2.15 shall be required to deliver a certificate to the Borrower that (i) sets forth the amount or amounts necessary to compensate such Lender or the holding company thereof, as applicable, as specified in clause (a) or (b) of this Section, (ii) sets forth, in reasonable detail, the manner in which such amount or amounts were determined and (iii) certifies that such Lender is generally charging such amounts to similarly situated borrowers, which certificate shall be conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided, however that the Borrower shall not be required to compensate any Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days 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; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16. Break Funding Payments. Subject to Section 9.05(f), in the event of (a) the conversion or prepayment of any principal of any Term SOFR Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration or otherwise), or (b) the failure to borrow, convert, continue or prepay any Term SOFR Loan on the date or in the amount specified in any notice delivered pursuant hereto, then, in any such event, the Borrower shall compensate each Lender for the actual amount of any actual out-of-pocket loss, expense and/or liability (including any actual out-of-pocket loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by such Lender to fund or maintain Term SOFR Loans, but excluding loss of anticipated profit) that such Lender may incur or sustain as a result of such event. Any Lender requesting compensation under this Section 2.16 shall be required to deliver a certificate to the Borrower that (A) sets forth any amount or amounts that such Lender is entitled to receive pursuant to this Section, the basis therefor and, in reasonable detail, the manner in which such amount or amounts were determined and (B) certifies that such Lender is generally charging the relevant amounts to similarly situated borrowers, which certificate shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

Section 2.17. Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction for any Taxes, except as required by applicable Requirements of Law. If any applicable Requirements of Law (as determined in the good faith of the applicable withholding agent) requires the deduction or withholding of any Tax from any such payment, then (i) if such Tax is an Indemnified Tax, the amount payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions or withholdings applicable to additional sums payable under this Section 2.17) each Lender (or, in the case of any payment made to the Administrative Agent for its own account, the Administrative Agent) receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable withholding agent shall make such deductions and (iii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Requirements of Law.

(b) Payment of Other Taxes. Without duplication of Section 2.17(a), in addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Requirements of Law or at the option of the Administrative Agent timely reimburse it for the payment of Other Taxes.

(c) Indemnification by the Borrower. Without duplication of any obligation under Section 2.17(a) or Section 2.17(b), the Borrower shall indemnify the Administrative Agent and each Lender within ten (10) days after receipt of the certificate described in the succeeding sentence, for the full amount of any Indemnified Taxes payable or paid by the Administrative Agent or such Lender, as applicable (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.17), and, in each case, any reasonable expenses arising therefrom or with respect thereto, whether or not correctly or legally imposed or asserted. In connection with any request for reimbursement under this Section 2.17(c), the relevant Lender or the Administrative Agent, as applicable, shall deliver a certificate to the Borrower setting forth, in reasonable detail, the basis and calculation of the amount of the relevant payment or liability. Notwithstanding anything to the contrary contained in this Section 2.17, no Borrower shall be required to indemnify the Administrative Agent or any Lender pursuant to this Section 2.17 for any amount to the extent the Administrative Agent or such Lender fails to notify the Borrower of such possible indemnification claim within 180 days after the Administrative Agent or such Lender receives notice from the applicable taxing authority of the specific tax assessment giving rise to such indemnification claim.

(d) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.05(c) relating to the maintenance of a Participant/SPC 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 (d).

(e) Evidence of Payments. As soon as practicable after any payment of any Taxes pursuant to this Section 2.17 by any Loan Party to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued, if any, by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment that is reasonably satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders).

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of any withholding Tax with respect to any payment 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 as the Borrower or the Administrative Agent may reasonably request to 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 Requirements of 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. Each Lender hereby authorizes the Administrative Agent to deliver to the Borrower and to any successor Administrative Agent any documentation provided to the Administrative Agent pursuant to this Section 2.17(f). 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 clauses (f)(ii)(A), (ii)(B) and (ii)(D) of this Section) 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) each Lender that is a US Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which it becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two (2) executed copies of IRS Form W-9 certifying that such Lender is exempt from US federal backup withholding;

(B) each Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent 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 any Foreign Lender claiming the benefits of an income tax treaty to which the US is a party, (x) with respect to payments of interest under any Loan Document, two executed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms), as applicable, establishing any available exemption from, or reduction of, US federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) two (2) executed copies of IRS Form W-8ECI (or any successor forms);

(3) in the case of any Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or 881(c) of the Code, (x) two (2) executed copies of a certificate substantially in the form of Exhibit O-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10-percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code, and that no payments payable to such Lender are effectively connected with the conduct of a US trade or business (a “Tax Compliance Certificate”) and (y) two (2) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable (or any successor forms); or

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

(C) each Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent 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), two (2) executed copies of any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in US federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Requirements of 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 any Lender under any Loan Document would be subject to US federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable),

such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by applicable Requirements of Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation as is prescribed by applicable Requirements of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether 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.

For the avoidance of doubt, if a Lender is an entity disregarded from its owner for US federal income tax purposes, references to the foregoing documentation are intended to refer to documentation with respect to such Lender's owner and, as applicable, such Lender.

Each Lender agrees that if any documentation it previously delivered expires or becomes obsolete or inaccurate in any respect (including any specific documentation required above in this Section 2.17(f)), it shall deliver to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and the Administrative Agent in writing of its legal ineligibility to do so.

(g) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund (whether received in cash or applied as a credit against any cash taxes payable) of any Indemnified Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.17 with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (g), in no event will the Administrative Agent or any Lender be required to pay any amount to the Borrower pursuant to this clause (g) to the extent that the payment thereof would place the Administrative Agent or such Lender in a less favorable net after-Tax position than the position that the Administrative Agent or such Lender would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section 2.17 shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the relevant Loan Party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) [Reserved].

(j) Certain Documentation. On or before the date the Administrative Agent becomes a party to this Agreement, the Administrative Agent shall deliver to the Borrower whichever of the following is applicable: (i) if the Administrative Agent is a US Person, two (2) executed copies of IRS Form W-9 certifying that such Administrative Agent is exempt from US federal backup withholding or (ii) if the Administrative Agent is not a US Person, (A) with respect to payments received for its own account, two (2) executed copies of IRS Form W-8ECI and (ii) with respect to payments received on account of any Lender, two (2) executed copies of IRS Form W-8IMY (together with all required accompanying documentation) certifying that the Administrative

Agent is either (x) a “qualified intermediary” and that it assumes primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the account of others or (y) a “U.S. branch” and may be treated as a United States person for purposes of applicable US federal withholding Tax. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. Notwithstanding anything to the contrary in this Section 2.17(j), the Administrative Agent shall not be required to provide any documentation that the Administrative Agent is not legally eligible to deliver as a result of a Change in Law after the Closing Date.

Section 2.18. Payments Generally; Allocation of Proceeds; Sharing of Payments.

(a) Unless otherwise specified, the Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 3:00 p.m. on the date when due. Each such payment shall be made in immediately available funds (or such other form of consideration as the relevant Lender may agree), without set-off or counterclaim. Any amount received after such time on any date may, in the discretion of the Administrative Agent (acting at the Direction of the Required Lenders), be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated by the Administrative Agent to the Borrower, except that payments pursuant to Sections 2.15, 2.16, 2.17 and/or 9.03 shall be made directly to the Person or Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Except as provided in Section 2.20 or as otherwise expressly provided herein, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on the Loans and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type shall be allocated pro rata among the Lenders of a specified Class in accordance with their respective Applicable Percentages of such Class. Each Lender agrees that in computing such Lender’s portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender’s percentage of such Borrowing to the next higher or lower whole Dollar amount. All payments hereunder shall be made in Dollars (or such other form of consideration as the relevant recipient may agree). Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) At all times when Section 2.18(c) does not apply and except as otherwise expressly provided herein, monies to be applied to the Obligations, whether arising from payments by the Loan Parties, realization on Collateral, setoff, or otherwise, shall be allocated as follows:

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including attorney costs and fees and expenses of the Administrative Agent payable under Section 9.03 and amounts payable under Section 2.15, 2.16 or 2.17) payable to the Administrative Agent in its capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including attorney costs and fees and expenses of Specified Lender Advisors payable under Section 9.03 and amounts payable under Section 2.15, 2.16 or 2.17), ratably among them in proportion to the amounts described in this clause (ii) payable to them, until paid in full;

(iii) *Third*, to ratable pay interest and principal due in respect of all First Out Take Back Loans and each other Class of Loans then outstanding that is pari passu with the First Out Take Back Loans in both right of payment and with respect to security;

(iv) *Fourth*, to ratable pay interest and principal due in respect of all Second Out Take Back Loans and each other Class of Loans then outstanding that is pari passu with the Second Out Take Back Loans in both right of payment and with respect to security;

(v) *Fifth*, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(vi) *Sixth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full; and

(vii) *Seventh*, the balance, if any, to the Borrower or as otherwise required by Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until paid in full and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category.

(c) After the occurrence and during the continuation of an Event of Default, monies to be applied to the Obligations, whether arising from payments by the Loan Parties, realization on Collateral, setoff or otherwise, shall be allocated as follows:

(i) *First*, (i) to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including attorney costs and fees and expenses of the Administrative Agent payable under Section 9.03 and amounts payable under Section 2.15, 2.16 or 2.17) payable to the Administrative Agent in its capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including attorney costs and fees and expenses of Specified Lender Advisors payable under Section 9.03 and amounts payable under Section 2.15, 2.16 or 2.17), ratably among them in proportion to the amounts described in this clause (ii) payable to them, until paid in full;

(iii) *Third*, to ratable pay interest and principal due in respect of all First Out Take Back Loans and each other Class of Loans then outstanding that is pari passu with the First Out Take Back Loans in both right of payment and with respect to security;

(iv) *Fourth*, to ratable pay interest and principal due in respect of all Second Out Take Back Loans and each other Class of Loans then outstanding that is pari passu with the Second Out Take Back Loans in both right of payment and with respect to security;

(v) *Fifth*, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(vi) *Sixth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vii) *Seventh*, to pay any other Obligations until paid in full; and

(viii) *Last*, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until paid in full and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. The allocations set forth in this Section 2.18(c) are solely to determine the rights and priorities of the Administrative Agent and the Lenders as among themselves, may be changed by agreement among the Administrative Agent and all of the Lenders without the consent of any Loan Party. Appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section 2.18(c). This Section 2.18(c) is not for the benefit of or enforceable by any Loan Party.

(d) If any Lender obtains payment (whether voluntary, involuntary, through the exercise of any right of set-off or otherwise) in respect of any principal of or interest on any of its Loans of such Class held by it resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender with Loans of such Class, then the Lender receiving such greater proportion shall purchase (for Cash at face value) participations in the Loans of such Class at such time outstanding to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of such Class in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by any Lender as consideration for the assignment of or sale of a participation in any of its Loans to any permitted assignee or participant, including any payment made or deemed made in connection with Section 9.05. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirements of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise rights of set-off and counterclaim against the Borrower with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.18(d) and will, in each case, notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.18(d) shall from and after the date of such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

(e) Unless the Administrative Agent has received written notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of any Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lender the amount due. In such event, if the Borrower has not in fact made such payment, then each Lender severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with banking industry rules on interbank compensation.

(f) If any Lender fails to make any payment required to be made by it pursuant to Section 2.07(b) or Section 2.18(e), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amount thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.19. [Reserved].

Section 2.20. Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to Term SOFR, or to determine or charge interest rates based upon Term SOFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of Dollars in the applicable interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Term SOFR Loans in the effected currency or currencies or to convert ABR Loans to Term SOFR Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Term SOFR component of the Alternate Base Rate, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent (acting at the Direction of the Required Lenders) without reference to the Term SOFR component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist (which notice such Lender agrees to give promptly). Upon receipt of such notice, (x) the Borrower shall, upon demand from the relevant Lender (with a copy to the Administrative Agent), prepay or convert all of such Lender's Term SOFR Loans to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent (acting at the Direction of the Required Lenders) without reference to the Term SOFR component of the Alternate Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Term SOFR Loans (in which case the Borrower shall not be required to make payments pursuant to Section 2.16 in connection with such payment); (y) [reserved] and (z) if such notice asserts the illegality of such Lender determining or charging interest rates based upon Term SOFR, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the Term SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Term SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a different lending office if such designation will avoid the need for such notice and will not, in the determination of such Lender, otherwise be materially disadvantageous to such Lender.

Section 2.21. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Person becomes a Defaulting Lender, then the following provisions shall apply for so long as such Person is a Defaulting Lender:

(a) [Reserved].

(b) The Commitments or Loans of such Defaulting Lender shall not be included in determining whether all Lenders, each affected Lender or such other number of Lenders as may be required hereby or under any other Loan Document have taken or may take any action hereunder (including any consent to any waiver, amendment or modification pursuant to Section 9.02); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which (i) increases the Commitment of such Defaulting Lender hereunder, (ii) reduces the principal amount of any amount owing to such Defaulting Lender or (iii) affects such Defaulting Lender disproportionately and adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of any Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 2.11, Section 2.15, Section 2.16, Section 2.17, Section 2.18, Article 7, Section 9.05 or otherwise, and including any amount made available to the Administrative Agent by such Defaulting Lender pursuant to Section 9.09), shall be applied at such time or times as may be determined by the Administrative Agent (acting at the Direction of

the Required Lenders) and, where relevant, the Borrower as follows: *first*, to the payment of any amount owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, so long as no Default or Event of Default exists, as the Borrower may request, to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; *third*, as the Administrative Agent (acting at the Direction of the Required Lenders) or the Borrower may elect, to be held in a deposit account and released in order to satisfy obligations of such Defaulting Lender to fund Loans under this Agreement; *fourth*, to the payment of any amount owing to the non-Defaulting Lenders or as a result of any judgment of a court of competent jurisdiction obtained by any non-Defaulting Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, to the payment of any amount owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loan in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loan was made or created, as applicable, at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loan of such Defaulting Lender. Any payment, prepayment or other amount paid or payable to any Defaulting Lender that are applied (or held) to pay amounts owed by any Defaulting Lender shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

Section 2.22. Incremental Credit Extensions.

(a) The Borrower may, at any time, on one or more occasions pursuant to an Incremental Facility Amendment add one or more new Classes of term loan facilities and/or increase the principal amount of the Term Loans of any existing Class by requesting new commitments to provide such Loans (any such new Class or increase, an "Incremental Facility" and any loan made pursuant to an Incremental Facility, "Incremental Loans") in an aggregate outstanding principal amount not to exceed the Incremental Cap; provided that:

(i) no Incremental Facility may be in an amount that is less than \$5,000,000 (or such lesser amount to which the Administrative Agent may reasonably agree),

(ii) each Lender shall be provided with the opportunity to participate in any Incremental Facility on a pro rata basis in accordance with such Lender's Applicable Percentage of the Commitments and Loans outstanding immediately prior to giving effect to such Incremental Facility; provided that except as the Borrower and any Lender may separately agree, no Lender shall be obligated to provide any Incremental Commitment, and the determination to provide such commitments shall be within the sole and absolute discretion of such Lender,

(iii) no Incremental Facility or Incremental Loan (nor the creation, provision or implementation thereof) shall require the approval of any existing Lender other than in its capacity, if any, as a lender providing all or part of any Incremental Commitment or Incremental Loan,

(iv) except as otherwise permitted herein (including with respect to currency, pricing (including any "MFN" or other pricing terms), interest rate margins, rate floors, fees, premiums (including prepayment premiums), funding discounts, maturity and amortization), the terms of any Incremental Facility, if not substantially consistent with those applicable to any then-existing Term Loans, must (1) reflect market terms and conditions, taken as a whole, for the type of financing at the time of incurrence thereof (as determined by the Borrower in good faith) or (2) be reasonably acceptable to the Administrative Agent (it being agreed that any terms contained in such Incremental Facility (x) that are applicable only after the then-existing Latest Maturity Date, (y) that are, taken as a whole, more favorable to the lenders or the agent of such Incremental Facility than those contained in the Loan Documents (as determined by the Borrower in good faith) and are then conformed (or added) to the Loan Documents for the benefit of the Term Lenders or, as applicable, the Administrative Agent (i.e., by conforming or adding a term to the then-outstanding Term Loans pursuant to the

applicable Incremental Facility Amendment) (it being understood and agreed that no consent of any Lender shall be required to conform (or add) such term to the Loan Documents) and (z) that are, taken as a whole, not more favorable to the lenders or the agent of such Incremental Facility than those contained in the Loan Documents (as determined by the Borrower in good faith), in each case, shall be deemed acceptable to the Administrative Agent); provided that, notwithstanding anything to the contrary herein but without limiting the requirement to satisfy the applicable requirements of this Section 2.22 as of the date of the effectiveness thereof, any Incremental Facility may be structured as a “delayed draw” facility with such conditions to any borrowing thereunder as the Borrower and the lenders providing such Incremental Facility may agree;

(v) the currency, pricing (including any “MFN” or other pricing terms), interest rate margins, rate floors, fees, premiums (including prepayment premiums), funding discounts and, subject to clauses (vi), (vii) and (viii) below, the maturity and amortization schedule applicable to any Incremental Facility shall be determined by the Borrower and the lender or lenders providing such Incremental Facility; provided that, in the case of any Incremental Facility that is pari passu with either the First Out Take Back Loans or the Second Out Take Back Loans in right of payment and/or with respect to security, the Effective Yield applicable thereto may not be more than the Effective Yield applicable to such applicable Class of Loans denominated in the same currency as such Incremental Facility unless the Applicable Rate (and/or, as provided in the proviso below, the Alternate Base Rate floor or SOFR floor) with respect to the Initial Loans in such currency is adjusted, or fees are paid to the relevant Initial Term Lenders, in each case, such that the Effective Yield in respect of such Initial Loans is not more than the Effective Yield with respect to such Incremental Facility; provided, further, that any increase in Effective Yield applicable to any Initial Loan due to the application or imposition of an Alternate Base Rate floor or SOFR floor on any Incremental Loan may, at the election of the Borrower, be effected solely through an increase in (or implementation of, as applicable) any Alternate Base Rate floor or SOFR floor applicable to such Initial Loan (this clause (v), the “MFN Provision”),

(vi) the final maturity date with respect to any Incremental Loan shall be no earlier than the then-existing Latest Maturity Date,

(vii) the Weighted Average Life to Maturity of any Incremental Facility shall be no shorter than the remaining Weighted Average Life to Maturity of the then-existing tranche of Term Loans (without giving effect to any prepayment thereof),

(viii) subject to clauses (vi) and (vii) above, any Incremental Facility may otherwise have an amortization schedule as determined by the Borrower and the lenders providing such Incremental Facility,

(ix) subject to clause (v) above, to the extent applicable, any fees payable in connection with any Incremental Facility shall be determined by the Borrower and the arrangers and/or lenders providing such Incremental Facility; provided that each Lender that participates in any Incremental Facility shall receive no less than such Lender’s pro rata share of such fees, based on such Lender’s Applicable Percentage of such Incremental Facility,

(x) (A) any Incremental Facility may rank pari passu with or junior to any then-existing Class of Term Loans in right of payment and/or security or may be unsecured; provided that, such Incremental Facility shall consist solely of (I) unsecured Loans, (II) First Out Take Back Loans and/or (III) Second Out Take Back Loans; provided, further, that, so long as any First Out Take Back Loans remain outstanding, unless such Incremental Facility is consented to by the Required Lenders with respect to the First Out Take Back Facility, such Incremental Facility shall consist solely of (I) unsecured Loans and/or (II) Second Out Take Back Loans and (B) no Incremental Facility may be (x) guaranteed by any subsidiary that is not a Loan Party or (y) secured by any asset other than the Collateral,

(xi) any Incremental Facility may participate (A) in any voluntary prepayment of Term Loans as set forth in Section 2.11(a)(i) and (B) in any mandatory prepayment of Term Loans as set forth in Section 2.11(b)(vi), in each case, to the extent provided in such Sections,

(xii) (A) no Event of Default shall exist immediately prior to or after giving effect to the incurrence or implementation of such Incremental Facility;

(xiii) the proceeds of any Incremental Facility may be used for working capital needs and other general corporate purposes (including capital expenditures, acquisitions and other Investments, working capital and or purchase price adjustments, Restricted Payments and Restricted Debt Payments and related fees and expenses) and any other use not prohibited by this Agreement, and

(xiv) on the date of the Borrowing of any Incremental Loans that will be of the same Class as any then-existing Class of Term Loans, and notwithstanding anything to the contrary set forth in Sections 2.08 or 2.13 above, such Incremental Loans shall be added to (and constitute a part of, be of the same Type as and, at the election of the Borrower, have the same Interest Period as) each Borrowing of outstanding Term Loans of such Class on a pro rata basis (based on the relative sizes of such Borrowings), so that each Term Lender providing such Incremental Loans will participate proportionately in each then-outstanding Borrowing of Loans of such Class; it being acknowledged that the application of this clause (a)(xiv) may result in new Incremental Loans having Interest Periods (the duration of which may be less than one month) that begin during an Interest Period then applicable to outstanding SOFR Loans of the relevant Class and which end on the last day of such Interest Period.

(b) Subject to the requirements of Section 2.22(a)(ii), Incremental Commitments may be provided by any existing Lender, or by any other Eligible Assignee (any such other lender being called an “Incremental Lender”); provided that the Administrative Agent shall have a right to consent (such consent not to be unreasonably withheld, conditioned or delayed) to the relevant Incremental Lender’s provision of Incremental Commitments if such consent would be required under Section 9.05(b) for an assignment of Loans to such Incremental Lender; provided, further, that any Incremental Lender that is an Affiliated Lender shall be subject to the provisions of Section 9.05(g), mutatis mutandis, to the same extent as if the relevant Incremental Commitments and related Obligations had been acquired by such Lender by way of assignment.

(c) Each Lender or Incremental Lender providing a portion of any Incremental Commitment shall execute and deliver to the Administrative Agent and the Borrower all such documentation (including the relevant Incremental Facility Amendment) as may be reasonably required by the Administrative Agent to evidence and effectuate such Incremental Commitment. On the effective date of the relevant Incremental Commitment, each Incremental Lender shall become a Lender for all purposes in connection with this Agreement.

(d) As conditions precedent to the effectiveness of any Incremental Facility or the making of any Incremental Loans, (i) upon its request (or the request of Required Lenders), the Administrative Agent shall be entitled to receive customary written opinions of counsel with respect to the Borrower, as well as such reaffirmation agreements, supplements and/or amendments as it shall reasonably require, (ii) the Administrative Agent shall be entitled to receive, from each Incremental Lender, an Administrative Questionnaire and such other documents as it shall reasonably require from such Incremental Lender, (iii) the Administrative Agent and the Incremental Lenders shall be entitled to receive all fees required to be paid in respect of such Incremental Facility or Incremental Loans, (iv) subject to Section 2.22(h), the Administrative Agent shall have received a Borrowing Request as if the relevant Incremental Loans were subject to Section 2.03 or another written request the form of which is reasonably acceptable to the Administrative Agent (it being understood and agreed that the requirement to deliver a Borrowing Request shall not result in the imposition of any condition precedent, including to the availability of the relevant Incremental Loans (including with respect to the absence of a Default or Event of Default and/or the accuracy of any representation and/or warranty)), (v) the Administrative Agent shall be entitled to receive a certificate of the Borrower signed by a Responsible Officer thereof certifying and attaching a copy of the resolutions adopted by the governing body of the Borrower approving or consenting to such Incremental Facility or Incremental Loans and (vi) the Flood Insurance Requirements shall be re-satisfied with respect to any Mortgaged Property.

(e) Notwithstanding anything to the contrary in this Section 2.22, or in any other provision of any Loan Document, the conditions to availability or funding of any Incremental Facility shall be determined by the relevant Incremental Lenders providing such Incremental Facility and the Borrower.

(f) [Reserved].

(g) [Reserved].

(h) The Lenders hereby irrevocably authorize the Administrative Agent to, and the Administrative Agent shall (without the consent of any Lenders (other than those providing the applicable Incremental Facility)), enter into any Incremental Facility Amendment and/or any amendment to any other Loan Document as may be necessary, appropriate or advisable in order to establish new Classes or sub-Classes in respect of Loans or commitments pursuant to this Section 2.22 and such technical amendments as may be necessary, appropriate or advisable in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new Classes or sub-Classes. In addition, the Incremental Facility Amendment with respect to any Incremental Facility may, without the consent of any Lenders (other than those providing such Incremental Loans) or the Administrative Agent, include such amendments to this Agreement as may be necessary, appropriate or advisable as reasonably determined by the Administrative Agent and the Borrower to make the applicable Incremental Loans “fungible” with the relevant existing Class of Term Loans (including by modifying the amortization schedule and/or extending the time period during which any prepayment premium applies).

(i) The Administrative Agent and the Lenders hereby consent to the consummation of the transactions contemplated by this Section 2.22 (including, for the avoidance of doubt, payment of any interest, fees, or premium in respect of any Incremental Loans on such terms as may be set forth in the relevant Incremental Facility Amendment) and hereby waive the requirements of any provision of this Agreement (including, without limitation, any pro rata payment or amendment section) or any other Loan Document that may otherwise prohibit or restrict any such incremental facility or any other transaction contemplated by this Section 2.22.

(j) This Section 2.22 shall supersede any provision in Section 2.18 or 9.02 to the contrary.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

On the dates and to the extent required pursuant to Section 4.01 or 4.02 or 4.03, as applicable, the Borrower hereby represents and warrants to the Lenders and the Administrative Agent that:

Section 3.01. Organization; Powers. Holdings, Intermediate Holdings, the Borrower and each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) (a) is (i) duly organized or incorporated (as applicable) and validly existing and (ii) in good standing (to the extent such concept exists in the relevant jurisdiction) under the Requirements of Law of its jurisdiction of organization, (b) has all requisite organizational power and authority to own its assets and to carry on its business as now conducted and (c) is qualified to do business in, and is in good standing (to the extent such concept exists in the relevant jurisdiction) in, every jurisdiction where the ownership, lease or operation of its properties or conduct of its business requires such qualification, except, in each case referred to in this Section 3.01 (other than clause (a)(i) and clause (b), in each case, with respect to any Loan Party) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.02. Authorization; Enforceability. The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party are within such Loan Party’s corporate or other organizational power and have been duly authorized by all necessary corporate or other organizational action of such Loan

Party. Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to the Legal Reservations and, solely in the case of the UK Loan Parties, the UK Legal Reservations and the Perfection Requirements.

Section 3.03. Governmental Approvals; No Conflicts. The execution and delivery of each Loan Document by each Loan Party thereto and the performance by such Loan Party thereof (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) in connection with the Perfection Requirements and (iii) such consents, approvals, registrations, filings, or other actions the failure to obtain or make which could not be reasonably expected to have a Material Adverse Effect, (b) will not violate any (i) of such Loan Party's Organizational Documents or (ii) Requirement of Law applicable to such Loan Party which violation, in the case of this clause (b)(ii), would reasonably be expected to have a Material Adverse Effect and (c) will not violate or result in a default under any material Contractual Obligation to which such Loan Party is a party which violation, in the case of this clause (c), would reasonably be expected to result in a Material Adverse Effect and solely in respect of any UK Loan Party, subject to the UK Legal Reservations.

Section 3.04. Financial Condition; No Material Adverse Effect.

(a) The most recent of (i) the audited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of the fiscal year ended on or about December 31, 2022 and the related audited consolidated statement of cash flows and income statement of the Borrower and its Subsidiaries for such fiscal year and (B) the unaudited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal quarter ended on or about September 30, 2023 and the related unaudited consolidated income statement and statement of cash flows of the Borrower and its Subsidiaries for the three month period then ended and (ii) the financial statements most recently provided pursuant to Section 5.01(a) or (b), as applicable, present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower on a consolidated basis as of such dates and for such periods in accordance with GAAP, (x) except as otherwise expressly noted herein, and/or (y) subject, in the case of quarterly financial statements, to the absence of footnotes and normal year-end adjustments.

(b) Since the Petition Date, there have been no events, developments or circumstances that have had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.05. Properties.

(a) Schedule 3.05 sets forth the address of each Real Estate Asset (or each set of such assets that collectively comprise one operating property) that is owned in fee simple by any Loan Party.

(b) Holdings, Intermediate Holdings, the Borrower and each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) have good and valid fee simple title to or rights to purchase, or valid leasehold interests in, or easements or other limited property interests in, all of their respective Real Estate Assets and have good and valid title to their personal property and assets, including the Collateral, in each case, except (i) for defects in title that do not materially interfere with their ability to conduct their business as currently conducted or to utilize such properties and assets for their intended purposes, (ii) for any Lien permitted under Section 6.02 hereof, or (iii) where the failure to have such title would not reasonably be expected to have a Material Adverse Effect.

(c) Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) own or otherwise have a license or right to use all rights in Patents, Trademarks, Copyrights and other rights in works of authorship (including all copyrights embodied in software) and all other intellectual property rights ("IP Rights") used to conduct their respective businesses as presently conducted without, to the knowledge of the Borrower, any infringement or misappropriation of the

IP Rights of third parties, except to the extent the failure to own or license or have rights to use would not, or where such infringement or misappropriation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of Holdings, Intermediate Holdings or the Borrower, threatened in writing against or affecting Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (i) neither Holdings, Intermediate Holdings, the Borrower nor any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) is subject to or has received notice of any Environmental Claim or Environmental Liability or knows of any basis for any Environmental Liability or Environmental Claim of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) and (ii) neither Holdings, Intermediate Holdings, the Borrower nor any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) has failed to comply with any Environmental Law or to obtain, maintain or comply with any Governmental Authorization, permit, license or other approval required under any Environmental Law.

(c) Neither Holdings, Intermediate Holdings, the Borrower nor any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) has treated, stored, transported or Released any Hazardous Materials on, at, under or from any currently or formerly owned, leased or operated real estate or facility in a manner that would reasonably be expected to have a Material Adverse Effect.

Section 3.07. Compliance with Laws. Each of Holdings, Intermediate Holdings, the Borrower and each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) is in compliance with all Requirements of Law applicable to it or its property, except, in each case where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; it being understood and agreed that this Section 3.07 shall not apply to the Requirements of Law covered by Section 3.17 below.

Section 3.08. Investment Company Status. No Loan Party is an “investment company” as defined in, or is required to be registered under, the Investment Company Act of 1940.

Section 3.09. Taxes. Each of Holdings, Intermediate Holdings, the Borrower and each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) has timely filed or caused to be filed all Tax returns required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it that are due and payable (including in its capacity as a withholding agent), except (a) Taxes that are not required to be paid in accordance with Section 5.03, (b) Taxes (or any requirement to file Tax returns with respect thereto) that are being contested in good faith by appropriate proceedings and for which Holdings, Intermediate Holdings, the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP or (c) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.10. ERISA.

(a) Each Plan is in compliance in form and operation with its terms and with ERISA and the Code and all other applicable Requirements of Law, except where any failure to comply would not reasonably be expected to result in a Material Adverse Effect.

(b) In the five-year period prior to the date on which this representation is made or deemed made, no ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect.

Section 3.11. Disclosure. With respect to information relating to the Loan Parties and their subsidiaries, all written information (other than the financial estimates, other forward-looking information and/or projected information and information of a general economic or industry-specific nature) concerning Holdings, Intermediate Holdings, the Borrower and their Subsidiaries that was prepared by or on behalf of the Borrower or its representatives and made available to any Lender or the Administrative Agent in connection with the Transactions, when taken as a whole, did not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to all supplements and updates thereto from time to time).

Section 3.12. Solvency. As of the Closing Date and after giving effect to the Transactions and the inurrence of the Indebtedness and obligations being incurred in connection with this Agreement and the Transactions, (a) the sum of the debt (including contingent liabilities) of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), taken as a whole, does not exceed the fair value of the assets (on a going concern basis) of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), taken as a whole; (b) the capital of Holdings, Intermediate Holdings, the Borrower and the Borrower's Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), taken as a whole, is not unreasonably small in relation to the business of Holdings, Intermediate Holdings, the Borrower or their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), taken as a whole, contemplated as of Closing Date; and (c) Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debt as they mature in accordance with their terms. For the purposes hereof, the amount of any contingent liability at any time will be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

Section 3.13. Subsidiaries. Schedule 3.13 sets forth, in each case as of the Closing Date, (a) a correct and complete list of the name of Holdings, Intermediate Holdings, each subsidiary of Holdings and the ownership interest therein held by Holdings, Intermediate Holdings, the Borrower or their applicable subsidiary, and (b) the type of entity of Holdings, Intermediate Holdings, the Borrower and each of their subsidiaries.

Section 3.14. Security Interest in Collateral. Subject to the Perfection Requirements (and, solely in the case of any UK Loan Party, the UK Legal Reservations) and the provisions of this Agreement and/or any other Loan Document, the Collateral Documents create legal, valid and enforceable Liens on all of the Collateral in favor of the Administrative Agent, for the benefit of itself and the other Secured Parties, and upon the satisfaction of the applicable Perfection Requirements, such Liens constitute perfected Liens (with the priority that such Liens are expressed to have under the relevant Collateral Documents, unless otherwise permitted hereunder or under any Collateral Document) on the Collateral (to the extent such Liens are required to be perfected under the terms of the Loan Documents) securing the Secured Obligations, in each case as and to the extent set forth therein.

For the avoidance of doubt, notwithstanding anything herein or in any other Loan Document to the contrary, neither the Borrower nor any other Loan Party makes any representation or warranty as to (A) the effect of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in the Capital Stock held by any Loan Party in any Person organized under the laws of any jurisdiction other than the jurisdiction in which such Loan Party is organized, or as to the rights and remedies of the Administrative

Agent or any Lender with respect thereto, under the Requirements of Law of any jurisdiction other than the jurisdiction in which such Loan Party is organized, (B) the enforcement of any security interest, or right or remedy with respect to any Collateral that may be limited or restricted by, or require any consent, authorization approval or license under, any Requirement of Law or (C) on the Closing Date and until required pursuant to Section 5.12, the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent the same is not required on the Closing Date.

Section 3.15. Labor Disputes. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (a) there are no strikes, lockouts or slowdowns against Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) pending or, to the knowledge of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), threatened and (b) the hours worked by and payments made to employees of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters.

Section 3.16. Federal Reserve Regulations. No part of the proceeds of any Loan have been, or will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation U or Regulation X.

Section 3.17. OFAC; PATRIOT ACT and FCPA.

(a) (i) None of Holdings, Intermediate Holdings, the Borrower nor any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) nor, to the knowledge of the Borrower, any director, officer or employee of any of the foregoing is, or is owned 50% or more by, one or more persons that are (A) named on the Specially Designated Nationals List maintained by the US Treasury Department's Office of Foreign Assets Control ("OFAC"), the UK, the EU, or the UN, (B) located, organized or resident in a country or territory that is the subject of comprehensive, territory-based US sanctions (as of the date of this Agreement, the Crimea, Donetsk, and Luhansk regions of Ukraine, Cuba, Iran, North Korea, Syria or Russia), or (C) otherwise a target of sanctions; and (ii) the Borrower will not directly or, to its knowledge, indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any Person for the purpose of financing activities of or with any Person, or in or with any country or territory, that is the subject of any US, UK, EU, or UN sanctions, except to the extent permitted, licensed or otherwise approved by relevant sanctions authority in each jurisdiction, as applicable.

(b) To the extent applicable, each Loan Party is in compliance with all applicable sanctions and, in all material respects, with the USA PATRIOT Act.

(c) (i) Neither Holdings, Intermediate Holdings, the Borrower nor any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) nor, to the knowledge of the Borrower, any director, officer, agent (solely to the extent acting in its capacity as agents for Holdings, Intermediate Holdings, the Borrower or any of their subsidiaries) or employee of Holdings, Intermediate Holdings, the Borrower or any Subsidiary (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), has taken any action, directly or indirectly, that would result in a material violation by any such Person of the US Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), or any applicable anti-corruption Requirement of Law of any applicable Governmental Authority, including, without limitation, making any offer, payment, promise to pay or authorization or approval of the payment of any money, or other property, gift, promise to give or authorization of the giving of anything of value, directly or indirectly, to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in each case in contravention of the FCPA and any applicable anti-corruption Requirement of Law of any Governmental Authority; and (ii) the Borrower has not directly or, to its knowledge, indirectly,

used the proceeds of the applicable Loans or otherwise made available such proceeds to any governmental official or employee, political party, official of a political party, candidate for public office or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage in violation of the FCPA or any applicable anti-corruption Requirement of Law of any applicable Governmental Authority.

The representations and warranties set forth in Section 3.17 above made by or on behalf of any Foreign Subsidiary are subject to and limited by any Requirement of Law applicable to such Foreign Subsidiary; it being understood and agreed that to the extent that any Foreign Subsidiary is unable to make any representation or warranty set forth in Section 3.17 as a result of the application of this sentence, such Foreign Subsidiary shall be deemed to have represented and warranted that it is in compliance, in all material respects, with any equivalent Requirement of Law relating to sanctions, anti-terrorism, anti-corruption or anti-money laundering that is applicable to such Foreign Subsidiary in its relevant local jurisdiction of organization.

Section 3.18. Insurance. Schedule 3.18 sets forth a true, complete and correct description, in all material respects, of all material insurance (excluding any title insurance) maintained by or on behalf of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) as of the Closing Date. As of such date, such insurance is in full force and effect.

Section 3.19. Use of Proceeds. The Borrowers will use the proceeds of the Loans in accordance with Section 5.11.

ARTICLE 4

CONDITIONS

Section 4.01. Closing Date. The obligations of each Lender to make Loans on the Closing Date, shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent and the Specified Lender Advisors shall have received from the Borrower and each other Loan Party, to the extent party thereto, (i) a counterpart signed by the Borrower or such other Loan Party (or written evidence reasonably satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) (which may include a copy transmitted by facsimile or other electronic method) that such party has signed a counterpart) of (A) this Agreement, (B) each Promissory Note requested by a Lender at least one (1) Business Day prior to the Closing Date and (C) each of the other Loan Documents to be executed and delivered on the Closing Date as set forth on Schedule 4.01(b) and (ii) a Borrowing Request if required by Section 2.03.

(b) Legal Opinions. The Administrative Agent shall have received customary legal opinions of (i) Kirkland & Ellis LLP, special New York counsel to the Loan Parties and covering such matters customarily covered in opinions of this type as the Required Lenders shall reasonably request and (ii) each counsel set forth on Schedule 4.01(b).

(c) [Reserved].

(d) Secretary's or Directors' Certificate and Good Standing Certificates of Loan Parties. The Administrative Agent shall have received (i) a certificate of each Loan Party on the Closing Date, dated the Closing Date and executed by a Responsible Officer, which shall (A) [reserved], (B) identify by name and title and bear the signatures of each Responsible Officer or authorized signatory of such Loan Party on the Closing Date that is authorized to sign the Loan Documents to which it is a party on the Closing Date, as applicable and (C) certify (I) that attached thereto is a true and complete copy of the certificate or articles of incorporation

or organization (or memorandum of association, articles of association or other equivalent thereof) of each Loan Party on the Closing Date (certified by the relevant authority of the jurisdiction of organization of such Loan Party) and a true and correct copy of its by-laws or operating, management, partnership or similar agreement (to the extent applicable) and (II) that such documents or agreements have not been amended (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date) and (ii) a good standing certificate, dated as of a recent date for each such Loan Party (other than a UK Loan Party) from its jurisdiction of organization.

(e) Representations and Warranties. The representations and warranties of the Loan Parties set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date; provided that to the extent that any representation and warranty specifically refers to a given date or period, it shall be true and correct in all material respects as of such date or for such period; provided, however, that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(f) Fees and Expenses. Prior to or substantially concurrently with the incurrence of the Loans hereunder, the Administrative Agent and the Lenders shall have received all fees payable hereunder or under any Loan Documents, including the Administrative Agent Fee Letter, on or prior to the Closing Date and, to the extent invoiced at least one Business Day prior to the Closing Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses (including the reasonable and documented fees, charges, disbursements and expenses of the (i) Specified Lender Advisors, (ii) ArentFox Schiff LLP, as counsel to the Administrative Agent and (iii) such other advisors as are necessary and appropriate, subject to the consent of the Borrower (not to be unreasonably withheld, conditioned or delayed)) shall be paid, in each case to the extent required to be reimbursed or paid by the Loan Parties hereunder or under any other Loan Document on or prior to the Closing Date.

(g) Filings, Registrations and Recordings. Unless otherwise agreed by the Administrative Agent and except with respect to Collateral on which a lien cannot be perfected by (i) the filing of a UCC financing statement or (ii) the delivery of possessory collateral, each document (including any UCC (or similar) financing statement) required by any Collateral Document or under applicable Requirements of Law to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral required to be delivered pursuant to such Collateral Document, shall be in proper form for filing, registration or recordation.

(h) Solvency Certificate. The Administrative Agent (or its counsel) shall have received a certificate in substantially the form of Exhibit P from a Responsible Officer of the Borrower dated as of the Closing Date and certifying as to the matters set forth therein.

(i) Perfection Certificate. The Administrative Agent (or its counsel) and the Specified Lender Advisors shall have received a completed Perfection Certificate, dated as of the Closing Date and signed by a Responsible Officer of the Borrower, together with all attachments contemplated thereby.

(j) Consents and Approvals. All necessary governmental and third party consents and approvals necessary in connection with the Exit Facility and the Transactions shall have been obtained (without the imposition of any materially adverse conditions that are not acceptable to the Required Lenders (which may be communicated via a Direction of the Required Lenders)) and shall remain in effect and shall not have been vacated, reversed, amended, modified, repealed or stayed in any respect without the Required Lenders’ consent (which consent of the Required Lenders may be communicated via a Direction of the Required Lenders); and the making of the loans under the Exit Facility shall not violate any material applicable requirement of law and shall not be enjoined temporarily, preliminarily or permanently.

(k) No Default. On the Closing Date and immediately after giving effect to the incurrence of the Loans and the consummation of the Transactions, no Default or Event of Default shall have occurred and be continuing.

(l) USA PATRIOT Act. No later than one (1) Business Day in advance of the Closing Date, the Administrative Agent shall have received all documentation and other information reasonably requested with respect to any Loan Party in writing (which may be by email) by any Lender at least five (5) Business Days in advance of the Closing Date, which documentation or other information is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(m) Beneficial Ownership Certification. To the extent any Loan Party qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, no later than three (3) Business Days in advance of the Closing Date, the Administrative Agent shall have received a Beneficial Ownership Certification in relation to such Loan Party to the extent reasonably requested by it at least five (5) Business Days in advance of the Closing Date.

(n) Officer’s Certificate. The Administrative Agent and the Specified Lender Advisors shall have received a certificate from a Responsible Officer of the Borrower certifying satisfaction of the conditions precedent set forth in Sections 4.01(e), (k) and (o).

(o) No Material Adverse Effect. No event, circumstance or condition shall have occurred since the Petition Date that has had, or would reasonably be expected to have, a Material Adverse Effect.

(p) Confirmation Order. The Confirmation Order, authorizing the Loan Parties to execute, deliver, and perform their obligations under this Agreement and the other Loan Documents, shall have been entered and in full force and effect, and shall be a Final Order (as defined in the Chapter 11 Confirmed Plan).

(q) Restructuring Transactions. The Restructuring Transactions (as defined in the Chapter 11 Confirmed Plan) shall have been (or concurrently with the Closing Date, shall be) substantially consummated in accordance with the Chapter 11 Confirmed Plan, applicable Requirements of Law, and the Bankruptcy Code.

(r) Collateral Matters. The Collateral and Guaranty Requirement shall be satisfied.

For purposes of determining whether the conditions specified in this Section 4.01 have been satisfied on the Closing Date, by funding the Loans hereunder, each Lender shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) or such Lender, as the case may be.

ARTICLE 5

AFFIRMATIVE COVENANTS

From the Closing Date until the date on which all Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than (i) contingent indemnification obligations for which no claim or demand has been made and (ii) Banking Services Obligations as to which arrangements reasonably satisfactory to the applicable counterparty have been made) have been paid in full in the manner prescribed by Section 2.18 (such date, the “Termination Date”), Holdings, Intermediate Holdings and the Borrower hereby covenant and agree with the Lenders and the Administrative Agent that:

Section 5.01. Financial Statements and Other Reports. The Borrower will deliver to the Administrative Agent for delivery by the Administrative Agent, subject to Section 9.05(f), to each Lender:

(a) Quarterly Financial Statements. Within (i) 120 days after the end of the first Fiscal Quarter ending after the Closing Date and (ii) 60 days after the end of each Fiscal Quarter of each Fiscal Year ending thereafter, the consolidated balance sheet of Holdings and its Subsidiaries as at the end of such Fiscal Quarter and the related consolidated statements of operations and cash flows of Holdings and its Subsidiaries, in each case, for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, and setting forth, in reasonable detail, in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Responsible Officer Certification with respect thereto; provided, however, that any comparison against the corresponding figures from the corresponding period in any prior Fiscal Year may reflect the financial results of any applicable predecessor entity; provided further that such financial statements shall be accompanied by unaudited consolidating information that summarizes in reasonable detail any differences (if any) between the information relating to Holdings and its Subsidiaries, on the one hand, and the information relating to Borrower and its Subsidiaries on a stand-alone basis, on the other hand;

(b) Annual Financial Statements. Within 120 days after the end of each Fiscal Year ending after the Closing Date, (i) the consolidated balance sheet of Holdings and its Subsidiaries, in each case, as at the end of such Fiscal Year and the related consolidated statements of operations and cash flows of Holdings and its Subsidiaries for such Fiscal Year and, setting forth, in reasonable detail, in comparative form the corresponding figures for the previous Fiscal Year (to the extent available) and (ii) with respect to such consolidated financial statements for Holdings and its Subsidiaries, a report thereon of an independent certified public accountant of recognized national standing (which report shall not be subject to (A) a “going concern” qualification (but not a “going concern” explanatory paragraph or like statement or any “emphasis of matter”) (except as resulting from the impending maturity of any Indebtedness prior to the expiry of the four full Fiscal Quarter period following the date of the relevant report) or (B) a qualification as to the scope of the relevant audit), and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of each of Holdings and its Subsidiaries as at the dates indicated and its results of operations and cash flows for the periods indicated in conformity with GAAP; provided that such financial statements shall be accompanied by unaudited consolidating information that summarizes in reasonable detail any differences (if any) between the information relating to Holdings and its Subsidiaries, on the one hand, and the information relating to Borrower and its Subsidiaries on a stand-alone basis, on the other hand;

(c) Compliance Certificate and Narrative Report. (i) Together with each delivery of financial statements pursuant to Section 5.01(a) (other than with respect to the fourth Fiscal Quarter) and Section 5.01(b), (A) a duly executed and completed Compliance Certificate and (B) a list identifying each subsidiary of Holdings as a Subsidiary Guarantor as of the last day of the period covered by such Compliance Certificate or certifying there has been no change to such list since the most recently delivered Compliance Certificate and (ii) together with each delivery of financial statements pursuant to Section 5.01(a) and (b), a customary narrative report

describing the operations of Holdings and its Subsidiaries for the relevant Fiscal Quarter or Fiscal Year, as applicable;

(d) Monthly Financial Summaries. Within 20 Business Days after the end of each calendar month ending after the Closing Date (or such later date at the Administrative Agent may agree (acting at the Direction or the Required Lenders in their sole discretion)), the Administrative Agent shall have received (for distribution to the Lenders) a monthly financial report for such calendar month, including, without limitation, flash financials and key performance indicators, an update on current inventory and other financial information as the Required Lenders may reasonably request from time to time; provided that, for each of calendar months ending after the Closing Date but prior to September 30, 2024, the Borrower may deliver a non-GAAP profit and loss statement (subject to adjustments necessary to account for impacts of fresh-start accounting following the Closing Date), in form and substance satisfactory to the Required Lenders, for each such month in satisfaction of its obligations pursuant to this clause (b);

(e) Notice of Default. Promptly upon any Responsible Officer of the Borrower obtaining knowledge of (i) any Default or Event of Default or (ii) the occurrence of any event or change that has caused or evidences or would reasonably be expected to cause or evidence, either individually or in the aggregate, a Material Adverse Effect, a reasonably-detailed written notice specifying the nature and period of existence of such condition, event or change and what action the Borrower has taken, is taking and proposes to take with respect thereto;

(f) Notice of Litigation. Promptly upon any Responsible Officer of the Borrower obtaining knowledge of (i) the institution of, or threat of, any Adverse Proceeding not previously disclosed in writing by the Borrower to the Administrative Agent, or (ii) any material development in any Adverse Proceeding that, in the case of either of clauses (i) or (ii), would reasonably be expected to have a Material Adverse Effect, written notice thereof from the Borrower together with such other non-privileged information as may be reasonably available to the Loan Parties to enable the Lenders to evaluate such matters;

(g) ERISA. Promptly upon any Responsible Officer of the Borrower becoming aware of the occurrence of any ERISA Event that would reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof;

(h) Financial Plan. No later than 90 days after the beginning of each Fiscal Year an annual consolidated financial budget (the "Budget") prepared by management of the Borrower;

(i) Information Regarding Collateral. The Borrower will furnish to the Administrative Agent prompt (and, in any event, no later than ten (10) days prior to the relevant change) written notice of any change in (A) any Loan Party's legal name, (B) any Loan Party's type of organization, (C) any Loan Party's jurisdiction of organization or (D) any Loan Party's organizational identification number, in each case to the extent such information is necessary to enable the Administrative Agent to perfect or maintain the perfection and priority of its security interest in the Collateral of the relevant Loan Party, and, promptly (and in any event within ten (10) days of the relevant change) a certified copy of the applicable Organizational Document reflecting the relevant change;

(j) Lender Calls. Upon request of the Administrative Agent (acting at the Direction of the Required Lenders), within 15 Business Days (or such longer period as may be agreed by the Administrative Agent (acting at the Direction of the Required Lenders)) after each delivery of financial statements pursuant to Section 5.01(a) (other than with respect to the fourth Fiscal Quarter) and Section 5.01(b), the Borrower will host a conference call with the Lenders at a time to be mutually agreed between the Borrower and the Administrative Agent to review the financial information presented therein;

(k) Certain Reports. Promptly upon their becoming available and without duplication of any obligations with respect to any such information that is otherwise required to be delivered under the provisions of any Loan Document, copies of all regular and periodic reports and all registration statements (other than on Form

S-8 or a similar form) and prospectuses, if any, filed by Holdings, its applicable Parent Company or the relevant publicly traded entity with any securities exchange or with the SEC or any analogous Governmental Authority or private regulatory authority with jurisdiction over matters relating to securities, in each case, other than any prospectus relating to any equity plan; and

(l) Other Information. Such additional information (financial or otherwise) as the Administrative Agent on its own behalf or on behalf of any Lender may reasonably request from time to time regarding the financial condition or business of Holdings and its Subsidiaries; provided, however, that neither Holdings nor any Subsidiary shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of any Person, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which Holdings or any Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.01(l)); provided, however, that the Borrower shall notify the Administrative Agent, to the extent not prohibited by applicable Requirements of Law, resulting in a loss of such privilege or violating such confidentiality obligations, if any information shall have been withheld in reliance on any of the foregoing clauses (i) through (iv).

Documents required to be delivered pursuant to this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or a representative thereof) (x) posts such documents or (y) provides a link thereto at the website address listed on Schedule 9.01; provided that, other than with respect to items required to be delivered pursuant to Section 5.01(l) above, the Borrower shall promptly notify (which notice may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents at the website address listed on Schedule 9.01 and provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents; (ii) on which such documents are delivered by the Borrower to the Administrative Agent for posting on behalf of the Borrower on IntraLinks/SyndTrak or another relevant website (the “Platform”), if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) in respect of the items required to be delivered pursuant to Section 5.01(k) above with respect to information filed by Holdings or its applicable Parent Company with any securities exchange or with the SEC or any analogous governmental or private regulatory authority with jurisdiction over matters relating to securities, on which such items have been made available on the SEC website or the website of the relevant analogous governmental or private regulatory authority or securities exchange (including, for the avoidance of doubt, by way of “EDGAR”).

Notwithstanding the foregoing, the obligations in clauses (a), (b) and (h) of this Section 5.01 may instead be satisfied with respect to any financial statements of the Borrower by furnishing (A) the applicable financial statements of any Parent Company or (B) any Parent Company’s Form 10-K or 10-Q, as applicable, filed with the SEC or any securities exchange, in each case, within the time periods specified in such paragraphs and without any requirement to provide notice of such filing to the Administrative Agent or any Lender; provided that, with respect to each of subclauses (A) and (B), (i) to the extent (1) such financial statements relate to any Parent Company and (2) either (I) such Parent Company (or any other Parent Company that is a subsidiary of such Parent Company) has any material third party Indebtedness and/or material operations (as determined by the Borrower in good faith and other than any operations that are attributable solely to such Parent Company’s ownership of the Borrower and its Subsidiaries) or (II) there are material differences between the financial statements of such Parent Company and its consolidated subsidiaries, on the one hand, and Borrower and its consolidated subsidiaries, on the other hand, such financial statements or Form 10-K or Form 10-Q, as applicable, shall be accompanied by unaudited consolidating information that summarizes in reasonable detail the differences between the information relating to such Parent Company and its consolidated subsidiaries, on the one hand, and the information relating to Borrower and its consolidated subsidiaries on a stand-alone basis, on the other hand, which consolidating information shall be certified by a Responsible Officer of the Borrower as having been fairly presented in all material

respects and (ii) to the extent such statements are in lieu of statements required to be provided under Section 5.01(b), such statements shall be accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall satisfy the applicable requirements set forth in Section 5.01(b).

Section 5.02. Existence. Except as otherwise permitted under Section 6.06 or Section 6.12, Holdings, Intermediate Holdings and the Borrower will, and each of Holdings, Intermediate Holdings and the Borrower will cause each of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, at all times preserve and keep in full force and effect (i) its existence and (ii) all rights, franchises, licenses and permits material to its business except, solely in the case of clause (ii), to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect; provided that none of Holdings, Intermediate Holdings, the Borrower nor any of Holdings' Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) shall be required to preserve any such right, franchise, license or permit if a Responsible Officer of such Person or such Person's board of directors (or similar governing body) determines that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

Section 5.03. Payment of Taxes. Holdings, Intermediate Holdings and the Borrower will, and will cause each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income or businesses or franchises before any penalty or fine accrues thereon; provided, however, that no such Tax need be paid if (a) it is being contested in good faith by appropriate proceedings, so long as (i) adequate reserves or other appropriate provisions, as are required in conformity with GAAP, have been made therefor and (ii) in the case of a Tax which has resulted or may result in the creation of a Lien on any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax and/or (b) failure to pay or discharge the same could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.04. Properties. Holdings, Intermediate Holdings and the Borrower will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear and casualty and condemnation excepted, all property reasonably necessary to the normal conduct of business of Holdings and its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) and from time to time will make or cause to be made all needed and appropriate repairs, renewals and replacements thereof except as expressly permitted by this Agreement or where the failure to maintain such properties or make such repairs, renewals or replacements would not reasonably be expected to have a Material Adverse Effect.

Section 5.05. Insurance.

(a) Holdings, Intermediate Holdings, and the Borrower will maintain or cause to be maintained, with financially sound and reputable insurers, such insurance coverage with respect to liability, loss or damage in respect of the assets, properties and businesses of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons. Each such policy of insurance shall, subject to Section 5.15 hereof, (i) name the Administrative Agent on behalf of the Secured Parties as an additional insured thereunder as its interests may appear and (ii) to the extent available from the relevant insurance carrier, in the case of each casualty insurance policy (excluding any business interruption insurance policy and in respect of any policy of insurance maintained by a Non-US Subsidiary), contain a lender loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties as the lender loss payee thereunder and, to the extent available from the relevant insurance carrier after submission of a request by the applicable Loan Party to obtain the same, provide for at least 30 days' prior

written notice to the Administrative Agent of any modification or cancellation of such policy (or 10 days' prior written notice in the case of the failure to pay any premiums thereunder).

(b) If any Real Estate Asset constituting Collateral is at any time a Flood Hazard Property and the community in which such Real Estate Asset is located participates in the Flood Program, then the Borrower shall, or shall cause each applicable Loan Party to, comply in all material respects with the Flood Insurance Requirements. In connection with any Flood Compliance Event, the Administrative Agent shall provide to the Secured Parties evidence of compliance with the Flood Insurance Requirements, to the extent received from the Borrower. The Borrower and each Loan Party shall, to the extent reasonably requested by the Administrative Agent or any Lender subject to the Flood Insurance Requirements, cooperate with the Administrative Agent in connection with compliance with the Flood Insurance Requirements.

(c) If a Flood Redesignation shall occur with respect to any Real Estate Asset constituting Collateral located in the US, the Administrative Agent shall obtain a completed Flood Certificate with respect to the applicable Real Estate Asset, and the Borrower shall comply with the Flood Insurance Requirements with respect to such Real Estate Asset by not later than the date that is sixty (60) days (or such later date to which the Administrative Agent may reasonably agree) after receipt of such Flood Certificates from the Administrative Agent.

Section 5.06. Inspections. Holdings, Intermediate Holdings and the Borrower will, and will cause each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, permit any authorized representative designated by the Administrative Agent, or, so long an Event of Default has occurred and is continuing, any of the Lenders, to visit and inspect any of the properties of Holdings, Intermediate Holdings, the Borrower and any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its and their respective financial and accounting records, and to discuss its and their respective affairs, finances and accounts with its and their Responsible Officers and independent public accountants (provided that the Borrower (or any of its subsidiaries) may, if it so chooses, be present at or participate in any such discussion), all upon reasonable notice and at reasonable times during normal business hours; provided that (a) only the Administrative Agent on behalf of the Lenders or, so long an Event of Default has occurred and is continuing, or any of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.06, (b) except as expressly set forth in clause (c) below during the continuance of an Event of Default, the Administrative Agent shall not exercise such rights more often than one time during any calendar year, (c) when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice and (d) notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information of any Person, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives or contractors) is prohibited by applicable Requirements of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which the Borrower or any owes confidentiality obligations to any third party (provided that such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.06).

Section 5.07. Maintenance of Book and Records. Holdings, Intermediate Holdings and the Borrower will, and will cause their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, maintain proper books of record and account containing entries of all material financial transactions and matters involving the assets and business of Holdings, Intermediate Holdings, the Borrower and their Subsidiaries that are full, true and correct in all material respects and permit the preparation of consolidated financial statements in accordance with GAAP (it being understood and agreed that Foreign Subsidiaries may

maintain individual books, accounts and records in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of incorporation or organization).

Section 5.08. Compliance with Laws. Holdings, Intermediate Holdings and the Borrower will comply, and will cause each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to comply, with the requirements of all applicable Requirements of Law (including applicable ERISA and all Environmental Laws, any applicable US, EU, UK, or UN sanctions, the USA PATRIOT ACT and the FCPA), except to the extent the failure of Holdings, Intermediate Holdings, the Borrower or the relevant Subsidiary to comply would not reasonably be expected to have a Material Adverse Effect; provided that the requirements set forth in this Section 5.08, as they pertain to compliance by any Foreign Subsidiary with any US, EU, UK, or UN sanctions administered by OFAC, the USA PATRIOT ACT and the FCPA are subject to and limited by any Requirement of Law applicable to such Foreign Subsidiary in its relevant local jurisdiction and shall not apply to such Foreign Subsidiary to the extent the same conflict with relevant local Requirements of Law applicable to such Foreign Subsidiary.

Section 5.09. Environmental.

(a) Environmental Disclosure. The Borrower will deliver to the Administrative Agent as soon as practicable following the sending or receipt thereof by Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), a copy of any and all written communications with respect to (A) any Environmental Claim that, individually or in the aggregate, has a reasonable possibility of giving rise to a Material Adverse Effect, (B) any Release required to be reported by Holdings, Intermediate Holdings, the Borrower, or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to any federal, state or local governmental or regulatory agency or other Governmental Authority that reasonably could be expected to have a Material Adverse Effect, (C) any request made to Holdings or any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) for information from any governmental agency that suggests such agency is investigating whether Holdings, Intermediate Holdings, the Borrower or any of their subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) may be potentially responsible for any Hazardous Materials Activity which is reasonably expected to have a Material Adverse Effect and (D) subject to the limitations set forth in the proviso to Section 5.01(l), such other documents and information as from time to time may be reasonably requested by the Administrative Agent (acting at the Direction of the Required Lenders) in relation to any matters disclosed pursuant to this Section 5.09(a); and

(b) Hazardous Materials Activities, Etc. Holdings, Intermediate Holdings and the Borrower shall promptly take, and shall cause each of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) promptly to take, any and all actions necessary to (i) cure any violations of applicable Environmental Laws by Holdings, Intermediate Holdings, the Borrower or their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) and address with appropriate corrective or remedial action any Release or threatened Release of Hazardous Materials at or from any Facility, in each case, that would reasonably be expected to have a Material Adverse Effect and (ii) make an appropriate response to any Environmental Claim against Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) and discharge any obligations it may have to any Person thereunder, in each case, where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.10. [Reserved]

Section 5.11. Use of Proceeds. The Borrower shall use the proceeds of the Loans (i) to refinance the Existing Loans in accordance with Section 2.01, and (ii) in connection with any Incremental Facility, for working capital needs and other general corporate purposes or as otherwise set forth in the applicable Incremental Facility Amendment, and in each case not in contravention of any Requirements of Law or of any Loan Document.

Section 5.12. Covenant to Guarantee Obligations and Provide Security.

(a) Upon either (i) the formation or acquisition after the Closing Date of any Subsidiary or (ii) any Subsidiary ceasing to be an Excluded Subsidiary, in each case, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) for the Fiscal Quarter in which the relevant formation, acquisition, designation or cessation occurred (or such longer period as the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably agree), the Borrower shall (A) cause such Subsidiary (other than any Excluded Subsidiary) to comply with the requirements set forth in clause (b) of the definition of “Collateral and Guarantee Requirement” and (B) upon the reasonable request of the Administrative Agent (acting at the Direction of the Required Lenders), cause the relevant Subsidiary (other than any Excluded Subsidiary) to deliver to the Administrative Agent a signed copy of a customary opinion of counsel for such Subsidiary, addressed to the Administrative Agent and the other relevant Secured Parties.

(b) Within five (5) days (or such longer period as the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably agree) after the acquisition by Holdings or any Loan Party that is a Subsidiary of Holdings of any Material Real Estate Asset other than any Excluded Asset, the Borrower will give the Administrative Agent written notice of the acquisition of such Material Real Estate Asset. Promptly upon receipt of such written notice, the Administrative Agent shall request that each Lender confirm to the Administrative Agent that it has completed any flood insurance diligence that such Lender is required to complete according to its internal policies and procedures. Upon receipt by the Administrative Agent of such confirmation from each Lender, the Administrative Agent shall notify the same in writing to the Borrower and the Borrower shall, or shall cause such Loan Party, to comply with the requirements set forth in clause (d) of the definition of “Collateral and Guarantee Requirement” within ninety (90) days of the receipt of such written notice (or such longer period as the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably agree); provided that the failure to satisfy the requirements set forth in clause (d) of the definition of “Collateral and Guarantee Requirement” with respect to any Material Real Estate Asset due to (x) any Lender not providing such confirmation to the Administrative Agent or (y) the Administrative Agent not providing any written notice contemplated by this clause (b) to the Borrower, in each case, shall not be a Default or give rise to an Event of Default. For purposes of this clause (b), any Material Real Estate Asset owned by any Subsidiary at the time such Subsidiary is required to become a Loan Party under Section 5.12(a) above shall be deemed to have been acquired by such Subsidiary on the first day of the time period within which such Subsidiary is required to become a Loan Party under Section 5.12(a).

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Borrower may elect to cause any Subsidiary that is incorporated or organized under the laws of (i) England and Wales, Bermuda, Malta, the US, any state thereof or the District of Columbia or (ii) any other jurisdictions reasonably acceptable to the Administrative Agent and the Required Lenders, which Subsidiary is not otherwise required to be a Subsidiary Guarantor (any such subsidiary, a “Discretionary Guarantor”) to comply with the applicable requirements set forth in clause (c) of the definition of “Collateral and Guarantee Requirement” and, subject to such compliance with such Collateral and Guarantee Requirements and receipt by the Administrative Agent of all documentation and other information in respect of such Subsidiary that is reasonably requested by the Administrative Agent (acting at the Direction of the Required Lenders) or required by regulatory authorities to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, any such Person shall constitute a Loan Party and a Guarantor for all purposes hereunder.

(d) Notwithstanding anything to the contrary herein or in any other Loan Document, it is understood and agreed that:

(i) the Administrative Agent (acting at the Direction of the Required Lenders) may grant extensions of time (including after the expiration of any relevant period, which may apply retroactively) for the creation and perfection of security interests in, or obtaining of title insurance, legal opinions, surveys or other deliverables with respect to, particular assets or the provision of any Loan Guaranty by any Subsidiary (in connection with assets acquired, or Subsidiaries formed or acquired, after the Closing Date), and each Lender hereby consents to any such extension of time;

(ii) any Lien required to be granted from time to time pursuant to the definition of "Collateral and Guarantee Requirement" shall be subject to the exceptions and limitations set forth in this Agreement and the Collateral Documents;

(iii) in no event will the Collateral include any Excluded Asset;

(iv) no action shall be required to perfect any Lien with respect to any vehicle or other asset subject to a certificate of title, except to the extent that a security interest therein can be perfected by filing a Form UCC-1 (or similar) financing statement under the UCC; and

(v) no Loan Party shall be required to perfect a Lien in any asset to the extent the perfection of a security interest in such asset would be prohibited under any applicable Requirement of Law.

Section 5.13. Cash Management. Within 75 Business Days of the Closing Date (or such later date as the Administrative Agent may agree (acting at the Direction of the Required Lenders in their sole discretion)), each Loan Party shall (a) cause all amounts on deposit and available in any Deposit Account (other than an Excluded Account) to be swept to one or more concentration deposit accounts maintained by any Loan Party on a daily or other periodic basis as may be agreed by the Administrative Agent (acting at the Direction of the Required Lenders) and (b) enter into (and maintain at all times) a blocked account agreement (each, a "Blocked Account Agreement") in respect of each Deposit Account (other than Excluded Accounts), in form reasonably satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders), with the applicable Loan Party, the Administrative Agent and the financial institution with which such Loan Party maintains such Deposit Account, pursuant to which Blocked Account Agreement the Administrative Agent (for the benefit of the Secured Parties) is granted control over such deposit account and the funds on deposit therein; provided that, for the avoidance of doubt, in no event shall any Blocked Account Agreement be required in respect of any Excluded Account.

Section 5.14. Further Assurances. Promptly upon request of the Administrative Agent (acting at the Direction of the Required Lenders) and subject to the UK Legal Reservations, Perfection Requirements and the limitations described in Section 5.12 (in each case, if applicable):

(a) Holdings, Intermediate Holdings, and the Borrower will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions (including the filing and recordation of financing statements, fixture filings, mortgages and/or amendments thereto and other documents), that may be required under any applicable Requirements of Law and which the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably request to ensure the creation, perfection and priority of the Liens created or intended to be created under the Collateral Documents, all at the expense of the relevant Loan Parties.

(b) Holdings, Intermediate Holdings and the Borrower will, and will cause each other Loan Party to, (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further

acts (including notices to third parties), deeds, certificates, assurances and other instruments as the Administrative Agent (acting at the Direction of the Required Lenders) may reasonably request from time to time in order to ensure the creation, perfection and priority of the Liens created or intended to be created under the Collateral Documents.

Section 5.15. Post-Closing Covenants. Subject to the limitations described in Section 5.12, take the actions required by Schedule 5.15 in each case within the time periods specified therein (or, in each case, such longer period to which the Administrative Agent (at the Direction of the Required Lenders) may reasonably agree).

Section 5.16. Ratings. Exercise commercially reasonable efforts to obtain within 30 days after the date the Closing Date (or such longer period of time that the Required Lenders may agree in their sole discretion) and maintain (a) public ratings (but not to obtain a specific rating) from Moody's and S&P for the Loans and (b) and public corporate credit ratings and corporate family ratings (but, in each case, not to obtain a specific rating) from Moody's and S&P in respect of the Borrower.

ARTICLE 6

NEGATIVE COVENANTS

From the Closing Date and until the Termination Date, each of the Borrower, Holdings and Intermediate Holdings covenants and agrees with the Lenders and the Administrative Agent that:

Section 6.01. Indebtedness. Such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to create, incur, assume or otherwise become or remain liable with respect to any Indebtedness, except:

(a) the Secured Obligations;

(b) Indebtedness of (i) the Borrower to Holdings and/or any Subsidiary, (ii) Holdings to the Borrower and/or any Subsidiary and/or (iii) any Subsidiary to Holdings, Intermediate Holdings, the Borrower and/or any other Subsidiary; provided that in the case of any Indebtedness of any Subsidiary that is not a Loan Party owing to any Loan Party, such Indebtedness shall (x) be incurred to fund ordinary course expenses and liabilities and be a permitted Investment under this Agreement and (y) to the extent such Indebtedness is owing by (A) Thrasio International Holdings, Inc, a Delaware corporation, Thrasio Ventures, Inc., a Delaware corporation, or any of their respective subsidiaries or (B) any other Excluded Subsidiary, in each case, to a Loan Party, be permitted as an Investment under Section 6.05(r); provided, further, that any Indebtedness of any Loan Party to any Subsidiary that is not a Loan Party incurred in reliance on this clause (b) must be unsecured and expressly subordinated to the Obligations of such Loan Party on terms that are reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders) (including pursuant to an Intercompany Note);

(c) Indebtedness of the Borrower and/or any Subsidiary in respect of letters of credit, bank guarantees, surety bonds, performance bonds or similar instruments in an aggregate amount not to exceed \$20,000,000 outstanding at any time;

(d) [reserved];

(e) Indebtedness of the Borrower and/or any Subsidiary (i) as a result of, or pursuant to, tenders, statutory obligations, bids, leases, governmental contracts, trade contracts, surety, stay, customs, appeal, performance and/or return of money bonds or other similar obligations and (ii) in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items, in each case, in the ordinary course of business;

(f) Indebtedness of the Borrower and/or any Subsidiary in respect of Banking Services and/or otherwise in connection with Cash management and Deposit Accounts, including Banking Services Obligations and incentive, supplier finance or similar programs, in each case, in the ordinary course of business;

(g) (i) guaranties by the Borrower and/or any Subsidiary of the obligations of suppliers, customers and licensees in the ordinary course of business, (ii) Indebtedness incurred in the ordinary course of business in respect of obligations of the Borrower and/or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services and (iii) Indebtedness in respect of letters of credit, bankers' acceptances, bank guaranties or similar instruments supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business;

(h) Guarantees by the Borrower and/or any Subsidiary of Indebtedness or other obligations of the Borrower, any Subsidiary and/or any joint venture with respect to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01; provided that this clause (h) shall not permit Guarantees by any Loan Party of Indebtedness or other obligations of any joint venture or Subsidiary that is not a Loan Party;

(i) Indebtedness (other than as described under Section 6.01(a)) of the Borrower and/or any Subsidiary existing, or pursuant to commitments existing, on the Closing Date; provided that any such Indebtedness or commitment having an outstanding principal amount in excess of \$1,000,000 shall be described on Schedule 6.01; provided that any Indebtedness outstanding pursuant to this clause (i) which is owed by a Loan Party to any Subsidiary that is not a Loan Party shall be junior and subordinated in right of payment to the same extent required pursuant to Section 6.01(b);

(j) [reserved];

(k) Indebtedness of the Borrower and/or any Subsidiary consisting of obligations owing under incentive, supply, license or similar agreements entered into in the ordinary course of business;

(l) Indebtedness of the Borrower and/or any Subsidiary consisting of (i) the financing of insurance premiums in the ordinary course of business, (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business and/or (iii) obligations to reacquire assets or inventory in connection with customer financing arrangements in the ordinary course of business;

(m) so long as no Event of Default then exists, Indebtedness of the Borrower and/or any Subsidiary with respect to Capital Leases and purchase money Indebtedness in an aggregate outstanding principal amount not to exceed \$10,000,000 at any time;

(n) Indebtedness of any Person that becomes a Subsidiary or Indebtedness assumed in connection with any acquisition or similar Investment; provided that:

(i) no Event of Default then exists;

(ii) such Indebtedness (A) existed at the time such Person became a Subsidiary or the assets subject to such Indebtedness were acquired and (B) was not created or incurred in anticipation thereof, and

(iii) all such Indebtedness incurred pursuant to this clause (n) shall not exceed \$4,000,000 in an aggregate outstanding principal amount at any time; provided, further that the aggregate amount of such Indebtedness of Subsidiaries that are not Loan Parties shall, when taken together with the aggregate amount of Indebtedness incurred by Subsidiaries that are not Loan Parties under Section 6.01(u), not exceed \$2,000,000 in an aggregate outstanding principal amount at any time;

(o) [reserved];

(p) [reserved];

(q) [reserved];

(r) [reserved];

(s) Indebtedness of the Borrower and/or any Subsidiary under any Derivative Transaction not entered into for speculative purposes and in the ordinary course of business;

(t) Indebtedness of the Borrower and/or any Subsidiary representing (i) deferred compensation to current or former directors, officers, employees, members of management, managers, and consultants of any of Holdings, Intermediate Holdings, the Borrower and/or any Subsidiary in the ordinary course of business and (ii) deferred compensation or other similar arrangements in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereby, in each case in the ordinary course of business; provided that, no such Indebtedness incurred in reliance on this clause (t) shall be owed to former officers, directors or members of management of any of Holdings, Intermediate Holdings, the Borrower and/or any Subsidiary if such persons ceased to be an officer, director or member of management, as applicable, of any of Holdings, Intermediate Holdings, the Borrower and/or any Subsidiary prior to giving effect to the Transactions;

(u) so long as no Event of Default then exists, Indebtedness of the Borrower and/or any Subsidiary in an aggregate outstanding principal amount not to exceed \$6,000,000 at any time; provided that the amount of such Indebtedness of Subsidiaries that are not Loan Parties shall, when taken together with the amount of Indebtedness incurred by Subsidiaries that are not Loan Parties under Section 6.01(n), not exceed \$2,000,000 in an aggregate outstanding principal amount at any time;

(v) [reserved];

(w) [reserved];

(x) [reserved];

(y) [reserved];

(z) [reserved];

(aa) Indebtedness (including obligations in respect of letters of credit, bank guarantees, bankers' acceptances, surety bonds, performance bonds or similar instruments with respect to such Indebtedness) incurred by the Borrower and/or any Subsidiary in respect of workers compensation claims, unemployment, property, casualty or liability insurance (including premiums related thereto) or self-insurance, other reimbursement-type obligations regarding workers' compensation claims, other types of social security, pension obligations, vacation pay or health, disability or other employee benefits, in each case, in the ordinary course of business;

(bb) [reserved];

(cc) [reserved];

(dd) Indebtedness of the Borrower or any Subsidiary supported by any other letter of credit, bank guarantee or similar instrument permitted by this Section 6.01;

(ee) unfunded pension fund and other employee benefit plan obligations and liabilities incurred by the Borrower and/or any Subsidiary in the ordinary course of business to the extent that the unfunded amounts would not otherwise cause an Event of Default under Section 7.01(i);

(ff) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(gg) [reserved]; and

(hh) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness of the Borrower and/or any Subsidiary hereunder.

Section 6.02. Liens. Such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, create, incur, assume or permit or suffer to exist any Lien securing Indebtedness on or with respect to any property of any kind owned by it, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens securing the Secured Obligations;

(b) Liens for Taxes which (i) are not then due, (ii) if due, are not at such time required to be paid pursuant to Section 5.03, (iii) are excused or prohibited by the Bankruptcy Code or not otherwise authorized by the Bankruptcy Court with respect to periods prior to the Closing Date or (iv) are being contested in accordance with Section 5.03;

(c) statutory Liens (and rights of set-off) of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by applicable Requirements of Law, in each case incurred in the ordinary course of business (i) for amounts not yet overdue by more than 30 days or (ii) for amounts that are overdue by more than 30 days and that are being contested in good faith by appropriate proceedings, so long as any reserves or other appropriate provisions required by GAAP have been made for any such contested amounts;

(d) Liens incurred (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security laws and regulations, (ii) in the ordinary course of business to secure the performance of tenders, statutory obligations, surety, stay, customs and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money), (iii) pursuant to pledges and deposits of Cash or Cash Equivalents in the ordinary course of business securing (x) any liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty, liability or other insurance to the Borrower and its Subsidiaries or (y) leases or licenses of property otherwise permitted by this Agreement and (iv) to secure obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments posted with respect to the items described in clauses (i) through (iii) above;

(e) Liens consisting of survey exceptions, easements, rights-of-way, restrictions, covenants, conditions, declarations, encroachments, zoning restrictions and other defects or irregularities in title or environmental deed restrictions, in each case, which do not, in the aggregate, materially interfere with the ordinary conduct of the business of the Borrower and/or its Subsidiaries, taken as a whole;

(f) Liens consisting of any (i) interest or title of a lessor or sub-lessor under any lease of real estate permitted hereunder, (ii) landlord lien permitted by the terms of any lease, (iii) restriction or encumbrance to which the interest or title of such lessor or sub-lessor may be subject or (iv) subordination of the interest of the lessee or sub-lessee under such lease to any restriction or encumbrance referred to in the preceding clause (iii);

(g) Liens (i) solely on any Cash earnest money deposits (including as part of any escrow arrangement) made by the Borrower and/or any of its Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Investment permitted hereunder and (ii) consisting of (A) an agreement to Dispose of any property in a Disposition permitted under Section 6.06 and/or (B) the pledge of Cash as part of an escrow arrangement required in any Disposition permitted under Section 6.06;

(h) purported Liens evidenced by the filing of UCC financing statements relating solely to operating leases or consignment or bailee arrangements entered into in the ordinary course of business, and Liens arising from precautionary UCC financing statements or similar filings;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) Liens in connection with any zoning, building, environmental or similar Requirements of Law or right reserved to or vested in any Governmental Authority to control or regulate the use or dimensions of any real property or the structures thereon, including Liens in connection with any condemnation or eminent domain proceeding or compulsory purchase order;

(k) [reserved];

(l) Liens in existence on the Closing Date (other than as described under Section 6.02(a)); provided that any such Lien securing Indebtedness having an aggregate principal amount outstanding on the Closing Date in excess of \$1,000,000 shall be described on Schedule 6.02; provided, further that (i) no such Lien extends to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 6.01 and (B) proceeds and products thereof, replacements, accessions or additions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) any such modification, replacement, refinancing, renewal or extension of the obligations secured or benefited by such Liens, if constituting Indebtedness, is permitted by Section 6.01;

(m) [reserved];

(n) Liens securing Indebtedness permitted pursuant to Section 6.01(m); provided that any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, replacements, accessions or additions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(o) [reserved];

(p) (i) Liens that are contractual rights of setoff or netting relating to (A) the establishment of depository relations with banks not granted in connection with the issuance of Indebtedness, (B) pooled deposit or sweep accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business and consistent with the past practices of the Borrower or any Subsidiary, (C) purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business and (D) commodity trading or other brokerage accounts incurred in the ordinary course of business, (ii) Liens encumbering reasonable customary initial deposits and margin deposits made in the ordinary course of business, (iii) bankers Liens and rights and remedies as to Deposit Accounts, (iv) Liens of a collection bank arising under Section 4-208 of the UCC on items in the ordinary course of business and consistent to past practices, (v) Liens in favor of banking or other financial institutions arising as a matter of Law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution and that are within the general parameters customary in the banking industry or arising

pursuant to such banking institution's general terms and conditions, (vi) Liens on the proceeds of any Indebtedness incurred in connection with any transaction permitted hereunder, which proceeds have been deposited into an escrow account on customary terms to secure such Indebtedness pending the application of such proceeds to finance such transaction and (vii) any general banking Lien over any bank account arising in the ordinary course of business;

(q) [reserved];

(r) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Borrower and/or any Subsidiaries;

(s) [reserved];

(t) [reserved];

(u) so long as no Event of Default then exists, Liens on assets securing Indebtedness or other obligations incurred by the Borrower and/or any Subsidiary in an aggregate outstanding principal amount not to exceed \$6,000,000 at any time; provided that the amount of such Indebtedness or obligations of Subsidiaries that are not Loan Parties secured by Liens incurred pursuant to this clause (u) shall not exceed \$2,000,000 in an aggregate outstanding principal amount at any time;

(v) (i) Liens on assets securing judgments, awards, attachments and/or decrees and notices of lis pendens and associated rights relating to litigation being contested in good faith not constituting an Event of Default under Section 7.01(h) and (ii) any pledge and/or deposit securing any settlement of litigation;

(w) leases, licenses, subleases or sublicenses in the ordinary course of business which do not secure any Indebtedness;

(x) Liens on Securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.05 arising out of such repurchase transaction;

(y) Liens securing obligations in respect letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments permitted under Sections 6.01(c), (e), (g) and (aa);

(z) Liens arising (i) out of conditional sale, title retention, consignment or similar arrangements for the sale of any asset in the ordinary course of business and permitted by this Agreement or (ii) by operation of law under Article 2 of the UCC (or similar Requirement of Law under any jurisdiction);

(aa) Liens (i) in favor of any Loan Party and/or (ii) granted by any non-Loan Party in favor of any Subsidiary that is not a Loan Party, in the case of clauses (i) and (ii), securing intercompany Indebtedness permitted under Section 6.01 or Section 6.07;

(bb) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto in the ordinary course of business;

(cc) (i) receipt of progress payments and advances from customers in the ordinary course of business to the extent the same creates a Lien on the related inventory and proceeds thereof and (ii) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(dd) Liens securing (i) obligations of the type described in Section 6.01(f) and/or (ii) obligations of the type described in Section 6.01(s);

(ee) [reserved];

(ff) Liens on Cash or Cash Equivalents arising in connection with the defeasance, discharge or redemption of Indebtedness;

(gg) Liens consisting of the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(hh) [reserved]; and

(ii) ground leases in respect of real property on which facilities owned or leased by the Borrower or any Subsidiary are located.

Section 6.03. Restricted Payments; Restricted Debt Payments.

(a) Such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, pay or make any Restricted Payment, except that:

(i) The Borrower may make Restricted Payments (and expressly identified as a Restricted Payment therein), and to the extent necessary, to permit any Parent Company:

(A) (1) to pay general administrative costs and expenses (including corporate overhead, legal or similar expenses and customary salary, bonus and other benefits payable to directors, officers, employees, members of management, managers and/or consultants of any Parent Company) and franchise Taxes, and similar fees and expenses, required to maintain the organizational existence or qualification to do business of such Parent Company, in each case, which are reasonable and customary and incurred in the ordinary course of business, plus any reasonable and customary indemnification claims made by directors, officers, members of management, managers, employees or consultants of any Parent Company, in each case, to the extent attributable to the ownership or operations of any Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, that is attributable to the ownership or operations of any subsidiary of any Parent Company other than the Borrower and/or its subsidiaries), and/or its Subsidiaries or (2) to reimburse any Parent Company for fees, expenses or obligations that are otherwise in the ordinary course of business and directly incurred on behalf of the Borrower or its Subsidiaries;

(B) to fund (or to further make any distribution to any other direct or indirect owners of the Borrower, including distributions to Holdings, to fund), directly or indirectly, the payment of the aggregate amount of consolidated, combined, unitary or similar group Tax liabilities attributable to the income of the Borrower and its Subsidiaries to the extent such tax liabilities do not exceed the Tax that would have been payable by the Borrower and its Subsidiaries as a stand-alone consolidated, combined, unitary or similar group;

(C) to pay audit and other accounting and reporting expenses of any Parent Company to the extent such expenses are attributable to such Parent Company (but excluding, for the avoidance of doubt, the portion of any such expenses, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than the Borrower and/or its subsidiaries), the Borrower and its Subsidiaries;

(D) for the payment of any insurance premiums that are payable by or attributable to any Parent Company, the Borrower and their Subsidiaries;

(E) [reserved];

(F) [reserved]; and

(G) to pay customary salary, bonus, severance and other benefits payable to current or former directors, officers, members of management, managers, employees or consultants of any Parent Company (or any Immediate Family Member of any of the foregoing) to the extent such salary, bonuses and other benefits are attributable and reasonably allocated to the operations of the Borrower and/or its Subsidiaries, in each case, so long as such Parent Company applies the amount of any such Restricted Payment for such purpose;

(ii) so long as no Event of Default then exists, the Borrower may (or make Restricted Payments to allow any Parent Company to) repurchase, redeem, retire or otherwise acquire or retire for value the Capital Stock of any Parent Company or any subsidiary held by any future, present or former employee, director, member of management, officer, manager or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrower or any subsidiary, with Cash and Cash Equivalents (and including, to the extent constituting a Restricted Payment, amounts paid in respect of promissory notes issued to evidence any obligation to repurchase, redeem, retire or otherwise acquire or retire for value the Capital Stock of any Parent Company, the Borrower or any subsidiary held by any future, present or former employee, director, member of management, officer, manager or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrower or any subsidiary) in an amount not to exceed, in any Fiscal Year, \$1,000,000;

(iii) [reserved];

(iv) the Borrower may make Restricted Payments consisting of payments made or expected to be made in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management, managers or consultants of the Borrower, any subsidiary of the Borrower or Parent Company or any of their respective Immediate Family Members;

(v) [reserved];

(vi) [reserved];

(vii) [reserved];

(viii) the Borrower may make Restricted Payments to (i) redeem, repurchase, retire or otherwise acquire any (A) Capital Stock ("Treasury Capital Stock") of the Borrower and/or any of its Subsidiaries or (B) Capital Stock of any Parent Company, in the case of each of subclauses (A) and (B), in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Borrower and/or any of its Subsidiaries) of, Qualified Capital Stock of the Borrower or any Parent Company to the extent any such proceeds are contributed to the capital of the Borrower and/or any of its Subsidiaries in respect of Qualified Capital Stock ("Refunding Capital Stock") and (ii) declare and pay dividends on any Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Borrower and/or any of its Subsidiaries) of any Refunding Capital Stock;

(ix) to the extent constituting a Restricted Payment, the Borrower may consummate any transaction permitted by Section 6.05 (other than Sections 6.05(j), (t) and (ee)), Section 6.06 (other than Section 6.06(g)) and Section 6.07 (other than Sections 6.07(b), (d), (k) and (n));

(x) (x) so long as no Event of Default then exists, the Borrower may make Restricted Payments in an aggregate amount not to exceed the greater of \$7,750,000 and 10% of Consolidated Adjusted EBITDA as of the last day of the most recently ended Test Period;

(xi) [reserved]; and

(xii) the Borrower may declare and make dividend payments or other Restricted Payments payable solely in the Capital Stock of the Borrower or of any Parent Company.

For purposes of this Section 6.03(a) (and subject to Section 1.10(f)), any determination as to the value of any asset (other than Cash) distributed pursuant to a Restricted Payment shall be made in the good faith determination of the Borrower.

(b) Such Loan Party shall not, nor shall it permit any Subsidiary to, make any prepayment, redemption or repurchase in Cash in respect of principal outstanding under any Restricted Debt (collectively, “Restricted Debt Payments”), except:

(i) so long as no Event of Default then exists, with respect to any purchase, defeasance, redemption, repurchase, repayment or other acquisition or retirement thereof made by exchange for, or out of the proceeds of, Indebtedness permitted by Section 6.01 that has the same or lower priority in terms of payment and security as the Restricted Debt subject to such purchase, defeasance, redemption, repurchase, repayment or other acquisition or retirement;

(ii) as part of an applicable high yield discount obligation catch-up payment; and

(iii) payments of regularly scheduled principal or regularly scheduled interest (including any penalty interest, if applicable) and payments of fees, expenses and indemnification obligations as and when due (other than payments that are prohibited by the subordination provisions thereof).

Section 6.04. Burdensome Agreements. Except as provided herein or in any other Loan Document and/or in any agreements with respect to any refinancings, renewals or replacement of such Indebtedness that is permitted by Section 6.01, such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, enter into or cause to exist any agreement restricting the ability of (x) any Subsidiary that is not a Loan Party to pay dividends or other distributions to the Borrower or any Loan Party or (y) any Loan Party to create, permit or grant a Lien on any of its properties or assets to secure the Secured Obligations, except restrictions:

(a) set forth in any agreement evidencing (i) Indebtedness of a Subsidiary that is not a Loan Party permitted by Section 6.01, (ii) Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien if the relevant restriction applies only to the Person obligated under such Indebtedness and its Subsidiaries or the assets intended to secure such Indebtedness and (iii) Indebtedness permitted pursuant to clauses (m) and/or (u) of Section 6.01;

(b) arising under customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and other agreements entered into in the ordinary course of business;

(c) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any assets or Capital Stock not otherwise prohibited under this Agreement;

(d) [reserved];

(e) set forth in any agreement for any Disposition of any Subsidiary (or all or substantially all of the assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Subsidiary pending such Disposition;

- (f) set forth in provisions in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Capital Stock of a Person other than on a pro rata basis;
- (g) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements;
- (h) on Cash, other deposits or net worth or similar restrictions imposed by any Person under any contract entered into in the ordinary course of business or for whose benefit such Cash, other deposits or net worth or similar restrictions exist;
- (i) set forth in documents which exist on the Closing Date;
- (j) [reserved];
- (k) arising under or as a result of applicable Requirements of Law or the terms of any license, authorization, concession or permit;
- (l) arising in any Hedge Agreement and/or any agreement or arrangement relating to any Banking Services entered into in the ordinary course of business;
- (m) relating to any asset (or all of the assets) of and/or the Capital Stock of the Borrower and/or any Subsidiary which is imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) and/or all or a portion of the Capital Stock of the relevant Person that is permitted or not restricted by this Agreement;
- (n) [reserved];
- (o) customary subordination and/or subrogation provisions set forth in guaranty or similar documentation (not relating to Indebtedness for borrowed money) that are entered into in the ordinary course of business;
- (p) [reserved]; and/or
- (q) imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of any contract, instrument or obligation referred to in clauses (a) through (p) above; provided that no such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, more restrictive with respect to such restrictions, taken as a whole, than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.05. Investments. Such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, make or own any Investment in any other Person except:

- (a) Cash or Investments that were Cash Equivalents at the time made;
- (b) Investments (i) by any Loan Party in any Loan Party, (ii) by any non-Loan Party in any Loan Party and (iii) by any non-Loan Party in any other non-Loan Party;
- (c) Investments (i) constituting deposits, prepayments, trade credit and/or other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and/or (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary

course of business or, in the case of clause (iii), to the extent necessary to maintain the ordinary course of supplies to the Borrower or any Subsidiary;

(d) [reserved];

(e) [reserved];

(f) Investments (i) existing on, or contractually committed to as of, the Closing Date; provided that, to the extent (x) the contractually committed amount of any such Investment on the Closing Date either exceeds \$100,000 or (y) such Investment consists of an Investment by a Loan Party in a Person that is not a Loan Party, such Investment is described on Schedule 6.05; and (ii) any modification, replacement, renewal or extension of any Investment described in clause (i) above so long as no such modification, renewal or extension increases the amount of such Investment or changes the parties thereto except by the terms thereof or as otherwise permitted by this Section 6.05;

(g) Investments received in lieu of Cash in connection with any Disposition permitted by Section 6.06 or any other disposition of assets not constituting a Disposition;

(h) loans or advances to present or former employees, directors, members of management, officers, managers or consultants or independent contractors (or their respective Immediate Family Members) of any Parent Company, the Borrower and/or its subsidiaries to the extent permitted by Requirements of Law, in connection with such Person's purchase of Capital Stock of any Parent Company, in an aggregate principal amount not to exceed \$1,000,000 at any one time outstanding;

(i) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(j) Investments consisting of (or resulting from) Indebtedness permitted under Section 6.01 (other than Indebtedness permitted under Sections 6.01(b) and (h)), Permitted Liens, Permitted Tax Restructuring, Restricted Payments permitted under Section 6.03 (other than Section 6.03(a)(ix) and the final proviso to Section 6.03(a)(i)(B)), Restricted Debt Payments permitted by Section 6.03 and mergers, consolidations, amalgamations, liquidations, windings up, dissolutions or Dispositions permitted by Section 6.06 (other than Section 6.06(a) (if made in reliance on subclause (ii)(y) of the proviso thereto), Section 6.06(c)(ii) (if made in reliance on clause (B) therein) and Section 6.06(g));

(k) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers;

(l) Investments (including debt obligations and Capital Stock) received (i) in connection with the bankruptcy or reorganization of any Person, (ii) in settlement of delinquent obligations of, or other disputes with, customers, suppliers and other account debtors arising in the ordinary course of business, (iii) upon foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment and/or (iv) as a result of the settlement, compromise, resolution of litigation, arbitration or other disputes;

(m) loans and advances of payroll payments or other compensation (including deferred compensation) to present or former employees, directors, members of management, officers, managers or consultants of any Parent Company (to the extent such payments or other compensation relate to services provided to such Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than the Borrower and/or its subsidiaries)), the Borrower and/or any subsidiary, in each case in the ordinary course of business; provided that, (A) such loans and/or advances shall be made as a result of arms' length negotiations and (B) no such loans and/or advances made in reliance on this clause (m) shall be made to former officers, directors or

members of management if such persons ceased to be an officer, director or member of management, as applicable, of any of Holdings, Intermediate Holdings, the Borrower and/or any Subsidiary prior to giving effect to the Transactions;

(n) [reserved];

(o) (i) Investments of any Subsidiary acquired after the Closing Date, or of any Person acquired by, or merged into or consolidated or amalgamated with, the Borrower or any Subsidiary after the Closing Date, in each case as part of an Investment otherwise permitted by this Section 6.05 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of the relevant acquisition, merger, amalgamation or consolidation and (ii) any modification, replacement, renewal or extension of any Investment permitted under clause (i) of this Section 6.05(o) so long as no such modification, replacement, renewal or extension thereof increases the original amount of such Investment except as otherwise permitted by this Section 6.05; *provided* that, no Investments may be made in any Person that is not a Loan Party under this clause (o);

(p) [reserved];

(q) so long as no Event of Default then exists, Investments made after the Closing Date by the Borrower and/or any of its Subsidiaries in an aggregate amount not to exceed \$5,000,000; *provided* that, no Investments may be made in any Person that is not a Loan Party under this clause (q);

(r) cash Investments for operations in the Subsidiaries of Holdings that are not Loan Parties (i) made prior to the Closing Date or (ii) on or after the Closing Date, in an aggregate amount not to exceed \$13,500,000 in any Fiscal Year; provided that (x) such Investments may only be made in Thrasio Holdings Hong Kong, Ltd., Thrasio Global Cross-Border E-Commerce (Shenzhen) Co. Ltd., Thrasio Supply Chain (Suzhou) Co. Ltd., Thrasio E-Commerce (Shanghai) Co., Ltd., Damaze Pty Ltd., Thrasio godo kaisha, The Nutri-Lock Company Pty Ltd, JSCC Asset 001, Thrasio Australia Holdings Pty Ltd, Thrasio Australia Import Pty Ltd, Thrasio Bermuda Holdings Limited, Thrasio godo kaisha (Thrasio GK), Thrasio Malta Holdings Co. Limited, Thrasio India Private Limited, Thrasio India Holdings, Inc., Thrasio LL Acquisitions, Inc. iStack Parent Holdings, Domain Acquisitions 2 Ltd., Thrasio International Holdings, Inc., Thrasio Ventures N1, LLC, Thrasio Ventures Q1, LLC, Thrasio Ventures, Inc., Bonstato GmbH, Thrasio Deutschland Holdings GmbH, Thrasio Deutschland Services GmbH, Thrasio International Co. Limited and Thrasio NL1 B.V. (collectively, the “Subject Non-Loan Parties”) and (y) Investments made in reliance on this clause (r) shall be made solely for bona fide operating purposes of the Subject Non-Loan Parties for the benefit of the Loan Parties and not for any liability management purpose, transaction and/or exercise;

(s) (i) Guarantees of leases (other than Capital Leases) or of other obligations not constituting Indebtedness and (ii) Guarantees of the lease obligations of suppliers, customers, franchisees and licensees of the Borrower and/or its Subsidiaries, in each case, in the ordinary course of business;

(t) Investments made with Net Proceeds of any Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, which constitute a reinvestment of the type permitted under Section 2.11(b)(ii), provided that, any assets acquired in connection with this Section 6.05(t) shall (i) constitute Collateral (subject to the definition of Excluded Assets (other than clause (h) thereof); provided that for the avoidance of doubt, all Net Proceeds of any Prepayment Asset Sale and/or Net Insurance/Condemnation Proceeds arising from Collateral shall be reinvested solely in Collateral), (ii) be held by a Loan Party and (iii) be subject to the Collateral and Guarantee Requirements;

(u) [reserved];

(v) [reserved];

- (w) Investments under any Derivative Transaction of the type permitted under Section 6.01(s);
- (x) [reserved];
- (y) [reserved];
- (z) Investments made in connection with any nonqualified deferred compensation plan or arrangement for any present or former employee, director, member of management, officer, manager or consultant or independent contractor (or any Immediate Family Member thereof) of any Parent Company, the Borrower, its subsidiaries and/or any joint venture;
- (aa) [reserved];
- (bb) [reserved];
- (cc) [reserved];
- (dd) Investments consisting of the non-exclusive licensing, sublicensing or contribution of IP Rights, including pursuant to joint marketing or joint development arrangements with other Persons, in the ordinary course of business; and
- (ee) loans and advances to any Parent Company not in excess of the amount of (after giving effect to any other loan, advance or Restricted Payment in respect thereof) Restricted Payments that are permitted to be made to such Parent Company in accordance with Section 6.03(a)(i), such Investment being treated for purposes of the applicable provision of Section 6.03(a), including any limitation, as a Restricted Payment made pursuant to such clause.

Notwithstanding the foregoing, (A) in no event shall any Investment of Material Intellectual Property be made in any Specified Non-US Loan Party or any Person that is not a Loan Party and (B) in no event shall this Section 6.05 permit an IP Separation Transaction.

Section 6.06. Fundamental Changes; Disposition of Assets. Other than the Transactions, such Loan Party shall not, nor shall it permit any of its Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to, enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), or make any Disposition of any assets in a single transaction or a series of related transactions (including, in each case, pursuant to a Delaware LLC Division), except:

- (a) the Borrower or any of the Borrower's Subsidiaries may be merged, consolidated or amalgamated with or into the Borrower or any of the Borrower's Subsidiaries or, if applicable, effect a Delaware LLC Division, or in the case of any Subsidiary of the Borrower that is not a Loan Party, liquidated wound up or dissolved; provided that (i) in the case of any such merger, consolidation or amalgamation with or into the Borrower or Delaware LLC Division relating to the Borrower, the Borrower shall be the continuing or surviving Person, and (ii) in the case of any such merger, consolidation, amalgamation or Delaware LLC Division with or into any Subsidiary Guarantor, either (A) the Subsidiary Guarantor shall be the continuing or surviving Person or the continuing or surviving Person (or, in the case of an amalgamation, the Person formed as a result thereof) shall expressly assume the obligations of the Borrower or such Subsidiary Guarantor in a manner reasonably satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) or (B) the relevant transaction shall be treated as an Investment and shall comply with Section 6.05;
- (b) Dispositions (including of Capital Stock) among the Loan Parties (upon voluntary liquidation or otherwise);

(c) (i) the liquidation, dissolution or Delaware LLC Division of any of the Borrower's Subsidiaries if the Borrower determines in good faith that such liquidation, dissolution or Delaware LLC Division is in the best interests of the Borrower, is not materially disadvantageous to the Lenders (taken as a whole) and the Borrower or any of the Borrower's Subsidiaries receives the assets (if any) of the relevant liquidated, dissolved or divided Subsidiary; provided that in the case of any liquidation, dissolution or Delaware LLC Division of any Loan Party that results in a distribution of assets to any Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 6.05 (other than in reliance on clause (j) thereof); (ii) any merger, amalgamation, dissolution, liquidation, consolidation or Delaware LLC Division, the purpose of which is to effect (A) any Disposition otherwise permitted under this Section 6.06 (other than clause (a), clause (b) or this clause (c)) or (B) any Investment permitted under Section 6.05 (other than Section 6.05(j)); and (iii) the conversion of the Borrower or any of the Borrower's Subsidiaries into another form of entity, so long as such conversion does not adversely affect the value of the Loan Guaranty or Collateral, if any;

(d) (i) Dispositions of inventory or equipment or immaterial assets in the ordinary course of business (including on an intercompany basis) and consistent with past practice and (ii) the leasing or subleasing of real property in the ordinary course of business; provided that, for the avoidance of doubt, Dispositions of inventory not in the ordinary course of business, including, without limitation, liquidations of inventory shall not be permitted pursuant to this clause (d);

(e) Dispositions of surplus, obsolete, used or worn out property or other property that, in the reasonable judgment of the Borrower and the Administrative Agent (acting at the Direction of the Required Lenders), is (A) no longer useful in its business (or in the business of any Subsidiary of the Borrower) or (B) otherwise economically impracticable to maintain;

(f) Dispositions of Cash and/or Cash Equivalents and/or other assets that were Cash Equivalents when the relevant original Investment was made;

(g) Dispositions, mergers, amalgamations, consolidations or conveyances that constitute (x) Investments permitted pursuant to Section 6.05 (other than Section 6.05(j)), (y) Permitted Liens and (z) Restricted Payments permitted by Section 6.03(a) (other than Section 6.03(a)(ix));

(h) Dispositions for fair value, as determined by the Borrower in good faith (and as consented by the Required Lenders if the consideration for such Disposition is in excess of \$25,000,000); provided that, with respect to any such Disposition, 100% of the consideration for such Disposition shall consist of Cash or Cash Equivalents; provided, further, that (A) immediately prior to and after giving effect to such Disposition, as determined on the date on which the agreement governing such Disposition is executed, no Event of Default then exists and (B) 100% of the Net Proceeds of such Disposition shall be applied and/or reinvested as (and to the extent) required by Section 2.11(b)(ii);

(i) to the extent that (i) the relevant property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant Disposition are promptly applied to the purchase price of such replacement property;

(j) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, buy/sell arrangements between joint venture or similar parties set forth in the relevant joint venture arrangements and/or similar binding arrangements, in each case, in the ordinary course of business;

(k) Dispositions, discounting or forgiveness of notes receivable or accounts receivable in the ordinary course of business (including to insurers which have provided insurance as to the collection thereof) or in connection with the collection or compromise thereof (including sales to factors);

(l) Dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under any open source license), (i) the Disposition or termination of which will not materially interfere with the business of Holdings and its Subsidiaries (taken as a whole) or (ii) which relate to closed facilities or the discontinuation of any product line, in each case, in the ordinary course of business;

(m) (i) any termination of any lease in the ordinary course of business, (ii) any expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort) in the ordinary course of business;

(n) Dispositions of property subject to foreclosure, casualty, eminent domain or condemnation proceedings (including in lieu thereof or any similar proceeding);

(o) Dispositions or consignments of equipment, inventory or other assets (including leasehold interests in real property) with respect to facilities that are temporarily not in use, held for sale or closed, in each case, in the ordinary course of business and consistent with past practices; provided that, for the avoidance of doubt, Dispositions of inventory not in the ordinary course of business, including, without limitation, liquidations of inventory shall not be permitted pursuant to this clause (o);

(p) [reserved];

(q) [reserved];

(r) [reserved];

(s) [reserved];

(t) (i) Dispositions, licensing, sublicensing and cross-licensing arrangements involving any technology, intellectual property or IP Rights of the Borrower or any Subsidiary in the ordinary course of business, and (ii) Dispositions, abandonments, cancellations or lapses of IP Rights, or any issuances or registrations, or applications for issuances or registrations, of any IP Rights, which, in the reasonable good faith determination of the Borrower are not material to the conduct of the business of the Borrower and/or its Subsidiaries, or are no longer economical to maintain in light of their use;

(u) Dispositions in connection with the termination or unwind of Derivative Transactions or Banking Services Obligations;

(v) [reserved];

(w) Dispositions of Real Estate Assets and related assets in the ordinary course of business in connection with relocation activities for directors, officers, employees, members of management, managers or consultants of any Parent Company, the Borrower and/or any Subsidiary;

(x) Dispositions made to comply with any order of any Governmental Authority or any applicable Requirement of Law;

(y) any merger, consolidation, Disposition or conveyance the purpose of which is to reincorporate or reorganize (i) any Subsidiary in another jurisdiction in the US and/or (ii) any Foreign Subsidiary in the US or any other jurisdiction;

(z) any sale of motor vehicles and information technology equipment purchased at the end of an operating lease and resold thereafter;

- (aa) [reserved];
- (bb) Dispositions in connection with reorganizations and/or restructurings and/or activities related to tax planning; provided that, after giving effect to any such reorganization, restructuring or activity, neither the Loan Guaranty, taken as a whole, nor the security interest of the Administrative Agent (for the benefit of the Secured Parties) in the Collateral, taken as a whole, is materially impaired;
- (cc) any Permitted Tax Restructuring; and
- (dd) so long as no Event of Default then exists, other Dispositions made after the Closing Date by the Borrower and/or any of its Subsidiaries in an aggregate amount not to exceed \$5,000,000.

It being understood and agreed (a) to the extent that any Collateral is Disposed of as expressly permitted by this Section 6.06, such Collateral shall be Disposed of free and clear of the Liens created by the Loan Documents, which Liens shall be automatically released upon the consummation of such Disposition; it being understood and agreed that the Administrative Agent (acting at the Direction of the Required Lenders) shall be authorized to take, and shall take any actions reasonably requested by the Borrower in order to effect the foregoing; provided that, in the case of a Disposition by a Loan Party to another Loan Party, the transferee Loan Party shall, substantially concurrently with such release, cause the relevant assets Disposed to it to become part of its Collateral (other than to the extent such assets constitute Excluded Assets) and (b) subject to Section 1.10(f), any determination of fair market value of any asset other than Cash for purposes of this Section 6.06 shall be made by the Borrower in good faith at its election either (1) at the time of the execution of the definitive agreement governing such Disposition or (2) the date on which such Disposition is consummated.

Notwithstanding the foregoing, (A) in no event shall any Disposition of Material Intellectual Property be made to any Specified Non-US Loan Party or any Person that is not a Loan Party, (B) in no event shall this Section 6.06 permit an IP Separation Transaction, (C) in no event shall this Section 6.06 or any other provision of this Agreement permit Dispositions of inventory not in the ordinary course of business (it being understood, for the avoidance of doubt, that the liquidation and any other expedited sell down of inventory shall not be considered to be in the ordinary course of business) without the prior written consent of the Required Lenders.

Section 6.07. Transactions with Affiliates. None of the Borrower, Intermediate Holdings or Holdings shall, shall permit any of their Subsidiaries to, (x) pay any management, monitoring, consulting, transaction, oversight, advisory's or similar fees to any Investor or (y) enter into any other transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) involving payment or consideration with a fair market value, in each case, in excess of \$1,000,000 with any of their respective Affiliates on terms that are less favorable to the Borrower or such Subsidiary, as the case may be (as reasonably determined by the Borrower), than those that might be obtained at the time in a comparable arm's-length transaction from a Person who is not an Affiliate; provided that the foregoing restriction shall not apply to:

- (a) any transaction (or series of related transactions) (including any transaction between or among Holdings, Intermediate Holdings, the Borrower and/or one or more Subsidiaries (or any entity that becomes a Subsidiary as a result of such transaction)) (i) to the extent permitted or not restricted by this Agreement, (ii) in respect of which the Borrower delivers to the Administrative Agent a letter addressed to the board of directors (or equivalent governing body) of the Borrower from an accounting, appraisal or investment banking firm of nationally recognized standing stating that such transaction or transactions, as applicable, is or are on terms that are no less favorable to the Borrower or the applicable Subsidiary than might be obtained at the time in a comparable arm's length transaction from a Person who is not an Affiliate and (iii) approved by the majority of the directors (or members of any similar governing body) of the Borrower or an applicable Parent Company;

(b) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the board of directors (or equivalent governing body) of any Parent Company or of the Borrower or any Subsidiary;

(c) (i) any collective bargaining, employment or severance agreement or compensatory (including profit sharing) arrangement (including salary or guaranteed payment and bonuses) entered into by the Borrower or any of its Subsidiaries with their respective current or former officers, directors, members of management, managers, employees, consultants or independent contractors or those of any Parent Company, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former officers, directors, members of management, managers, employees, consultants or independent contractors and (iii) transactions pursuant to any employee compensation, benefit plan, stock option plan or arrangement, any health, disability or similar insurance plan which covers current or former officers, directors, members of management, managers, employees, consultants or independent contractors or any employment contract or arrangement;

(d) (i) transactions permitted by Sections 6.01(b), (h), (i) and (ee), 6.02(aa), 6.03 and 6.05(b), (f), (m), (o), (r), (t), (z) and (ee), 6.06(a), (b), (c), (d) and (e) and 6.12(a) and (ii) issuances of Capital Stock and issuances and incurrences of Indebtedness not restricted by this Agreement;

(e) [reserved];

(f) [reserved];

(g) the Transactions and the payment of Transaction Costs;

(h) [reserved];

(i) Guarantees permitted by Section 6.01 or Section 6.05;

(j) [reserved];

(k) the payment of customary fees and reasonable out-of-pocket costs and expenses to, and indemnities provided on behalf of, members of the board of directors (or similar governing body), officers, employees, members of management, managers, members, shareholders, consultants and independent contractors of the Borrower and/or any of its Subsidiaries in the ordinary course of business and, in the case of payments to such Person in such capacity on behalf of any Parent Company, to the extent attributable to the operations of the Borrower or its subsidiaries;

(l) transactions with customers, clients, suppliers, joint ventures, purchasers or sellers of goods or services or providers of employees or other labor entered into in the ordinary course of business, which are (i) fair to the Borrower and/or its applicable Subsidiary in the good faith determination of the Borrower (or its board of directors (or similar governing body) or senior management) or (ii) on terms at least as favorable as might reasonably be obtained from a Person other than an Affiliate;

(m) the payment of reasonable out-of-pocket costs and expenses related to registration rights and customary indemnities provided to shareholders under any shareholder agreement;

(n) (i) any purchase by Holdings of the Capital Stock of (or contribution to the equity capital of) the Borrower and (ii) any intercompany loans permitted by Section 6.01 and made by the Borrower to any other Loan Party;

(o) [reserved];

(p) any issuance, sale or grant of securities or other payments, awards or grants in Cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership or incentive plans approved by a majority of the members of the board of directors (or similar governing body) or a majority of the disinterested members of the board of directors (or similar governing body) of the Borrower in good faith; and

(q) any Permitted Tax Restructuring.

Notwithstanding anything else herein to the contrary, for the avoidance of doubt, transactions solely among Excluded Subsidiaries that are not Subsidiaries of the Borrower shall not be subject to the requirements of this Section 6.07.

Section 6.08. Conduct of Business. From and after the Closing Date, such Loan Party shall not, nor shall it permit any of its Subsidiaries to, engage in any material line of business other than (a) the businesses engaged in by such Loan Party or any Subsidiary on the Closing Date and similar, incidental, complementary, ancillary or related businesses and (b) such other lines of business to which the Administrative Agent (acting at the Direction of the Required Lenders) may consent.

Section 6.09. Amendments or Waivers of Organizational Documents. Such Loan Party shall not, nor shall it permit any Subsidiary to, amend or modify their respective Organizational Documents, in each case in a manner that is adverse to the Lenders (in their capacities as such), taken as a whole, without obtaining the prior written consent of the Administrative Agent (acting at the Direction of the Required Lenders); provided that, for purposes of clarity, it is understood and agreed that the Borrower and/or any Subsidiary may effect a change to its respective organizational form and/or consummate any other transaction that is permitted under Section 6.06.

Section 6.10. Amendments of or Waivers with Respect to Restricted Debt. Such Loan Party shall not, nor shall it permit any of its Subsidiaries to, amend or otherwise modify (a) the subordination terms applicable to any Restricted Debt or (b) any other terms applicable to any Restricted Debt, in each case, if the effect of such amendment or modification, together with all other amendments or modifications made, is materially adverse to the interests of the Lenders (in their capacities as such).

Section 6.11. Fiscal Year. Such Loan Party shall not change its Fiscal Year-end to a date other than as described in the definition of Fiscal Year.

Section 6.12. Holdings and Intermediate Holdings. Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each of Holdings and Intermediate Holdings shall not:

(a) incur or suffer to exist any third party Indebtedness for borrowed money other than (i) the Indebtedness permitted to be incurred by Holdings and Intermediate Holdings under the Loan Documents or otherwise in connection with the Transactions, (ii) Guarantees of Indebtedness or other obligations of the Borrower and/or any Loan Party that are otherwise permitted hereunder, and (iii) any Indebtedness owing to the Borrower or any Loan Party to the extent resulting from an Investment permitted by Section 6.05;

(b) create or suffer to exist any Lien on any asset now owned or hereafter acquired by it other than (i) the Liens created under the Collateral Documents to which it is a party, and (ii) any other Lien created in connection with the Transactions;

(c) make any Investment in any Person that is not a Loan Party, except any Investment permitted by Sections 6.05(r);

(d) [reserved]; and

(e) consolidate or amalgamate with, or merge with or into, or convey, sell or otherwise Dispose of all or substantially all of its assets to, any Person.

Section 6.13. Minimum Liquidity. Commencing with the first full calendar week after the Closing Date, the Borrower and each Subsidiary Guarantor shall maintain Liquidity of not less than the Minimum Liquidity Threshold as of the last business day of every calendar week.

Section 6.14. Intellectual Property. No Loan Party shall, nor shall any of their respective Subsidiaries, (a) make any Investment, Restricted Payment, Disposition, or any other asset sale or other disposition of, or otherwise assign or transfer, any Material Intellectual Property, material Collateral or material portion of the Collateral, in each case, to a Subsidiary, joint venture or other Person that is not a Loan Party, other than non-exclusive licenses for bona fide operating business purposes (as reasonably determined by the Borrower in good faith) or (b) consummate an IP Separation Transaction.

Section 6.15. Transfers to Non-Loan Parties. Notwithstanding anything herein or the other Loan Documents to the contrary, no Loan Party shall make any Investment, Restricted Payment, Disposition, or any other asset sale or disposition of, or otherwise assign or transfer, any asset, in each case, to a Subsidiary of Holdings that is not the Borrower or a Subsidiary of the Borrower, other than Sections 6.01(b)(iii), 6.05(b), 6.05(r) and Section 6.12(c).

Section 6.16. Indebtedness of Non-Loan Party Subsidiaries of Holdings. Holdings shall not permit Thrasio International Holdings, Inc, a Delaware corporation, Thrasio Ventures, Inc., a Delaware corporation, or any of their respective subsidiaries or any other Excluded Subsidiary that is not a Subsidiary of the Borrower, to create, incur, assume or otherwise become or remain liable with respect to any Indebtedness recourse to Holdings or any other Loan Party.

ARTICLE 7

EVENTS OF DEFAULT

Section 7.01. Events of Default. If any of the following events (each, an “Event of Default”) shall occur:

(a) Failure To Make Payments When Due. Failure by the Borrower to pay (i) any installment of principal of any Loan when due, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; or (ii) any interest on any Loan or any fee or any other amount due hereunder (including, for the avoidance of doubt, any Prepayment Premium) within five (5) Business Days after the date due; or

(b) Default in Other Agreements. (i) Failure by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to pay when due any principal of or interest on or any other amount payable in respect of one or more items of third-party Indebtedness for borrowed money (other than (x) Indebtedness referred to in clause (a) above and (y) intercompany Indebtedness permitted under this Agreement) with an individual outstanding principal amount exceeding the Threshold Amount, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) with respect to any other term of (A) one or more items of third-party Indebtedness for borrowed money (other than (x) Indebtedness referred to in clause (a) above and (y) intercompany Indebtedness permitted under this Agreement) with an individual outstanding principal amount exceeding the Threshold Amount or (B) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Indebtedness to become or be declared due and payable (or redeemable) prior to its stated

maturity or the stated maturity of any underlying obligation, as the case may be; provided that (I) subclause (ii) of this clause (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder and (II) any failure described under clauses (i) or (ii) above is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Article 7; or

(c) Breach of Certain Covenants. Failure of any Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in (a) Section 5.01(e)(i), Section 5.02 (as it relates to the Borrower), Section 5.12, Section 5.16, Section 5.18, Section 5.20 or Article 6; or

(d) Breach of Representations, Etc. Any representation, warranty or certification made or deemed made by any Loan Party in any Loan Document or in any certificate required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Perfection Certificate) being untrue in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Loan Documents. Default by any Loan Party in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Article 7, which default has not been remedied, or waived by the requisite Lenders, within thirty (30) days after the occurrence of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (i) The entry by a court of competent jurisdiction of a decree or order for relief in respect of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) in an involuntary case under any Debtor Relief Law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal, state or local Requirements of Law, which relief is not stayed; or (ii) the commencement of an involuntary case against Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) under any Debtor Relief Law; the entry by a court having jurisdiction in the premises of a decree or order for the appointment of a receiver, receiver and manager, (preliminary) insolvency receiver, liquidator, sequestrator, trustee, administrator, custodian or other officer having similar powers over Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower), or over all or a material part of its property; or the involuntary appointment of an interim receiver, trustee or other custodian of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) for all or a material part of its property, which remains, in any case under this clause (f), undismissed, unvacated, unbounded or unstayed pending appeal for 60 consecutive days; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (i) The entry against Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) of an order for relief, the commencement by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) of a voluntary case under any Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case, under any Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) to the appointment of or taking possession by a receiver, receiver and manager, insolvency receiver, liquidator, sequestrator, trustee, administrator, custodian or other like official for or in respect of itself or for all or a material part of its property; (ii) the making by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) of a general assignment for the benefit of creditors; or (iii) the admission by Holdings, Intermediate Holdings, the

Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) in writing of their inability to pay their respective debts as such debts become due; or

(h) Judgments and Attachments. The entry or filing of one or more final money judgments, writs or warrants of attachment or similar process against Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) or any of their respective assets involving in an individual amount at any time in excess of the Threshold Amount (in either case to the extent not adequately covered by indemnity from a third party, by self-insurance (if applicable) or by insurance as to which the relevant third party insurance company has been notified and not denied coverage), which judgment, writ, warrant or similar process remains unpaid, undischarged, unvacated, unbonded or unstayed pending appeal for a period of forty-five (45) consecutive days; or

(i) Employee Benefit Plans. The occurrence of one or more ERISA Events, which individually or in the aggregate result in liability of Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(j) Change of Control. The occurrence of a Change of Control; or

(k) Guaranties, Collateral Documents and Other Loan Documents. At any time after the execution and delivery thereof, (i) any material Loan Guaranty for any reason, other than the occurrence of the Termination Date, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared, by a court of competent jurisdiction, to be null and void or any Loan Guarantor shall repudiate in writing its obligations thereunder (in each case, other than as a result of the discharge of such Loan Guarantor in accordance with the terms thereof and other than as a result of any act or omission by the Administrative Agent or any Lender), (ii) this Agreement or any material Collateral Document ceases to be in full force and effect or shall be declared, by a court of competent jurisdiction, to be null and void or any Lien on Collateral created under any Collateral Document ceases to be perfected with respect to a material portion of the Collateral (other than (A) Collateral consisting of Material Real Estate Assets to the extent that the relevant losses are covered by a lender's title insurance policy and such insurer has not denied coverage or (B) solely by reason of (w) such perfection not being required pursuant to the Collateral and Guarantee Requirement, the Collateral Documents, this Agreement or otherwise, (x) the failure of the Administrative Agent to maintain possession of any Collateral actually delivered to it or the failure of the Administrative Agent to file Uniform Commercial Code financing statements, amendments or continuation statements, (y) a release of Collateral in accordance with the terms hereof or thereof or (z) the occurrence of the Termination Date or any other termination of such Collateral Document in accordance with the terms thereof) or (iii) other than in any bona fide, good faith dispute as to the scope of Collateral or whether any Lien has been, or is required to be released, any Loan Party shall contest in writing, the validity or enforceability of any material provision of any Loan Document (or any Lien purported to be created by the Collateral Documents on any material portion of the Collateral or any Loan Guaranty) or deny in writing that it has any further liability (other than by reason of the occurrence of the Termination Date or any other termination of any other Loan Document in accordance with the terms thereof), including with respect to future advances by the Lenders, under any Loan Document to which it is a party;

(l) Subordination. The Obligations ceasing or the assertion in writing by any Loan Party that the Obligations cease to constitute senior indebtedness under the subordination provisions of any document or instrument evidencing any Restricted Debt or any such subordination provision being invalidated by a court of competent jurisdiction in a final non-appealable order, or otherwise ceasing, for any reason, to be valid, binding and enforceable obligations of the parties thereto;

then, and in every such event (other than an event described in clause (f) or (g) above), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower (or, in the case of any such event arising from any default described in clause (a) above solely with respect to the First Out Take Back Facility and not with respect to the

Second Out Take Back Facility, at the request of the Required Class Lenders with respect to the First Out Take Back Facility, shall by notice to the Borrower) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, including an amount equal to the Prepayment Premium (as applicable that would have been due and payable had such Loans be prepaid pursuant to Section 2.11(f)), shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. With respect to any event described in clause (f) or (g) above, the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees, the Prepayment Premium and all other liabilities of the Borrower and other Loan Parties accrued hereunder and under any other Loan Document, shall automatically become due and payable, anything contained herein or in any other Loan Document to the contrary notwithstanding. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC. The Administrative Agent (at the direction of the Required Lenders) shall provide notice of an Event of Default and acceleration of the Obligations pursuant to this Agreement.

Without limiting the generality of the foregoing in this Article 7, it is understood and agreed that if the Loans are accelerated as a result of an Event of Default (including an acceleration upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under the Bankruptcy Code of the United States or other Debtor Relief Laws or upon the occurrence of an Event of Default pursuant to Section 7.01(f) or (g)), the Loans that become due and payable shall result in the obligation to pay, the Prepayment Premium (as applicable) determined as of such date, which shall become immediately due and payable by the Loan Parties and shall constitute part of the Obligations as if the Loans were being prepaid or repaid as of such date, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable estimation and calculation of each Lender's lost profits and other actual damages as a result thereof. If the Prepayment Premium becomes due and payable, the Prepayment Premium shall be deemed to be principal of the Loans and interest shall accrue on the full principal amount of the Loans (including the Prepayment Premium) from and after the applicable triggering event. The Prepayment Premium shall also be automatically and immediately due and payable if the Loans are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by any other means. The Prepayment Premium payable pursuant to this Agreement shall be presumed to be the liquidated damages sustained by each Lender as the result of the early repayment or prepayment of the Loans (and not unmaturing interest or a penalty) and each of the Borrower and the other Loan Parties agrees that it is reasonable under the circumstances currently existing. EACH OF THE BORROWER AND THE OTHER 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, ANY RESCISSION OF SUCH ACCELERATION OR THE COMMENCEMENT OF ANY BANKRUPTCY OR INSOLVENCY EVENT. Each of the Borrower and the other Loan Parties expressly agree (to the fullest extent they may lawfully do so) that: (A) the Prepayment Premium is reasonable and 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 or redemption is made; (C) there has been a course of conduct between Lenders, the Borrower and the other Loan Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; (D) none of the Loans Parties or any of their subsidiaries shall challenge or question, or support any other Person in challenging or questioning the validity or enforceability of the Prepayment Premium or any similar or comparable prepayment fee under the circumstances described herein; (E) each of the Loan Parties and their subsidiaries shall be estopped from raising or relying, or from supporting any other Person in raising or relying on any judicial decision or ruling questioning the validity or enforceability of any prepayment fee similar or comparable to the Prepayment Premium; and (F) the Borrower and the other Loan Parties shall be estopped hereafter from claiming

differently than as agreed to in this paragraph. Each of the Borrower and the other Loan Parties expressly acknowledge that its agreement to pay or guarantee the payment of the Prepayment Premium to the Lenders as herein described are individually and collectively a material inducement to Lenders to make (or be deemed to make) the Loans.

ARTICLE 8

THE ADMINISTRATIVE AGENT

Section 8.01. Appointment and Authorization of Administrative Agent. Each of the Lenders, on behalf of itself and its applicable Affiliates in their respective capacities as such, hereby irrevocably appoint WSFS (or any successor appointed pursuant hereto) as Administrative Agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Section 8.02. Rights as a Lender. Any Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated, unless the context otherwise requires or unless such Person is in fact not a Lender, include each Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any subsidiary of any Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder. The Lenders acknowledge that, pursuant to such activities, the Administrative Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall not be under any obligation to provide such information to them.

Section 8.03. Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing:

(a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default exists, and the use of the term “agent” herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Requirements of Law; it being understood that such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary power, except discretionary rights and powers that are expressly contemplated by the Loan Documents and which the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the relevant circumstances as provided in Section 9.02); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Requirements of Law;

(c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries (other than Excluded Subsidiaries that are not Subsidiaries of the Borrower) that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable to the Lenders or any other Secured Party and shall be fully justified in failing or refusing to take any action under this Agreement or any other

Loan Document unless it has the consent of the Required Lenders or at the request of the Required Lenders (or such other number or percentage of the Lenders as is necessary, or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment; provided, that, any action or inaction taken at the direction of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in Article VII and Section 9.02) shall not be deemed gross negligence or willful misconduct; and

(d) the Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or any Lender and such written notice is clearly identified as a “notice of default”, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any covenant, agreement or other term or condition set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of any Lien on the Collateral or the existence, value or sufficiency of the Collateral or to assure that the Liens granted to the Administrative Agent pursuant to any Loan Document have been or will continue to be properly or sufficiently or lawfully created, perfected or enforced or are entitled to any particular priority, (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or (vii) any property, book or record of any Loan Party or any Affiliate thereof. The Administrative Agent shall not be responsible for (i) perfecting, maintaining, monitoring, preserving or protecting the security interest or Lien granted under this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, (ii) the filing, re-filing, recording, re-recording or continuing or any document, financing statement, mortgage, assignment, notice, instrument of further assurance or other instrument in any public office at any time or times or (iii) providing, maintaining, monitoring or preserving insurance on (including any flood insurance policies or for determining whether any flood insurance policies are or should be obtained in respect of the Collateral, which each Lender shall be solely responsible for), or the payment of taxes with respect to, any of the Collateral. The Administrative Agent shall not be required to qualify in any jurisdiction in which it is not presently qualified to perform its obligations as the Administrative Agent.

(e) The Administrative Agent shall not be liable for any action omitted to be taken by it by reason of the lack of direction or instruction for such action (including, without limitation, for refusing to exercise discretion or for withholding its consent in the absence of receipt of, or resulting from a failure, delay or refusal on the part of any Lender to provide, written instructions to exercise such direction or grant such consent from any such Lender, as applicable). The Administrative Agent shall have no liability for any failure, inability, unwillingness on the part of any Lender or Loan Party to provide accurate and complete information on a timely basis to the Administrative Agent, or otherwise on the part of any such party to comply with the terms of this Agreement, and shall not have any liability for any inaccuracy or error in the performance or observance on such Agent’s part of any of its duties hereunder that is caused by or results from any such inaccurate, incomplete or untimely information received by it, or other failure on the part of any such other party to comply with the terms hereof.

(f) The Administrative Agent shall not be liable for interest on any money received by it. Money held by the Administrative Agent hereunder need not be segregated from other funds except to the extent required by law. The Administrative Agent shall not have any liability for interest on any money received by it hereunder except as otherwise agreed in writing.

(g) For purposes of clarity, and without limiting any rights, protections, immunities or indemnities afforded to either Agent hereunder (including without limitation this Article VIII), phrases such as “satisfactory to the Administrative Agent,” “approved by the Administrative Agent,” “acceptable to the

Administrative Agent,” “as determined by the Administrative Agent,” “in the Administrative Agent’s discretion,” “selected by the Administrative Agent,” “elected by the Administrative Agent,” “requested by the Administrative Agent,” and phrases of similar import that authorize and permit the Administrative Agent to approve, disapprove, determine, act or decline to act in its discretion shall be subject to the Administrative Agent receiving written direction from the Required Lenders (or such other number or percentage of the Lenders as expressly required hereunder or under the other Loan Documents) to take such action or to exercise such rights.

Section 8.04. Exclusive Right to Enforce Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the Borrower, the Administrative Agent and each Secured Party agree that:

(a) (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Loan Guaranty; it being understood that any right to realize upon the Collateral or enforce any Loan Guaranty against any Loan Party pursuant hereto or pursuant to any other Loan Document may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms hereof or thereof and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or in the event of any other Disposition (including pursuant to Section 363 of the Bankruptcy Code), (A) the Administrative Agent, as agent for and representative of the Secured Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale, to use and apply all or any portion of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent at such sale or other Disposition and (B) the Administrative Agent or any Lender may be the purchaser or licensor of all or any portion of such Collateral at any such Disposition;

(b) Each Secured Party agrees that the Administrative Agent may in its sole discretion, but is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral.

Section 8.05. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) that it believes to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent has received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.06. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by it. The Administrative Agent and any such sub-agent may perform any and all of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent.

Section 8.07. Successor Administrative Agent. The Administrative Agent may resign at any time by giving thirty (30) days’ prior written notice to the Lenders and the Borrower; provided that if no successor agent is

appointed in accordance with the terms set forth below within such thirty (30)-day period, the Administrative Agent's resignation shall not be effective until the earlier to occur of (x) the date of the appointment of the successor agent or (y) the date that is specified in such notice (which shall be no earlier than thirty (30) days after the date thereof) (or such later date as the resigning Administrative Agent may agree). If the Administrative Agent is a Defaulting Lender or an Affiliate of a Defaulting Lender, either the Required Lenders or the Borrower may, upon ten (10) days' notice, remove the Administrative Agent; provided that if no successor agent is appointed in accordance with the terms set forth below within such thirty (30)-day period, the Administrative Agent's removal shall, at the option of the Borrower, not be effective until the earlier to occur of (x) the date of the appointment of the successor agent or (y) the date that is thirty (30) days after the last day of such thirty (30)-day period (or such later date as the Borrower may agree). Upon receipt of any such notice of resignation or delivery of any such notice of removal, the Required Lenders shall have the right, with the consent of the Borrower (not to be unreasonably withheld or delayed), to appoint a successor Administrative Agent which shall be a commercial bank, trust company or other Person acceptable to the Borrower, in each case, with offices in the US having combined capital and surplus in excess of \$1,000,000,000; provided that during the existence and continuation of an Event of Default under Section 7.01(a), no consent of the Borrower shall be required. If no successor has been appointed as provided above and accepted such appointment within thirty (30) days after the resigning Administrative Agent gives notice of its resignation or the Administrative Agent receives notice of removal, then (a) in the case of a retirement, the resigning Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above (including, for the avoidance of doubt, the consent of the Borrower) or (b) in the case of a removal, the Borrower may, after consulting with the Required Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that (x) in the case of a retirement, if the Administrative Agent notifies the Borrower, the Lenders that no qualifying Person has accepted such appointment or (y) in the case of a removal, the Borrower notifies the Required Lenders that no qualifying Person has accepted such appointment, then, in each case, such resignation or removal shall nonetheless become effective in accordance with the provisos to the first two sentences in this Section 8.07 (unless the retiring Administrative Agent shall have agreed in its sole discretion to extend the effectiveness of its resignation) and (i) the resigning or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent in its capacity as collateral agent for the Secured Parties for purposes of maintaining the perfection of the Lien on the Collateral securing the Secured Obligations, the resigning Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) all payments, communications and determinations required to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly (and each Lender will cooperate with the Borrower to enable the Borrower to take such actions), until such time as the Required Lenders or the Borrower, as applicable, appoint a successor Administrative Agent, as provided above in this Article 8. Upon the acceptance of its appointment as Administrative Agent hereunder as a successor Administrative Agent, the successor Administrative Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning or removed Administrative Agent (other than any rights to indemnity payments owed to the resigning Administrative Agent), and the resigning or removed Administrative Agent shall be discharged from its duties and obligations hereunder (if not already discharged therefrom as expressly provided above in this Section 8.07) (other than its obligations under Section 9.13 hereof). The fees payable by the Borrower to any successor Administrative Agent shall not be greater than those payable to its predecessor unless otherwise expressly agreed in writing between the Borrower and such successor Administrative Agent. After the Administrative Agent's resignation or removal hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such resigning or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any action taken or omitted to be taken by any of them while the relevant Person was acting as Administrative Agent (including for this purpose holding any collateral security following the resignation or removal of the Administrative Agent). Notwithstanding anything to the contrary herein, no Disqualified Institution (nor any Affiliate thereof) may be appointed as a successor Administrative Agent.

Section 8.08. Non-Reliance on Administrative Agent. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their respective Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of the Administrative Agent or any of its Related Parties.

Section 8.09. Collateral and Guarantee Matters. Each Lender and each other Secured Party irrevocably authorizes and instructs the Administrative Agent to, and the Administrative Agent shall:

(a) release any Lien on any property granted to or held by Administrative Agent under any Loan Document (i) upon the occurrence of the Termination Date, (ii) that is sold or otherwise Disposed of (or to be sold or otherwise Disposed of) as part of or in connection with any Disposition permitted under (or not restricted by) the Loan Documents (subject to the proviso to the last paragraph of Section 6.06), (iii) that does not constitute (or ceases to constitute) Collateral (and/or otherwise becomes an Excluded Asset), (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from its Loan Guaranty otherwise in accordance with the Loan Documents, (v) as required under clause (d) below, (vi) pursuant to the provisions of any applicable Loan Document or (vii) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.02;

(b) subject to Section 9.22, release (or evidence the release of) any Subsidiary Guarantor from its obligations under the Loan Guaranty if (A) such Person ceases to be a Subsidiary and/or (B) in the case of any Discretionary Guarantor, at the election of the Borrower at any time so long as (x) the Borrower shall have delivered written notice of such election to the Administrative Agent and (y) after giving pro forma effect to such release and the consummation of the relevant transaction (if applicable), (1) no Event of Default shall exist, (2) the Borrower is deemed to have made a new Investment in such Person ((X) with respect to any Specified Non-US Loan Party, in an amount equal to the fair market value (as determined by the Borrower in good faith) of property contributed to such Specified Non-US Loan Party in the form of an Investment while such Specified Non-US Loan Party was a Subsidiary Guarantor and (Y) otherwise, as if such Person was then newly acquired) on the date of such release and such Investment is permitted under Section 6.05 and (3) no IP Separation Transaction shall be deemed to have occurred; provided that if any Subsidiary Guarantor ceases to be wholly-owned, directly or indirectly, by the Borrower, such subsidiary shall not be released from its Loan Guaranty unless either (x) it is no longer a direct or indirect subsidiary of the Borrower or (y) after giving pro forma effect to such release and the consummation of the relevant transaction, the Borrower is deemed to have made a new Investment in such Person (as if such Person was then newly acquired) and such Investment is permitted under Section 6.05; and

(c) enter into subordination, intercreditor, collateral trust and/or similar agreements with respect to Indebtedness (including any Intercreditor Agreement and/or any amendment to any Intercreditor Agreement) that is (i) required or permitted to be subordinated hereunder and/or (ii) secured by Liens, and with respect to which Indebtedness, this Agreement contemplates an intercreditor, subordination, collateral trust or similar agreement, with each of the Lenders and the other Secured Parties irrevocably agreeing to the treatment of the Lien on the Collateral securing the Secured Obligations as set forth in any such agreement and that it will be bound by and will take no actions contrary to the provisions of any such agreement.

Upon the request of the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under the Loan Guaranty or its Lien on any Collateral pursuant to this Article 8. In each case as specified in this Article 8, the Administrative Agent will (and each Lender hereby authorizes the Administrative Agent to), at the Borrower's expense, execute and deliver to the Borrower or the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents, to subordinate its interest therein, or to release such Loan Party from its obligations under the Loan Guaranty, in each case in accordance with the terms of the Loan Documents and this Article 8; provided, that upon the request of the Administrative Agent (acting at the Direction of the Required Lenders), the Borrower shall deliver a certificate of a Responsible Officer certifying that the relevant transaction has been consummated in compliance with the terms of this Agreement.

Section 8.10. Intercreditor Agreements. The Administrative Agent is authorized by the Lenders and each other Secured Party to enter into any Intercreditor Agreement and any other intercreditor, subordination, collateral trust or similar agreement contemplated hereby with respect to any (a) Indebtedness (i) that is (A) required or permitted hereunder to be subordinated in right of payment or with respect to security and/or (B) secured by any Lien and (ii) which contemplates an intercreditor, subordination, collateral trust or similar agreement and/or (b) Secured Hedging Obligations and/or Banking Services Obligations, whether or not constituting Indebtedness (any such other intercreditor, subordination, collateral trust and/or similar agreement an “Additional Agreement”), and the Secured Parties party hereto acknowledge that any Intercreditor Agreement and any other Additional Agreement is binding upon them. Each Lender and each other Secured Party hereto hereby (a) agrees that they will be bound by, and will not take any action contrary to, the provisions of any Intercreditor Agreement or any other Additional Agreement and (b) authorizes and instructs the Administrative Agent to enter into any Intercreditor Agreement and/or any other Additional Agreement and to subject the Liens on the Collateral securing the Secured Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Lenders and the other Secured Parties to extend credit to the Borrower, and the Lenders and the other Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Intercreditor Agreement and/or any other Additional Agreement.

Section 8.11. Indemnification of Administrative Agent. Whether or not the transactions contemplated hereby are consummated, to the extent that the Administrative Agent (or any Affiliate thereof) is not reimbursed and indemnified by the Borrower in accordance with and to the extent required by Section 9.03(b) hereof, the Lenders will reimburse and indemnify the Administrative Agent in proportion to their respective Applicable Percentages (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent’s (or such affiliate’s) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision). Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand in proportion to its respective Applicable Percentage (determined as if there were no Defaulting Lenders) of any costs or out-of-pocket expenses (including the fees, disbursements and other charges of counsel) incurred by such Agent in connection with preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights and responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such costs or expenses by or on behalf of the Borrower. The agreements in this Section 8.11 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Loans and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

Section 8.12. Withholding Taxes. To the extent required by any applicable Requirements of Law (as determined in good faith by the Administrative Agent), the Administrative Agent may withhold from any payment to any Lender under any Loan Document an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 2.17, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within ten days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). 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 this Agreement or any other Loan Document against any amount due the Administrative Agent under this paragraph. The agreements in this paragraph shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 8.13. Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loans shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Loan Parties) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Secured Parties and the Administrative Agent and their respective agents and counsel and all other amounts due the Secured Parties and the Administrative Agent under Sections 2.12 and 9.03) 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 Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Secured Parties, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.12 and 9.03.

Section 8.14. Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or other Secured Party, or any other Person who has received funds on behalf of a Lender or other Secured Party (any such Lender, Secured Party or other recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole reasonable discretion that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Payment Recipient) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Payment Recipient shall promptly, but in no event later than one (1) Business Day thereafter, return to the Administrative Agent, in same day funds (in the currency so received), the amount of any such Erroneous Payment (or portion thereof), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with prevailing banking industry rules on interbank compensation from time to time in effect. To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with

respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Payment Recipient hereby further agrees that if it receives an Erroneous Payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Erroneous Payment (the “Payment Notice”), or (y) that was not preceded or accompanied by a Payment Notice sent by the Administrative Agent (or any of its Affiliates), then, said Payment Recipient shall be on notice, in each case, that an error has been made with respect to such Erroneous Payment. Each Payment Recipient agrees that, in each such case, or if it otherwise becomes aware an Erroneous Payment (or portion thereof) may have been sent in error, such Payment Recipient shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one (1) Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with prevailing banking industry rules on interbank compensation from time to time in effect.

(c) Each Payment Recipient hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Payment Recipient from any source, against any amount due to the Administrative Agent under any of the immediately preceding clauses (a) or (b) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent (such unrecovered amount, an “Erroneous Payment Return Deficiency”), the Borrower and each other Loan Party hereby agrees that (x) the Administrative Agent shall be subrogated to all the rights of such Payment Recipient with respect to such amount (including, without limitation, the right to sell and assign the Loans (or any portion thereof), which were subject to the Erroneous Payment Return Deficiency) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Secured Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment. For the avoidance of doubt, no assignment of an Erroneous Payment Return Deficiency will reduce the Commitments of any Payment Recipient and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to the assignment of an Erroneous Payment Return Deficiency, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Payment Recipient under the Loan Documents with respect to each Erroneous Payment Return Deficiency (for the avoidance of doubt, without increasing the Obligations owed by the Borrower or any other Loan Party with respect to the Erroneous Payment Return Deficiency).

(e) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(f) Each party's obligations, agreements and waivers under this Section 8.14 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Secured Obligations (or any portion thereof) under any Loan Document.

ARTICLE 9

MISCELLANEOUS

Section 9.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to clause (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email, as follows:

(i) if to any Loan Party, to such Loan Party in the care of the Borrower at:

THRASIO, LLC
85 West St, Ste 34
Walpole, MA 02052
Attn: Steve Nee
Email: steve.nee@thrasio.com
Attn: Michael Fahey
Email: mike@thrasio.com

with copies to (which shall not constitute notice to any Loan Party):

Freshfields Bruckhaus Deringer US LLP
3 World Trade Center
175 Greenwich St
New York, NY 10007
Attention: Allison Liff
Email: allison.liff@freshfields.com

(ii) if to the Administrative Agent, at:

Wilmington Savings Fund Society, FSB
500 Delaware Avenue, 11th Floor
Wilmington, DE 19801
Attention: Patrick Healy, Senior VP Global Capital Markets
Tel: (302) 888-7580
Email: phealy@wsfsbank.com

with copies to (which shall not constitute notice) to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
Attention: Scott Greenberg
Fax: (212) 492-0458
Email: SGreenberg@gibsondunn.com

and

ArentFox Schiff LLP
1301 Avenue of the Americas, 42nd Floor
New York, NY 10019
Attention: Jeffrey R. Gleit
Fax: (212) 492-0458
Email: jeffrey.gleit@afslaw.com

(iii) if to any Lender, to it at its physical address or email address set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof or three (3) Business Days after dispatch if sent by certified or registered mail, in each case, delivered, sent or mailed (properly addressed) to the relevant party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01 or (B) sent by facsimile shall be deemed to have been given when sent and when receipt has been confirmed by telephone; provided that notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notices or other communications shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below shall be effective as provided in such clause (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including email and Internet or intranet websites) pursuant to procedures set forth herein or otherwise approved by the Administrative Agent. The Administrative Agent or the Borrower (on behalf of any Loan Party) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures set forth herein or otherwise approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an email 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 email or other written acknowledgement); provided that any such notice or communication not given during the normal business hours of the recipient shall be deemed to have been given at the opening of business on the next Business Day for the recipient or (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its email address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number or other notice information hereunder by notice to the other parties hereto; it being understood and agreed that the Borrower may provide any such notice to the Administrative Agent as recipient on behalf of itself and each Lender.

(d) The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders materials and/or information provided by, or on behalf of, Holdings or the Borrower hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on the Platform and (b) certain of the Lenders may be "public-side" Lenders (*i.e.*, Lenders that do not wish to receive material nonpublic information within the meaning of the United States federal securities laws with respect to Holdings, Intermediate Holdings, the Borrower or their respective securities) (each, a "Public Lender"). At the reasonable request of the Administrative Agent, the Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC", (ii) by marking Borrower Materials "PUBLIC", the Borrower shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as information of a type that would (A) customarily be

made publicly available (or could be derived from publicly available information), as determined by the Borrower, if the Borrower were to become public reporting companies or (B) would not be material with respect to Holdings, Intermediate Holdings, the Borrower, their respective subsidiaries, any of their respective securities or the Transactions as determined in good faith by the Borrower for purposes of the United States federal securities laws and (iii) the Administrative Agent shall be required to treat Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the Loan Documents shall be deemed to be marked "PUBLIC," unless the Borrower notifies the Administrative Agent promptly that any such document contains material nonpublic information (it being understood that the Borrower shall have a reasonable opportunity to review the same prior to distribution and comply with SEC or other applicable disclosure obligations).

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS ON, OR THE ADEQUACY OF, THE PLATFORM, AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN ANY SUCH COMMUNICATION. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL ANY PARTY HERETO OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY OTHER PARTY HERETO OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR MATERIAL BREACH OF THIS AGREEMENT.

Section 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof except as provided herein or in any Loan Document, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any party hereto therefrom shall in any event be effective unless the same is permitted by this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which it is given. Without limiting the generality of the foregoing, to the extent permitted by applicable Requirements of Law, the making of any Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default or Event of Default at the time.

(b) Except as expressly provided in this Section 9.02 (or otherwise in this Agreement or the applicable Loan Document) or to the contrary under Section 2.22, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified, except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or (ii) in the case of any other Loan Document (other than any waiver, amendment or modification to effectuate any modification thereto expressly contemplated by the terms of such other Loan Document), pursuant to an agreement or agreements in writing entered into by the Administrative Agent and each Loan Party that is party thereto, with the consent of the Required Lenders; provided that, notwithstanding the foregoing:

(A) the consent of each Lender directly and adversely affected thereby (but not the consent of the Required Lenders) shall be required for any waiver, amendment or modification that:

(1) increases the Commitment of such Lender; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall constitute an increase of any Commitment of such Lender;

(2) reduces the principal amount of any Loan owed to such Lender;

(3) (x) extends the scheduled final maturity of any Loan or (y) postpones any Interest Payment Date with respect to any Loan held by such Lender or the date of any scheduled payment of any fee or premium payable to such Lender hereunder;

(4) reduces the rate of interest (other than to waive any Default or Event of Default or obligation of the Borrower to pay interest to such Lender at the default rate of interest under Section 2.13(d), which shall only require the consent of the Required Lenders) or the amount of any fee or premium owed to such Lender;

(5) extends the expiry date of such Lender's Commitment; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of any Commitment shall constitute an extension of any Commitment of any Lender;

(6) waives, amends or modifies the provisions of Section 2.10(b), Section 2.11(a)(i) Section 2.11(b)(vi) or Section 2.18(a), (b), (c) or (d) in a manner that would by its terms alter the priority or pro rata sharing of payments, as applicable, required thereby (except in connection with any transaction provided in this Section 9.02);

(7) any waiver, amendment or modification that directly or indirectly (x) subordinates any portion of the Liens on the Collateral securing the Obligations to liens on such Collateral securing any other Indebtedness for borrowed money or (y) contractually subordinates (including in respect of priority of payment in the applicable waterfall) any portion of the Obligations in right of payment to any other Indebtedness for borrowed money, except, in each case, pursuant to a transaction consented to by the Required Lenders, in which participation on a pro rata basis in such other Indebtedness is offered on the same terms (excluding any bona fide backstop fees) to each Lender;

(8) waives, amends or modifies (i) the definition of "Material Intellectual Property", (ii) the definition of "IP Separation Transaction", (iii) Section 6.14, (iv) Section 9.22, (v) the definition of "Excluded Subsidiaries", (vi) Schedule 1.01(e), (vii) Section 6.05(r), (viii) Section 6.12, or (ix) Section 6.16; in the case of the foregoing clauses (v)-(ix), to the extent the intent or effect of such waiver, amendment or modification is (x) to directly or indirectly permit or otherwise made in connection with a liability management transaction, (y) to otherwise materially undermine the rights and remedies of the Lenders hereunder or (z) anything other than a bona fide business purpose, for this clause (z), as reasonably determined by the Required Lenders and the Borrower;

- (9) [reserved];
- (10) authorizes additional Indebtedness that would be issued under the Loan Documents for the primary purpose of influencing voting thresholds;
- (11) other than an Excluded Subsidiary, permit the creation or the existence of any Subsidiary that would be “unrestricted” or otherwise excluded from the requirements applicable to Subsidiaries that are Loan Parties pursuant to this Agreement or any other Loan Document; or
- (12) waives, amends or modifies Section 9.05(g) or any other provision of this Agreement or any other Loan Document to permit non-cash open market purchases by Affiliated Lenders or modify the definition of Affiliated Lenders.
- (B) no such agreement shall:
- (1) change any of the provisions of Section 9.02(a) or Section 9.02(b) or the definition of “Required Lenders” or “Required Class Lenders” to reduce any voting percentage required to waive, amend or modify any right thereunder or make any determination or grant any consent thereunder, without the prior written consent of each Lender;
- (2) release all, substantially all or a material portion of the Collateral from the Lien granted pursuant to the Collateral Documents, without the prior written consent of each Lender;
- (3) release all, substantially all or a material portion of the value of the Guarantees under the Loan Guaranty, without the prior written consent of each Lender; or
- (4) provide for the satisfaction of the Obligations other than in cash pursuant to Section 2.10 or in the manner set forth in this Agreement on the Closing Date.
- (C) no such agreement shall amend or waive any provision that disproportionately affects a particular Class of Lenders without the prior consent of the Required Class Lenders;
- (D) no such agreement shall change the application of prepayments as among or between Classes under Section 2.11(b); and
- (E) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder without the prior written consent of the Administrative Agent, as the case may be.
- (c) [Reserved].
- (d) Notwithstanding anything to the contrary contained in this Section 9.02 or any other provision of this Agreement or any provision of any other Loan Document:
- (i) the Borrower and the Administrative Agent may, without the input or consent of any Lender, (A) amend, supplement and/or waive any Loan Document executed in connection with this Agreement upon the advice of counsel to comply with any Requirement of Law or the advice of counsel or (B) cause any Loan Document to be consistent with this Agreement,
- (ii) the Borrower and the Administrative Agent may, without the input or consent of any other Lender (other than the relevant Lenders providing Loans under such Sections), effect amendments to this Agreement and the other Loan Documents as may be necessary or advisable in the reasonable opinion of the Borrower and the Administrative Agent to effect the provisions of Sections 5.12, Section 6.08 and/or Section 6.11,

(iii) (A) if the Administrative Agent and the Borrower have jointly identified any ambiguity, mistake, defect, inconsistency, obvious error or any error or omission of a technical nature or any necessary or desirable technical change, in each case, in any provision of any Loan Document, then the Administrative Agent and the Borrower shall be permitted to amend such provision solely to address such matter as reasonably determined by them and (B) the Administrative Agent and the Borrower may, without the consent of any Lender, enter into amendments or modifications to this Agreement or any of the other Loan Documents or to enter into additional Loan Documents as the Administrative Agent deems appropriate in order to implement any Benchmark Replacement or any Benchmark Replacement Conforming Change or otherwise effectuate the terms of Section 2.14 in accordance with the terms thereof,

(iv) [reserved],

(v) the Administrative Agent may amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.05 and/or Commitment reductions or terminations pursuant to Section 2.09,

(vi) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except as permitted pursuant to Section 2.21(b),

(vii) [reserved],

(viii) [reserved],

(ix) the definition of “Term SOFR” may be amended in the manner prescribed in clause (b) thereof, and

(x) no Lender shall be entitled to any fee or other consideration to obtain its consent to an amendment, modification and/or waiver of this Agreement or any other Loan Document unless such fee or other consideration is also offered to all Lenders.

(e) Any waiver, amendment or other modification to this Agreement or the other Loan Documents shall be provided to the Administrative Agent prior to, or substantially concurrently with, the effectiveness thereof.

Section 9.03. Expenses; Indemnity.

(a) Subject to Section 9.05(f), the Borrower hereby agrees to pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its respective Affiliates and the Lenders in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, including any and all recording and filing fees, cost and expenses incurred pursuant to any Collateral Document to secure the Secured Obligations, the reasonable and documented fees, charges and disbursements of ArentFox Schiff LLP, as lead counsel to the Administrative Agent, the preparation and administration of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including the reasonable fees, charges and disbursements of counsel for each of the Administrative Agent and the Lenders (taken as a whole) and (ii) all out-of-pocket expenses incurred by the Administrative Agent or any Lender in connection with the enforcement of their rights in connection with this Agreement and any other Loan Document or the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans and including the fees, charges and disbursements of (A) Gibson, Dunn & Crutcher LLP (or other primary counsel selected by the Required Lenders) for the Administrative Agent and the Lenders, taken as a whole, and, if necessary, a single local counsel in each appropriate jurisdiction and (if appropriate) a single regulatory counsel for the Administrative Agent and the Lenders, taken as a whole (and, in the case of an actual or perceived conflict of interest where the Administrative Agent or a Lender affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of such for the Administrative Agent or such Lender).

(b) The Borrower shall indemnify the Administrative Agent and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages and liabilities (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnities taken as a whole and, if reasonably necessary, one local counsel in any relevant jurisdiction to all Indemnities, taken as a whole and solely in the case of an actual or perceived conflict of interest, (x) one additional counsel to all affected Indemnities, taken as a whole, and (y) one additional local counsel to all affected Indemnities, taken as a whole), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby or thereby and/or the enforcement of the Loan Documents, (ii) the use of the proceeds of the Loans, (iii) any actual or alleged Release or presence of Hazardous Materials on, at, under or from any property currently or formerly owned, leased or operated by Holdings, Intermediate Holdings, the Borrower, any of their Subsidiaries or any other Loan Party or any Environmental Liability related to Holdings, Intermediate Holdings, the Borrower, any of their Subsidiaries or any other Loan Party and/or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or by the Borrower, any other Loan Party or any of their respective Affiliates); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that any such loss, claim, damage, or liability (i) is determined by a final and non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or, to the extent such judgment finds that any such loss, claim, damage, or liability has resulted from such Person’s material breach of the Loan Documents or (ii) arises out of any claim, litigation, investigation or proceeding brought by such Indemnitee against another Indemnitee (other than any claim, litigation, investigation or proceeding that is brought by or against the Administrative Agent, acting in its capacity as the Administrative Agent) that does not involve any act or omission of Holdings, Intermediate Holdings, the Borrower or any of their subsidiaries. Each Indemnitee shall be obligated to refund or return any and all amounts paid by the Borrower pursuant to this Section 9.03(b) to such Indemnitee for any fees, expenses, or damages to the extent such Indemnitee is not entitled to payment thereof in accordance with the terms hereof. All amounts due under this clause (b) shall be payable by the Borrower within ten (10) days (x) after receipt by the Borrower of a written demand therefor, in the case of any indemnification obligations and (y) in the case of reimbursement of costs and expenses, after receipt by the Borrower of an invoice setting forth such costs and expenses in reasonable detail, together with backup documentation supporting the relevant reimbursement request. This Section 9.03(b) shall not apply to Taxes other than any Taxes that represent losses, claims, damages or liabilities in respect of a non-Tax claim.

(c) The Borrower shall not be liable for any settlement of any proceeding effected without the written consent of the Borrower (which consent shall not be unreasonably withheld, delayed or conditioned) or any other losses, claims, damages, liabilities and/or expenses incurred in connection therewith, but if any proceeding is settled with the written consent of the Borrower, or if there is a final judgment against any Indemnitee in any such proceeding, the Borrower agrees to indemnify and hold harmless each Indemnitee to the extent and in the manner set forth above. The Borrower shall not, without the prior written consent of the affected Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed), effect any settlement of any pending or threatened proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless (i) such settlement includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) such settlement does not include any statement as to any admission of fault or culpability.

Section 9.04. Waiver of Claim. To the extent permitted by applicable Requirements of Law, no party to this Agreement nor any Secured Party shall assert, and each hereby waives on behalf of itself and its Related Parties, any claim against any other party hereto, any Loan Party and/or any Related Party of any thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual

damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof, except, in the case of any claim by any Indemnatee against the Borrower, to the extent such damages would otherwise be subject to indemnification pursuant to, and in accordance with, the terms of Section 9.03.

Section 9.05. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with the terms of this Section (any attempted assignment or transfer not complying with the terms of this Section shall be null and void and, with respect to attempted assignments or transfers to Disqualified Institutions, subject to Section 9.05(f)). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and permitted assigns, to the extent provided in clause (e) of this Section, Participants and, to the extent expressly contemplated hereby, the Related Parties of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement with the prior written consent of:

(A) the Borrower (such consent not to be unreasonably withheld, conditioned or delayed); provided that (x) the Borrower shall be deemed to have consented to any assignment of Loans (other than any assignment to any Disqualified Institution or any natural Person) unless it has objected thereto by written notice to the Administrative Agent within five (5) Business Days after receipt of written notice thereof and (y) the consent of the Borrower shall not be required for any assignment of Loans or Commitments (1) to any Lender or any Affiliate of any Lender or an Approved Fund or (2) at any time to any person when an Event of Default has occurred and is continuing; and

(B) the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed); provided that no consent of the Administrative Agent shall be required for (x) any assignment to another Lender, any Affiliate of a Lender or any Approved Fund or (y) any assignment at any time to any person when an Event of Default has occurred and is continuing.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of any assignment to another Lender, any Affiliate of any Lender or any Approved Fund or any assignment of the entire remaining amount of the relevant assigning Lender's Loans or Commitments, the principal amount of Loans or Commitments of the assigning Lender subject to the relevant assignment (determined as of the date on which the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent and determined on an aggregate basis in the event of concurrent assignments to Related Funds or Affiliates or by Related Funds or Affiliates) shall not be less than \$1,000,000, in each case unless the Borrower and the Administrative Agent otherwise consent;

(B) any partial assignment shall be made as an assignment of a proportionate part of all the relevant assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and

recordation fee of \$3,500 (provided that (i) such fee shall not be payable in the case of an assignment to an Approved Fund of a Lender and (ii) such fee may be waived or reduced in the sole discretion of the Administrative Agent); and

(D) the relevant Eligible Assignee, if it is not a Lender, shall deliver on or prior to the effective date of such assignment, to the Administrative Agent (1) an Administrative Questionnaire and (2) any IRS form required under Section 2.17 and all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(iii) Subject to the acceptance and recording thereof pursuant to clause (b)(iv) of this Section, from and after the effective date specified in any Assignment Agreement, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned pursuant to such Assignment Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be (A) entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03 with respect to facts and circumstances occurring on or prior to the effective date of such assignment and (B) subject to its obligations thereunder and under Section 9.13). If any assignment by any Lender holding any Promissory Note is made after the issuance of such Promissory Note, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender such Promissory Note to the Administrative Agent for cancellation, and, following such cancellation, if requested by either the assignee or the assigning Lender, the Borrower shall issue and deliver a new Promissory Note to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the United States a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders and their respective successors and assigns, and the commitment of, and principal amount of and interest on the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). Failure to make any such recordation, or any error in such recordation, shall not affect the Borrower’s obligations in respect of such Loans. The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and each Lender (but only as to its own holdings), at any reasonable time and from time to time upon reasonable prior written notice. The parties hereto agree that the Obligations are intended to be treated as being in “registered form” for the purposes of Sections 163(f), 165(j), 871(h)(2), and 881(c)(2), and 4701 of the Code, and the Register shall be maintained in accordance with such intention.

(v) Upon its receipt of a duly completed Assignment Agreement executed by an assigning Lender and an Eligible Assignee, the Eligible Assignee’s completed Administrative Questionnaire, any tax certification required by Section 9.05(b)(ii)(D)(2) (unless the assignee is already a Lender hereunder), all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, the processing and recordation fee referred to in clause (b) of this Section, if applicable, and any written consent to the relevant assignment required by clause (b) of this Section, the Administrative Agent shall promptly accept such Assignment Agreement and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) By executing and delivering an Assignment Agreement, the assigning Lender and the Eligible Assignee thereunder shall be deemed to confirm and agree with each other and the other parties hereto as

follows: (A) the assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that the amount of its commitments, and the outstanding balances of its Loans, in each case without giving effect to any assignment thereof which has not become effective, are as set forth in such Assignment Agreement, (B) except as set forth in clause (A) above, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statement, warranty or representation made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of Holdings or any Subsidiary or the performance or observance by Holdings or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (C) the assignee represents and warrants that it is an Eligible Assignee, that it is not a Disqualified Institution, and that it is legally authorized to enter into such Assignment Agreement; (D) the assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment Agreement; (E) the assignee will independently and without reliance upon the Administrative Agent, the assigning Lender or any other Lender and based on such documents and information as it deems appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) the assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) the assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) (i) Any Lender may, without the consent of the Borrower (except to the extent required pursuant to the immediately succeeding proviso), the Administrative Agent or any other Lender, sell participations to any bank or other entity (other than to any Disqualified Institution, any natural Person or the Borrower or any of its Affiliates) (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its commitments and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent 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. Any agreement or instrument pursuant to which any Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the relevant Participant, agree to any amendment, modification or waiver described in (x) clause (A) of the first proviso to Section 9.02(b) that directly and adversely affects the Loans or commitments in which such Participant has an interest and (y) clauses (B)(1), (2) or (3) of the first proviso to Section 9.02(b). Subject to clause (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the limitations and requirements of such Sections) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section and it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender, and if additional amounts are required to be paid pursuant to Section 2.17(a) or Section 2.17(c), to the Borrower and the Administrative Agent). To the extent permitted by applicable Requirements of Law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant shall be subject to Section 2.18(c) as though it were a Lender.

(ii) No Participant shall be entitled to receive any greater payment under Section 2.15, 2.16 or 2.17 than the participating Lender would have been entitled to receive with respect to the participation sold to such Participant.

Each Lender that sells a participation or makes a grant to an SPC (as defined in Section 9.05(e)) shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters

the name and address of each Participant and each SPC and their respective successors and registered assigns, and the principal and interest amounts of each Participant's and each SPC's interest in the Loans or other obligations under the Loan Documents (a "Participant/SPC Register"); provided that no Lender shall have any obligation to disclose all or any portion of any Participant/SPC Register (including the identity of any Participant or SPC or any information relating to any Participant's or SPC's interest in any Commitment, Loan or any other obligation under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) or Proposed Section 1.163-5(b) of the Treasury Regulations (or any amended or successor version). The entries in the Participant/SPC Register shall be conclusive absent manifest error, and each Lender shall treat each Person whose name is recorded in the Participant/SPC Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant/SPC Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution or any natural person) to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to any Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 9.05 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release any Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of any Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 2.15, 2.16 or 2.17) and no SPC shall be entitled to any greater amount under Section 2.15, 2.16 or 2.17 or any other provision of this Agreement or any other Loan Document that the Granting Lender would have been entitled to receive, unless the grant to such SPC is made with the prior written consent of the Borrower (in its sole discretion), expressly acknowledging that such SPC's entitlement to benefits under Sections 2.15, 2.16 and 2.17 is not limited to what the Granting Lender would have been entitled to receive absent the grant to the SPC, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender) and (iii) the Granting Lender shall for all purposes including approval of any amendment, waiver or other modification of any provision of the Loan Documents, remain the Lender of record hereunder. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the Requirements of Law of the US or any State thereof; provided that (i) such SPC's Granting Lender is in compliance in all material respects with its obligations to the Borrower hereunder and (ii) each Lender designating any SPC hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such SPC during such period of forbearance. In addition, notwithstanding anything to the contrary contained in this Section 9.05, any SPC may (i) with notice to, but without the prior written consent of, the Borrower or the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loan to the Granting

Lender and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guaranty or credit or liquidity enhancement to such SPC.

(f) (i) Any assignment or participation by a Lender (A) to or with any Disqualified Institution or (B) in the case of any assignment and/or participation, without the Borrower's consent to the extent the Borrower's consent is required under this Section 9.05 (and, if applicable, not deemed to have been given pursuant to Section 9.05(b)(i)(A)), in each case, to any Person shall be null and void, and Holdings and the Borrower shall each be entitled to seek specific performance to unwind any such assignment or participation and/or specifically enforce this Section 9.05(f) in addition to injunctive relief (without posting a bond or presenting evidence of irreparable harm) or any other remedy available to the Borrower at law or in equity; it being understood and agreed that the Borrower, Holdings and its subsidiaries will suffer irreparable harm if any Lender breaches any obligation under this Section 9.05 as it relates to any assignment or participation to a Disqualified Person, the pledge or assignment of any security interest in any Loan or Commitment to a Disqualified Person and/or any assignment or participation of, or pledge or assignment of a security interest in, any Loan or Commitment to any Person to whom the Borrower's consent is required but not obtained. Nothing in this Section 9.05(f) shall be deemed to prejudice any right or remedy that Holdings or the Borrower may otherwise have at law or equity. The Administrative Agent may make the list of Disqualified Institutions available on a confidential basis in accordance with Section 9.13 to any Lender who specifically requests a copy thereof, and such Lender may provide such list of Disqualified Institutions to any potential assignee or participant who agrees to keep such list confidential in accordance with Section 9.13 solely for the purpose of permitting such Person to verify whether such Person (or any Affiliate thereof) constitutes a Disqualified Institution.

(ii) If any assignment or participation under this Section 9.05 is made to any Disqualified Institution and/or any Affiliate of any Disqualified Institution (other than any Competitor Debt Fund Affiliate) and/or any other Person to whom the Borrower's consent is required but not obtained, in each case, without the Borrower's prior written consent (any such person, a "Disqualified Person"), then the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Person and the Administrative Agent, (A) terminate any Commitment of such Disqualified Person and repay all obligations of the Borrower owing to such Disqualified Person, (B) in the case of any outstanding Loans, held by such Disqualified Person, purchase such Loans by paying the lesser of (x) par and (y) the amount that such Disqualified Person paid to acquire such Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder and/or (C) require such Disqualified Person to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.05), all of its interests, rights and obligations under this Agreement to one or more Eligible Assignees; provided that (I) in the case of clause (B), the applicable Disqualified Person has received payment of an amount equal to the lesser of (1) par and (2) the amount that such Disqualified Person paid for the applicable Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the Borrower, (II) in the case of clauses (A) and (B), the Borrower shall not be liable to the relevant Disqualified Person under Section 2.16 if any Term SOFR Loan owing to such Disqualified Person is repaid or purchased other than on the last day of the Interest Period relating thereto, (III) in the case of clause (C), the relevant assignment shall otherwise comply with this Section 9.05 (except that no registration and processing fee required under this Section 9.05 shall be required with any assignment pursuant to this paragraph) and (IV) in no event shall such Disqualified Person be entitled to receive amounts set forth in Section 2.13(d). Further, any Disqualified Person identified by the Borrower to the Administrative Agent (A) shall not be permitted to (x) receive information or reporting provided by any Loan Party, the Administrative Agent or any Lender and/or (y) attend and/or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, (B) (x) shall not for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, have a right to consent (or not consent), otherwise act or direct or

require the Administrative Agent or any Lender to take (or refrain from taking) any such action; it being understood that all Loans held by any Disqualified Person shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders have taken any action, and (y) shall be deemed to vote in the same proportion as Lenders that are not Disqualified Persons (1) in any proceeding under any Debtor Relief Law commenced by or against the Borrower or any other Loan Party and/or (2) for purposes of any matter requiring the consent of each Lender or each affected Lender and (C) shall not be entitled to receive the benefits of Section 9.03. For the sake of clarity, the provisions in this Section 9.05(f) shall not apply to any Person that is an assignee of any Disqualified Person, if such assignee is not a Disqualified Person.

(iii) Notwithstanding anything to the contrary herein, each of Holdings, Intermediate Holdings, the Borrower and each Lender acknowledges and agrees that the Administrative Agent shall not have any liability for any assignment or participation made to any Disqualified Institution (regardless of whether the consent of the Administrative Agent is required thereto), and none of Holdings, Intermediate Holdings, the Borrower, any Lender or any of their respective Affiliates will bring any claim to that effect.

(g) Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to any Affiliated Lender on a non-pro rata basis (A) through Dutch auctions open to all Lenders holding the relevant Term Loans on a pro rata basis or (B) through open market purchases, in each case with respect to clauses (A) and (B), without the consent of the Administrative Agent; provided that:

(i) any Term Loan acquired by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries shall, to the extent permitted by applicable Requirements of Law, be retired and cancelled immediately upon the acquisition thereof; provided that upon any such retirement and cancellation, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans so retired and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.10(a) shall be reduced on a pro rata basis by the full par value of the aggregate principal amount of Term Loans so cancelled;

(ii) [reserved];

(iii) the relevant Affiliated Lender and assigning or purchasing, as applicable, Lender shall have executed an Affiliated Lender Assignment and Assumption;

(iv) [reserved];

(v) (A) the relevant Person shall (I) fund such assignment using solely cash consideration and (II) not use the proceeds of any Indebtedness to fund such assignment and (B) in connection with any assignment effected pursuant to a Dutch auction and/or open market purchase conducted by Holdings, Intermediate Holdings, the Borrower or any of their Subsidiaries, no Event of Default exists at the time of acceptance of bids for the Dutch auction or the confirmation of such open market purchase, as applicable; and

(vi) by its acquisition of Term Loans, each relevant Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) [reserved]; and

(B) [reserved]; and

(vii) no Affiliated Lender shall be required to represent or warrant that it is not in possession of material non-public information with respect to Holdings and/or any subsidiary thereof and/or their respective securities in connection with any assignment permitted by this Section 9.05(g).

Section 9.06. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loan regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect until the Termination Date. The provisions of Sections 2.15, 2.16, 2.17, 9.03 and 9.13 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the occurrence of the Termination Date or the termination of this Agreement or any provision hereof but in each case, subject to the limitations set forth in this Agreement.

Section 9.07. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and the Administrative Agent Fee Letter constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it has been executed by Holdings, Intermediate Holdings, the Borrower and the Administrative Agent and when the Administrative Agent has received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or by email as a “.pdf” or “.tif” attachment shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.08. Severability. To the extent permitted by applicable Requirements of Law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.09. Right of Setoff. At any time when an Event of Default exists, the Administrative Agent and, upon the written consent of the Administrative Agent and each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) other than payroll, trust and tax withholding accounts at any time held and other obligations (in any currency) at any time owing by the Administrative Agent or such Lender, respectively, to or for the credit or the account of any Loan Party against any of and all the Secured Obligations held by the Administrative Agent or such Lender, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand under the Loan Documents and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender different than the branch or office holding such deposit or obligation on such Indebtedness. The Administrative Agent shall promptly notify the Borrower and any applicable Lender shall promptly notify the Borrower and the Administrative Agent of such set-off or application, as applicable; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender and the Administrative Agent under this Section are in addition to

other rights and remedies (including other rights of setoff) which such Lender or the Administrative Agent may have.

Section 9.10. Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT) AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT), SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY US FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, FEDERAL COURT. EACH PARTY HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE REQUIREMENTS OF LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ITS RIGHTS UNDER ANY COLLATERAL DOCUMENT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN CLAUSE (b) OF THIS SECTION. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(d) TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01. EACH PARTY HERETO HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY LOAN DOCUMENT THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE REQUIREMENTS OF LAW.

Section 9.11. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.12. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.13. Confidentiality. Each of the Administrative Agent and each Lender (and each Lender agrees to cause its SPC, if any) to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed (a) to its and its Affiliates' members, partners, directors, officers, managers, employees, independent auditors, or other experts and advisors, including accountants, legal counsel and other advisors (collectively, the "Representatives") on a "need to know" basis solely in connection with the transactions contemplated hereby and who are informed of the confidential nature of the Confidential Information and are or have been advised of their obligation to keep the Confidential Information of this type confidential; provided that such Person shall be responsible for its Affiliates' and their Representatives' compliance with this paragraph; provided, further, that unless the Borrower otherwise consents, no such disclosure shall be made by the Administrative Agent any Lender or any Affiliate or Representative thereof to any Affiliate or Representative of the Administrative Agent or any Lender that is a Disqualified Institution, (b) to the extent compelled by legal process in, or reasonably necessary to, the defense of such legal, judicial or administrative proceeding, in any legal, judicial or administrative proceeding or otherwise as required by applicable Requirements of Law (in which case such Person shall, except with respect to any audit or examination conducted by bank accountants or any Governmental Authority or regulatory or self-regulatory authority exercising examination or regulatory authority over such Person, (i) to the extent practicable and permitted by applicable Requirements of Law, inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (c) upon the demand or request of any regulatory or governmental authority (including any self-regulatory body) purporting to have jurisdiction over such Person or its Affiliates (in which case such Person shall, except with respect to any audit or examination conducted by bank accountants or any Governmental Authority or regulatory or self-regulatory authority exercising examination or regulatory authority over such Person, to the extent permitted by applicable Requirements of Law, (i) inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any information so disclosed is accorded confidential treatment), (d) to the extent provided by or on behalf of the Borrower to the Administrative Agent for distribution to the Lenders, by the Administrative Agent to any Lender party to this Agreement, as applicable, (e) subject to an acknowledgment and agreement by the relevant recipient that the Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as otherwise reasonably acceptable to the Borrower and the Administrative Agent) in accordance with market standards for dissemination of the relevant type of information, which shall in any event require "click through" or other affirmative action on the part of the recipient to access the Confidential Information and acknowledge its confidentiality obligations in respect thereof, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or prospective Participant in, any of its rights or obligations under this Agreement, including any SPC (in each case other than a Disqualified Institution and/or any Person to whom the Borrower has, at the time of disclosure, affirmatively declined to consent to any assignment or participation), (ii) any pledgee referred to in Section 9.05 and (iii) any actual or

prospective, direct or indirect contractual counterparty (or its advisors) to any Derivative Transaction (including any credit default swap) or similar derivative product to which any Loan Party is a party, (f) with the prior written consent of the Borrower and (g) to the extent the Confidential Information becomes publicly available other than as a result of a breach of this Section by such Person, its Affiliates or their respective Representatives. For purposes of this Section, “Confidential Information” means all information relating to Holdings, Intermediate Holdings, the Borrower and/or any of their subsidiaries and their respective businesses or the Transactions (including any information obtained by the Administrative Agent or any Lender, or any of their respective Affiliates or Representatives, based on a review of any books and records relating to Holdings, Intermediate Holdings, the Borrower and/or any of their subsidiaries and their respective Affiliates from time to time, including prior to the date hereof) other than any such information that is publicly available to the Administrative Agent or any Lender on a non-confidential basis prior to disclosure by Holdings or any of their subsidiaries. For the avoidance of doubt, in no event shall any disclosure of any Confidential Information be made to any Person that is a Disqualified Institution at the time of disclosure.

Section 9.14. No Fiduciary Duty. Each of the Administrative Agent, each Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the “Lenders”), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their respective affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its respective stockholders or its respective affiliates, on the other. Each Loan Party acknowledges and agrees that: (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender, in its capacity as such, has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its respective stockholders or its respective affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its respective stockholders or its respective Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender, in its capacity as such, is acting solely as principal and not as the agent or fiduciary of such Loan Party, its respective management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that such Loan Party has consulted its own legal, tax and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party hereby agrees that it will not claim and, to the fullest extent it may legally and effectively do so, hereby waives any such claim, that any of the Administrative Agent, the Lenders or their respective Affiliates has rendered advisory services of any nature or respect or owes a fiduciary duty or similar duty to it in connection with any aspect of any transaction contemplated hereby.

Section 9.15. Several Obligations. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

Section 9.16. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act and the requirements of the Beneficial Ownership Regulation hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act and the Borrower in accordance with the Beneficial Ownership Regulation.

Section 9.17. Disclosure of Agent Conflicts. Each Loan Party and each Lender hereby acknowledge and agree that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

Section 9.18. Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens in favor of the Administrative Agent (for the benefit of the Secured Parties) and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable Requirement of Law can be perfected only by possession. If any Lender (other than the Administrative Agent) obtains possession of any Collateral, such Lender shall notify the Administrative Agent thereof and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

Section 9.19. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable Requirements of Law (collectively the "Charged Amounts"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Requirements of Law, the rate of interest payable in respect of such Loan hereunder, together with all Charged Amounts payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charged Amounts that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charged Amounts payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, have been received by such Lender.

Section 9.20. [Reserved].

Section 9.21. Conflicts.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, in the event of any conflict or inconsistency between this Agreement and any other Loan Document, the terms of this Agreement shall govern and control.

(b) Notwithstanding anything to the contrary contained herein or in any other Loan Document, in the event of any conflict or inconsistency between any term or provision of this Agreement (excluding the Exhibits hereto) and any term or provision of any Exhibit to this Agreement, the term or provision of this Agreement shall govern and control, and the Borrower shall be entitled to make such revisions to the relevant term or provision of the applicable Exhibit to ensure that such term or provision is consistent with the corresponding term or provision of this Agreement.

Section 9.22. Release of Guarantors. Notwithstanding anything in Section 9.02(b) to the contrary, any Subsidiary Guarantor shall automatically be released from its obligations hereunder (and its Loan Guaranty and any Lien granted by such Subsidiary Guarantor pursuant to any Collateral Document) shall be automatically released) upon the consummation of any transaction or series of related transactions not prohibited by this Agreement if as a result thereof such Subsidiary Guarantor ceases to be a Subsidiary (or subject to this Section 9.22, becomes an Excluded Subsidiary as a result of a single transaction or series of related transactions permitted hereunder). In connection with any such release, the Administrative Agent shall promptly execute and deliver to the relevant Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence termination or release. Notwithstanding anything contained in this Agreement to the contrary, in no event shall any Agent be required to authorize or execute and deliver any instrument or document evidencing any release or subordination unless the Borrower or applicable Loan Party shall have provided such Agent with a certificate of a Responsible Officer certifying that the authorization, execution and delivery of such release or subordination, as applicable, are authorized by the terms of this Agreement and the other Loan Documents. Each Agent may conclusively rely, without independent investigation, on such certificate and shall incur no liability for acting in reliance thereon. Any execution and delivery of any document pursuant to the preceding sentence of this Section 9.22 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and

deliver such documents); provided, however, notwithstanding anything in the Loan Documents to the contrary, no Guarantor will be released from its guarantee solely as a result of either (A) ceasing to be wholly-owned or (B) becoming an Excluded Subsidiary unless (i) at the time such Guarantor ceases to be wholly-owned and/or becomes an Excluded Subsidiary, the primary purpose of such transaction was not to evade the guarantee requirements, (ii) the transaction by which such Guarantor ceases to be wholly-owned and/or becomes an Excluded Subsidiary is permitted under this Agreement and was consummated on an arms' length basis with an unaffiliated third party and (iii) such transaction otherwise complies with the terms of Section 6.03 (with the Borrowers being deemed to have made an Investment in such resulting non-Guarantor Subsidiary, and such transaction constitutes an Investment).

Section 9.23. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Solely to the extent any Lender that is an Affected Financial Institution is a party to this Agreement, notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

Section 9.24. Certain ERISA Matters. Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, that at least one of the following is and will be true:

- (a) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,
- (b) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,
- (c) (i) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (ii) such Qualified Professional Asset Manager made the investment

decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (iii) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (iv) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(d) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless either (1) subclause (i) in the immediately preceding paragraph is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with subclause (iv) in the immediately preceding paragraph, such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 9.25. Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the US or any other state of the US):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 9.25, the following terms have the following meanings:

(i) "BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 USC § 841(k)) of such party.

(ii) “Covered Entity” means any of the following:

(A) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(B) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(C) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

(iii) “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) “QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 USC § 5390(c)(8)(D).

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

HOLDINGS:

THRASIO HOLDINGS, INC.

By: _____
Name:
Title:

INTERMEDIATE HOLDINGS:

THRASIO INTERMEDIATE SUB, LLC

By: _____
Name:
Title:

BORROWER:

THRASIO, LLC

By: _____
Name:
Title:

ADMINISTRATIVE AGENT:

WILMINGTON SAVINGS FUND SOCIETY, FSB

By: _____
Name:
Title:

LENDERS:

[•]

By: _____
Name:
Title:

Exhibit M

New Organizational Documents

Certain documents, or portions thereof, contained or to be contained in this **Exhibit M** and the Plan Supplement remain subject to continued review and comment by the Debtors and the Required Consenting Lenders in accordance with the consent rights set forth in the Plan and the Restructuring Support Agreement. The respective rights of the Debtors and the Required Consenting Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the Restructuring Support Agreement, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; *provided* that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
THRASIO HOLDINGS, INC.**

The name of the corporation is Thrasio Holdings, Inc. (the “Corporation”). The Corporation was incorporated by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on December 15, 2020 (the “Certificate of Incorporation”). This Amended and Restated Certificate of Incorporation of the Corporation (the “Amended and Restated Certificate of Incorporation,”) which amends, restates and integrates and also further amends the provisions of the Certificate of Incorporation, was duly adopted in accordance with the provisions of Sections 242, 245 and 303 of the General Corporation Law of the State of Delaware (the “DGCL”). The Certificate of Incorporation is hereby amended, integrated and restated to read in its entirety as follows:

**ARTICLE I
NAME**

The name of the corporation is Thrasio Holdings, Inc.

**ARTICLE II
REGISTERED OFFICE AND AGENT**

The address of the Corporation’s registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware, 19801. The name of its registered agent at such address is The Corporation Trust Company.

**ARTICLE III
PURPOSE AND DURATION**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the DGCL. The Corporation is to have a perpetual existence.

**ARTICLE IV
CAPITAL STOCK**

Section 4.1 Authorized Capital Stock. The total number of shares of all classes of stock that the Corporation shall have authority to issue is 10,000,000, which shall be divided into two classes as follows:

- (A) 9,000,000 shares of common stock, par value \$0.0001 per share (“Common Stock”); and
- (B) 1,000,000 shares of preferred stock, par value \$0.0001 per share (“Preferred Stock”).

Section 4.2 Changes in Capital Stock. Subject to the Stockholders Agreement and the rights of the holders of any series of Preferred Stock, the number of authorized shares of any of the Common Stock or Preferred Stock may be increased or decreased (but not below the number

of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL or any successor provision thereof, and no vote of the holders of any shares of Common Stock or Preferred Stock voting separately as a class shall be required therefor.

Section 4.3 Preferred Stock. Shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Corporation (the “Board”) is hereby authorized to provide from time to time by resolution or resolutions for the creation and issuance, out of the authorized and unissued shares of Preferred Stock, of one or more series of Preferred Stock by filing a certificate (a “Certificate of Designation”) pursuant to the DGCL, setting forth such resolution or resolutions and, with respect to each such series, establishing the designation of such series and the number of shares to be included in such series and fixing the terms of such series, the voting powers (full or limited, or no voting power), preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof, of the shares of each such series, including without limitation thereof, dividend rights, conversion rights, redemption privileges and liquidation preferences, as shall be stated and expressed in such resolutions, all to the fullest extent now or hereafter permitted by the DGCL. Without limiting the generality of the foregoing, and subject to the rights of the holders of any series of Preferred Stock then outstanding, the resolution or resolutions providing for the establishment of any series of Preferred Stock may, to the extent permitted by law, provide that such series shall be superior to, rank equally with or be junior to the Preferred Stock of any other series. The terms, voting powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations or restrictions thereof, of each series of Preferred Stock may be different from those of any and all other series at any time outstanding. Except as otherwise expressly provided in this Amended and Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock), no vote of the holders of shares of Preferred Stock or Common Stock shall be a prerequisite to the issuance of any shares of any series of the Preferred Stock so authorized in accordance with this Amended and Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock). Except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) or pursuant to the DGCL. Unless otherwise provided in the Certificate of Designation establishing a series of Preferred Stock, the Board may, by resolution or resolutions, increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of such series and, if the number of shares of such series shall be so decreased, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution or resolutions originally fixing the number of shares of such series.

Section 4.4 Nonvoting Securities. The Corporation shall not issue nonvoting equity securities (as such term is defined in Section 101(16) of the Bankruptcy Code) (which shall be deemed not to include warrants or options or similar instruments to purchase or receive equity of

the Corporation or any equity security pursuant to the Plan (all of which constitute voting equity securities)); provided, however, the foregoing restriction shall (a) have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code, (b) only have such force and effect for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to the Corporation, and (c) in all events may be amended or eliminated in accordance with applicable law as from time to time may be in effect. The prohibition on the issuance of nonvoting equity securities is included in this Amended and Restated Certificate of Incorporation in compliance with Section 1123(a)(6) of the Bankruptcy Code.

Section 4.5 Certain BHCA Compliance Matters. Notwithstanding anything to the contrary in this Certificate of Incorporation, any portion of Common Stock held by Barclays Bank PLC in excess of 4.99% of the total outstanding Common Stock (excluding, for purposes of calculating this percentage, portions of any Common Stock that are non-voting securities pursuant to this Agreement) shall be automatically deemed to be, and subject to the restrictions of, a nonvoting security for purposes of the U.S. Bank Holding Company Act and 12 C.F.R. Part 225 (Subpart A) and shall not be entitled to vote or consent on any matter other than matters permissible for nonvoting securities pursuant to 12 C.F.R. § 225.2(q)(2).

ARTICLE V

BOARD OF DIRECTORS

For the management of the business and for the conduct of the affairs of the Corporation it is further provided that:

Section 5.1 Powers of the Board. Except as otherwise provided in this Amended and Restated Certificate of Incorporation and the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board. The number of directors which shall constitute the whole Board shall be fixed exclusively by one or more resolutions adopted from time to time by the Board. Except as otherwise expressly provided by the bylaws of the Corporation (as the same may be amended and/or restated from time to time, the “By-Laws”) or delegated by resolution of the Board, the Board shall have the exclusive power and authority to appoint and remove officers of the Corporation.

Section 5.2 Interim Period Directors. During the period beginning on the date hereof and ending on the date of the Board Nomination Meeting (as defined below) (such period, the “Interim Term”), the number of seats on the Board shall be fixed at five (5) and each of the following individuals will be elected to serve as directors of the Board in accordance with the terms and conditions of this Amended and Restated Certificate of Incorporation and the By-Laws:

(a) the individual then serving as the Chief Executive Officer of the Corporation (the “CEO Director”), who shall initially be Stephanie Fox; and

(b) four (4) individuals nominated by the Stockholder Nominating and Selection Committee, who shall initially be John Goodman, Mayu Sris, Lucia Kim and Matt Carter (the “Interim SteerCo Directors”).

This Amended and Restated Certificate of Incorporation has been made effective on the Plan's Effective Date (as defined in the Plan) and the Interim SteerCo Directors have been appointed, in each case, pursuant to applicable law in accordance with an order by the United States Bankruptcy Court for the District of New Jersey confirming the Plan.

Section 5.3 Initial Directors. Prior to the Plan's Effective Date, the members of the Stockholder Nominating and Selection Committee began a search to select the Initial SteerCo Directors (as defined below). Upon selection of the Initial SteerCo Directors in accordance with the immediately preceding sentence, a representative designated by the Stockholder Nominating and Selection Committee shall submit in writing to the Board the slate of the Initial SteerCo Directors that such committee proposes for nomination in accordance with this Section 5.3 of Article V (the "Board Nomination Event"). Promptly thereafter, but subject to the Directors' fiduciary duties, the Board shall cause the Corporation to call either (x) a general meeting of the holders of Common Stock or (y) otherwise seek the written consent of the holders of Common Stock (the "Board Nomination Meeting"), for the purpose of electing the Initial SteerCo Directors in accordance with this Section 5.3 of Article V and the By-Laws. At the Board Nomination Meeting, each holder of Common Stock shall be obligated to vote, or cause to be voted, all shares of Common Stock over which such holder has the power to vote or direct the voting, and shall take all other necessary actions within such holder's control (including providing a consent in writing thereto, as may be applicable), in order to cause each of such nominees as are proposed by the members of the Stockholder Nominating and Selection Committee to be elected as Initial SteerCo Directors in accordance with this Section 5.3 of Article V and the By-Laws. Concurrently with the completion of the Board Nomination Event, the members of the Stockholder Nominating and Selection Committee shall cause any Interim SteerCo Director who is not an Initial SteerCo Director to tender his or her resignation from the Board, without prejudice to the application of Section 5.7 of Article V below, with such resignation effective upon the election of the Initial SteerCo Directors.

Section 5.4 Post-Initial Period Directors. Subject to Section 5.9 of Article V, at all times following the date of the Board Nomination Meeting, the number of seats on the Board shall be fixed at five (5) on the Plan's Effective Date and each of the following individuals will be elected by the holders of Common Stock, as may be required from time to time, to serve as directors in accordance with the terms and conditions of the By-Laws:

- (a) the CEO Director; and
- (b) four (4) individuals, who shall (i) at the Board Nomination Meeting, be nominated by the Stockholder Nominating and Selection Committee, as may be identified in accordance with Section 5.3 of Article V, to serve as Directors (the "Initial SteerCo Directors"), each of whom shall be Independent, and (ii) at all times following the Board Nomination Meeting, be nominated by the SteerCo Members in accordance with Section 5.5 of Article V below (the "SteerCo Directors").

Notwithstanding the foregoing, at all times following the date of the Board Nomination Meeting, the number of seats with respect to the number of SteerCo Directors may be increased by one (1) director with respect to each Material Stockholder or may be decreased by one (1) director for each Fall-Away Director (as defined below).

The CEO Director shall serve as the Chairperson of the Board (as defined in the By-Laws), with such duties as the Board shall determine.

Section 5.5 Board Designation Events.

(a) At all times following the Board Nomination Meeting, each SteerCo Director shall serve as a director of the Corporation until the next annual election for the board of directors and until his or her successor shall have been elected and shall have qualified, except as in the case of such director's earlier death or disability, resignation, or removal, including removal pursuant to Section 5.5(c) of Article V and Section 5.6 of Article V below (in each case, a "Board Designation Event").

(b) Upon the occurrence of a Board Designation Event, the SteerCo Member that, at the time of the Board Designation Event, holds the largest number of shares of Common Stock shall be entitled, in consultation with the other SteerCo Members, to designate the replacement to such SteerCo Director; provided, that (i) each replacement SteerCo Director shall be Independent and (ii) each SteerCo Member shall have the opportunity to designate an equal number of SteerCo Director replacements prior to any SteerCo Member having the opportunity to designate an additional SteerCo Director replacement; provided further that, any such director designated by a SteerCo Member shall be designated by the SteerCo Member which nominated the director who is a subject of the Board Designation Event.

(c) In the event that (x) a member of the Stockholder Nominating and Selection Committee no longer meets its respective Minimum Original SteerCo Threshold and is not otherwise entitled to serve as a SteerCo Member or (y) any Material Stockholder ceases at any time to hold more than 15% of the aggregate number of outstanding shares of Common Stock, in each case, at such time its SteerCo Director designee is serving on the Board (in each case of (x) and (y), such SteerCo Director, a "Fall-Away Director"), the director designated by such SteerCo Member shall as soon as reasonably practicable resign, or the SteerCo Member and the holders of stock, to the extent necessary and in accordance with the provisions of the DGCL, shall cause the removal of, the Fall-Away Director from the Board and, to the extent applicable, designate a replacement pursuant to Section 5.5(b) of Article V.

(d) Upon the occurrence of any Board Designation Event, each holder of Common Stock shall be obligated to vote, or cause to be voted, all shares of Common Stock over which such holder has the power to vote or direct the voting, and shall take all other necessary actions within such holder's control (including providing a consent in writing thereto, as may be applicable), in order to cause each of such nominees as are proposed by the SteerCo Member or the members of the Stockholder Nominating and Selection Committee (or any successor committee, which may be a committee of the Board of Directors), to the extent applicable, to be elected as SteerCo Directors in accordance with this Section 5.5 of Article V and the By-Laws.

Section 5.6 Removal. Notwithstanding anything to the contrary in the By-Laws:

(a) during the Interim Term, (A) the Interim SteerCo Directors may not be removed unless the Stockholder Nominating and Selection Committee shall have first provided written notice to the Board of the Stockholder Nominating and Selection Committee's determination to remove such Interim SteerCo Director at least one (1) Business Day prior to the effectiveness of such removal, and (B) the Interim SteerCo Director as to which the Stockholder Nominating and Selection Committee shall have provided such written notice shall resign or, to the extent necessary, be removed in accordance with the provisions of the DGCL; and

(b) except as otherwise provided under Section 5.5 of Article V, no SteerCo Director may be removed unless SteerCo Members holding a majority of the shares of Common Stock held by all of the SteerCo Members (the "Requisite SteerCo Members") shall have (A) first provided written notice to the Board of such Requisite SteerCo Members' determination to remove such SteerCo Director at least one (1) Business Day prior to the effectiveness of such removal and (B) any SteerCo Director as to which the Requisite SteerCo Members shall have provided such written notice shall resign or, to the extent necessary, be removed in accordance with the provisions of the DGCL.

Section 5.7 Vacancies. Notwithstanding anything to the contrary in the By-Laws, but subject in all cases to the directors' fiduciary duties: (i) any vacancy of a seat held by an Interim SteerCo Director resulting from the death, resignation, removal or otherwise of any such director during the Interim Term shall be filled by an individual designated by the Stockholder Nominating and Selection Committee and (ii) any vacancy of a seat held by a SteerCo Director resulting from the death, resignation, removal or otherwise of any such director shall be filled in accordance with the procedures set forth in Section 5.5 of Article V above.

Section 5.8 Reimbursement. Each director shall be entitled to reimbursement from the Corporation for his or her reasonable and documented out-of-pocket expenses (including travel) incurred in attending any meeting of the Board or any committee thereof, pursuant to the Corporation's applicable policies.

Section 5.9 Additional Preferred Stock Directors. During any period when the holders of any series of Preferred Stock have the special right to elect additional directors, upon commencement and for the duration of such period during which such right continues: (i) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such specified number of additional directors, and the holders of such series of Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to the Certificate of Designation establishing such series of Preferred Stock and (ii) each such additional director shall serve until such director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to the Certificate of Designation establishing such series of Preferred Stock, whichever occurs earlier, subject to his or her earlier death, resignation, disqualification or removal. Except as otherwise provided by this Amended and Restated Certificate of Incorporation (including any Certificate of Designation establishing any series of Preferred Stock), whenever the holders of any series of Preferred Stock having the special right to elect additional directors are divested of such right pursuant to this Amended and Restated Certificate of Incorporation (including pursuant to any such Certificate of Designation), the terms of office of all such additional directors elected by the holders of such series, or elected to fill any

vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate and the total authorized number of directors of the Corporation shall be reduced accordingly.

Section 5.10 Written Ballots. The directors of the Corporation need not be elected by written ballot unless the By-Laws so provide.

Section 5.11 Cumulative Voting. Except as may otherwise be set forth in the resolution or resolutions of the Board providing for the issuance of one or more series of Preferred Stock, and then only with respect to such series of Preferred Stock, cumulative voting in the election of directors is specifically denied.

ARTICLE VI **STOCKHOLDERS**

Section 6.1 Actions. Any action required or permitted to be taken by the stockholders of the Corporation may be effected at a duly called annual or special meeting of the stockholders of the Corporation or may be taken by consent of the stockholders in lieu of a meeting; provided, however, that any action required or permitted to be taken by any holders of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable Certificate of Designation relating to such series of Preferred Stock.

Section 6.2 Special Meetings. Subject to the special rights of the holders of one or more series of Preferred Stock, special meetings of the stockholders of the Corporation may be called, for any purpose or purposes, at any time by the Chairperson of the Board, a resolution adopted by the affirmative vote of the majority of the then-serving members of the Board, or holders of at least 50% of the voting power of the outstanding shares of stock.

Section 6.3 Advance Notice. Advance notice of stockholder nominations for the election of directors and of other business proposed to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the By-Laws.

Section 6.4 Major Management Decisions. The following acts, expenditures, decisions and obligations made or incurred by the Corporation or, to the extent specified below, any Subsidiary of the Corporation shall require the prior approval of the Requisite Stockholders:

(a) (i) fundamentally changing the nature of the business of the Corporation and its Subsidiaries, taken as a whole, or (ii) the commencement of significant new lines of business operations or discontinuation of significant portions of business operations, in each case, (x) as contemplated by the Corporation on or prior to the Plan's Effective Date or (y) to the extent applicable, as may be already in effect or being effectuated as of the Plan's Effective Date;

(b) increasing or decreasing the authorized size of the Board (except as otherwise provided by this Amended and Restated Certificate of Incorporation);

(c) any incurrence, assumption or guarantee of Indebtedness (as defined in the Credit Agreement) that would be included in the calculation of Consolidated Total Debt (as defined in the Credit Agreement) in an amount that would cause the Total Net Leverage Ratio (as defined in the Credit Agreement) to be greater than 6.00:1.00 (calculated as of the last day of the most recently ended Test Period (as defined in the Credit Agreement); provided, that any Indebtedness in respect of (i) letters of credit, bank guarantees, surety bonds, performance bonds or similar instruments that, in the aggregate, do not exceed the amount set forth in Section 6.01(c) of the Credit Agreement (or any successor provision) and (ii) insurance premium financing arrangements, in each case, shall be excluded from such calculation of Total Net Leverage Ratio under this Amended and Restated Certificate of Incorporation and shall not be deemed Indebtedness for the purposes of calculating Consolidated Total Debt pursuant to this Section 6.4(c) of Article VI;

(d) any Sale of the Business (as defined in the Stockholders Agreement) (other than in connection with the valid exercise of rights under Section 2.3 of the Stockholders Agreement);

(e) any (a) purchase or acquisition or (b) sale, lease, transfer or divestiture, in each case through one transaction or a series of related transactions, whether by merger, consolidation, amalgamation, arrangement, business combination, recapitalization or otherwise, of any assets that would require the consent of the Required Lenders (as defined in, and pursuant to the terms of, the Credit Agreement); provided, that any transaction or series of related transactions contemplated by clause (a) or (b) for an amount less than the greater of \$10.0 million or 20% of Consolidated Adjusted EBITDA (as defined in the Credit Agreement) of the Corporation for the Test Period (as defined in the Credit Agreement) shall not be subject to this Section 6.4(e) of Article VI;

(f) the consummation of any Initial Public Offering (as defined in the Stockholders Agreement);

(g) issuances of New Securities (as defined in the Stockholders Agreement), other than issuances of shares of Preferred Stock or (y) any transaction consummated in accordance with Section 2.3 or Section 2.4 of the Stockholders Agreement);

(h) electing to change the Corporation's corporate form of entity or make any material change to the Corporation being treated as a corporation for U.S. federal income tax purposes;

(i) effecting any non-*pro rata* repurchase, redemption, conversion or reduction of equity interests or debt securities of the Corporation or any of its Subsidiaries, other than (i) in connection with any internal reorganization, including, but not limited to, an internal reorganization for tax purposes, solely among the Corporation and one or more of its wholly-owned Subsidiaries or (ii) repurchases of equity interests held by any director, officer, employee or other service provider of the Corporation or any of its Subsidiaries (as applicable);

(j) (i) approve any amendment to the MIP Cap (as defined in the Stockholders Agreement) or (ii) adopt or enter into any management equity, equity incentive or similar plan other than the Management Incentive Plan (as defined in the Stockholders Agreement);

(k) change any significant accounting policy of the Corporation other than as may be required by United States generally accepted accounting principles (or similar accounting standard), as in effect at the applicable time, consistently applied (as determined by the Corporation in good faith);

(l) liquidate, dissolve or wind-up the business and affairs of the Corporation or any of its material Subsidiaries, except (A) as required by applicable law or (B) as necessary to effect (x) an in-court or out-of-court restructuring in order to avoid a liquidation, dissolution or wind-up of the business and affairs of the Corporation or any of its material Subsidiaries or (y) an internal reorganization, including for, but not limited to, tax purposes, among the Corporation and one or more of its Subsidiaries or Affiliates (in each case, as determined by the Corporation in good faith); and

(m) any agreement, contract or commitment to effect any of the foregoing.

ARTICLE VII

LIABILITY AND INDEMNIFICATION

Section 7.1 Right to Indemnification. To the fullest extent permitted by the DGCL, as the same exists or as may hereafter be amended, a director or officer of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL or any other law of the State of Delaware is amended after approval by the stockholders of this Article VII to authorize corporate action further eliminating or limiting the personal liability of directors or officers, then the liability of a director or officer of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended, automatically and without further action, upon the date of such amendment. Any alteration, amendment, addition to or repeal of this Section 7.1 of Article VII, adoption of any provision of this Certificate inconsistent with this Section 7.1 of Article VII, or (to the fullest extent permitted by the DGCL) any modification of law, shall not reduce, eliminate or adversely affect any right or protection of a director of the Corporation existing at the time of such alteration, amendment, addition to, repeal, adoption or modification with respect to acts or omissions occurring prior to such alteration, amendment, addition to, repeal, adoption or modification. All references in this Section 7.1 of Article VII to “directors” or “officer” shall have the meaning ascribed to such term in Section 102(b)(7) of the DGCL.

Section 7.2 Right to Advancement of Expenses. The Corporation, to the fullest extent permitted by law, shall indemnify and advance expenses to any Person made or threatened to be made a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he or she is or was a director or officer of the Corporation or any predecessor of the Corporation, or, while serving as a director or officer of the Corporation, serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

Section 7.3 Corporate Indemnification. The Corporation, to the fullest extent permitted by law, may indemnify and advance expenses to any Person made or threatened to be made a party to an action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he or she is or was an employee or agent of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as an employee or agent at the request of the Corporation or any predecessor to the Corporation.

Section 7.4 Effectiveness of Amendment and Repeal. Neither any amendment nor repeal of this Article VII, nor the adoption by amendment of this Amended and Restated Certificate of Incorporation of any provision inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII in respect of any matter occurring, or any action or proceeding accruing or arising (or that, but for this Article VII, would accrue or arise) prior to such amendment or repeal or adoption of an inconsistent provision.

ARTICLE VIII

FORUM

Section 8.1 Forum Selection. Unless the Corporation consents in writing to the selection of an alternative forum, (a) the Court of Chancery (the “Chancery Court”) of the State of Delaware (or, in the event that the Chancery Court does not have jurisdiction, the federal district court for the District of Delaware or other state courts of the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action, suit or proceeding brought on behalf of the Corporation, (ii) any action, suit or proceeding asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or stockholder of the Corporation to the Corporation or to the Corporation’s stockholders, (iii) any action, suit or proceeding arising pursuant to any provision of the DGCL or the By-Laws or this Amended and Restated Certificate of Incorporation (as it may be amended and/or restated from time to time) or (iv) any action, suit or proceeding asserting a claim against the Corporation governed by the internal affairs doctrine; and (b) subject to the preceding provisions of this Article VIII, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. If any action the subject matter of which is within the scope of clause (a) of the immediately preceding sentence is filed in a court other than the courts in the State of Delaware (a “Foreign Action”) in the name of any stockholder, such stockholder shall be deemed to have consented to (x) the personal jurisdiction of the state and federal courts in the State of Delaware in connection with any action brought in any such court to enforce the provisions of clause (a) of the immediately preceding sentence and (y) having service of process made upon such stockholder in any such action by service upon such stockholder’s counsel in the Foreign Action as agent for such stockholder.

Section 8.2 Notice of Forum. Any person or entity purchasing or otherwise acquiring any interest in any security of the Corporation shall be deemed to have notice of and consented to this Article VIII. Notwithstanding the foregoing, the provisions of this Article VIII shall not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts of the United States have exclusive jurisdiction.

ARTICLE IX

CORPORATE OPPORTUNITIES

Section 9.1 Certain Non-Employee Directors Activities. In recognition and anticipation that members of the Board who are not employees of the Corporation (“Non-Employee Directors”) and their respective Affiliates may now engage and may continue to engage in the same or similar activities or related lines of business as those in which the Corporation, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Corporation, directly or indirectly, may engage, the provisions of this Article IX are set forth to regulate and define the conduct of certain affairs of the Corporation with respect to certain classes or categories of business opportunities as they may involve any of the Non-Employee Directors or their respective Affiliates and the powers, rights, duties and liabilities of the Corporation and its directors, officers and stockholders in connection therewith.

Section 9.2 Waiver of Certain Corporate Opportunities. No Non-Employee Director or his or her Affiliates (collectively, as “Identified Persons” and, individually, as an “Identified Person”) shall, to the fullest extent permitted by law, have any duty to refrain from directly or indirectly (1) engaging in the same or similar business activities or lines of business in which the Corporation or any of its Affiliates now engages or proposes to engage or (2) otherwise competing with the Corporation or any of its Affiliates, and, to the fullest extent permitted by law, no Identified Person shall be liable to the Corporation or its stockholders or to any Affiliate of the Corporation for breach of any fiduciary duty solely by reason of the fact that such Identified Person engages in any such activities. To the fullest extent permitted by law, the Corporation hereby renounces any interest or expectancy in, or right to be offered an opportunity to participate in, any business opportunity which may be a corporate opportunity for an Identified Person and the Corporation or any of its Affiliates, except as provided in Section 9.3 of this Article IX. Subject to Section 9.3 of this Article IX, in the event that any Identified Person acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself, herself or himself and the Corporation or any of its Affiliates, such Identified Person shall, to the fullest extent permitted by law, have no duty to communicate or offer such transaction or other business opportunity to the Corporation or any of its Affiliates and, to the fullest extent permitted by law, shall not be liable to the Corporation or its stockholders or to any Affiliate of the Corporation for breach of any fiduciary duty as a stockholder, director or officer of the Corporation solely by reason of the fact that such Identified Person pursues or acquires such corporate opportunity for itself, herself or himself, or offers or directs such corporate opportunity to another Person.

Section 9.3 Non-Waiver of Certain Corporate Opportunities. The Corporation does not renounce its interest in any corporate opportunity offered to any Non-Employee Director if such opportunity is expressly offered to, or acquired, created or developed by, or otherwise came into the possession of, such Non-Employee Director expressly, solely and directly in such person’s official capacity such Person solely in his or her capacity as a director or officer of the Corporation, and the provisions of Section 9.2 of this Article IX shall not apply to any such corporate opportunity.

ARTICLE X
AMENDMENT OF THE CERTIFICATE OF INCORPORATION AND BY-LAWS

Section 10.1 Amended and Restated Certificate of Incorporation. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by this Amended and Restated Certificate of Incorporation and the DGCL, and all rights, preferences and privileges herein conferred upon stockholders, directors or any other persons herein are granted by and pursuant to this Amended and Restated Certificate of Incorporation in its current form or as hereafter amended are granted subject to the rights reserved in this Article X. Notwithstanding the foregoing, notwithstanding any other provisions of this Amended and Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of stock required by law or by this Amended and Restated Certificate of Incorporation (including any Certificate of Designation in respect of one or more series of Preferred Stock), the affirmative vote of the holders of at least 50% of the voting power of the outstanding shares of stock entitled to vote thereon, voting together as a single class, shall be required to alter, amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation; provided that, in addition to and without limiting the foregoing, (i) no amendment to this Amended and Restated Certificate of Incorporation may disproportionately and adversely affect a holder of a class of capital stock of the Corporation relative to other holders of such class of capital stock of the Corporation without such holder's prior written consent and (ii) any amendment to Article V regarding the SteerCo Members' right to nominate SteerCo Directors shall require the prior written consent of each of the SteerCo Members.

Section 10.2 By-Laws Amendments. The Board is expressly authorized to make, repeal, alter, amend and rescind, in whole or in part, the By-Laws. Notwithstanding the foregoing, notwithstanding any other provisions of this Amended and Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of stock required by law or by this Amended and Restated Certificate of Incorporation (including any Certificate of Designation in respect of one or more series of Preferred Stock), the affirmative vote of the holders of at least 50% of the voting power of the outstanding shares of stock entitled to vote thereon, voting together as a single class, shall be required in order for the stockholders of the Corporation to alter, amend or repeal, in whole or in part, any provision of the By-Laws or to adopt any provision inconsistent therewith.

ARTICLE XI
DGCL SECTION 203

Section 11.1 State Law Business Combination Opt-Out. The Corporation hereby expressly elects not to be governed by Section 203 of the DGCL.

ARTICLE XII

MISCELLANEOUS

If any provision or provisions of this Amended and Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provision or provisions in any other circumstance and of the remaining provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, any Certificate of Designation relating to any series of Preferred Stock and each portion of any paragraph of this Amended and Restated Certificate of Incorporation or Certificate of Designation containing any such provision or provisions held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (ii) to the fullest extent possible, the provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, any Certificate of Designation relating to any series of Preferred Stock and each such portion of any paragraph of this Amended and Restated Certificate of Incorporation or Certificate of Designation containing any such provision or provisions held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service or for the benefit of the Corporation to the fullest extent permitted by law.

ARTICLE XIII

INTERPRETATION

For as long as the Stockholders Agreement remains in effect, in the event of any conflict between the terms and provisions of this Amended and Restated Certificate of Incorporation and those contained in the Stockholders Agreement, the terms and provisions of the Stockholders Agreement shall govern and control, except as provided otherwise by mandatory provisions of the DGCL.

ARTICLE XIV

DEFINITIONS

As used in this Amended and Restated Certificate of Incorporation, except as otherwise expressly provided herein and unless the context requires otherwise, the following terms shall have the following meanings:

“Affiliate” means, with respect to any Person, any other Person that controls, is controlled by, or is under common control with such Person. For the purposes of this definition, “control,” when used with respect to any Person, means the power to direct or cause the direction of the affairs or management of that Person, whether through the ownership of voting securities, as trustee (or the power to appoint a trustee), as a personal representative or executor, by contract, credit arrangement or otherwise and “controlled” and “controlling” have meanings correlative to the foregoing.

“Bankruptcy Code” means the title 11 of the United States Code, as amended from time to time.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in New York, New York.

“Credit Agreement” means that certain Term Loan Credit Agreement, dated as of the date hereof, by and among the Corporation, Thrasio Immediate Sub, LLC, Thrasio, LLC, the financial institutions party thereto and Wilmington Savings Fund Society, FSB, as may be amended, replaced, supplemented, modified or otherwise changed (in whole or in part) from time to time.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations).

“Independent” means, with respect to any SteerCo Director, that such SteerCo Director shall not be (i) an Affiliate of any member of the Stockholder Nominating and Selection Committee or (ii) an employee of the Corporation or any of its Subsidiaries (in each case of (i) and (ii), as determined in connection with a Board Designation Event in good faith by the Board, which such determination shall be conclusive).

“Material Stockholder” means each Person (including, for the avoidance of doubt, any member of the Stockholder Nominating and Selection Committee) that (collectively with its Affiliates), as of a particular time, holds at least 15% of the aggregate number of outstanding shares of Common Stock.

“Minimum Original SteerCo Threshold” means, with respect to each member of the Stockholder Nominating and Selection Committee, such member holding at least 50% of the shares of Common Stock held by such member as of the Effective Date (as defined in the Plan).

“Person” means any individual, general partnership, limited partnership, limited liability company, corporation, trust, business trust, joint stock company, joint venture, unincorporated association, cooperative or association or any other legal entity or organization of whatever nature, and shall include any successor (by merger or otherwise) of such entity.

“Plan” means that certain Joint Plan of Reorganization of Thrasio Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code Docket No. 0398, dated as of April 18, 2024 (as may be amended, supplemented, or modified from time to time).

“Requisite Stockholders” means (i) one or more stockholders collectively holding at least fifty percent (50%) of the issued and outstanding Common Stock and (ii) at least two stockholders, each holding (together with its Affiliates) at least three percent (3%) of the issued and outstanding Common Stock.

“SteerCo Member” means, as of any date, each (i) member of the Stockholder Nominating and Selection Committee, so long as (collectively with its respective Affiliates) it continues to meet the Minimum Original SteerCo Threshold and (ii) Material Stockholder.

“Stockholder Nominating and Selection Committee” shall mean one (1) natural person representative from the funds and accounts that are managed by each of (i) BlackRock Capital

Investment Advisors, LLC, (ii) Oaktree Capital Management, L.P., (iii) Goldman Sachs Asset Management, L.P., and (iv) HPS Investment Partners, LLC, in each case along with their respective Affiliates. For the avoidance of doubt, the Stockholder Nominating and Selection Committee shall have four (4) natural persons in the aggregate.

“Stockholders Agreement” means the Stockholders Agreement, dated as of the Plan’s Effective Date, by and among the Corporation and the stockholders parties thereto, as may be amended, restated, supplemented, modified or otherwise changed (in whole or in part) from time to time.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of the membership, partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the general partner, managing member, managing director (or a board comprised of any of the foregoing) or manager of such limited liability company, partnership, association or other business entity.

* * * *

IN WITNESS WHEREOF, Thrasio Holdings, Inc. has caused this Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer on this 18th day of June, 2024.

THRASIO HOLDINGS, INC.

By: _____

Name: Michael Fahey

Title: Chief Legal Officer and Secretary

STOCKHOLDERS AGREEMENT

of

THRASIO HOLDINGS, INC.

dated as of June 18, 2024

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Appendices

Appendix A: Form of Joinder Agreement

STOCKHOLDERS AGREEMENT

This Stockholders Agreement (this “**Agreement**”) is entered into as of June 18, 2024 (the “**Effective Date**”), by and among Thrasio Holdings, Inc., a Delaware corporation (the “**Company**”), the holders of Common Stock (as defined below) and each other Person who, after the Effective Date, executes a joinder in the form of Appendix A (a “**Joinder**”) attached hereto (collectively, the “**Stockholder Parties**”).

RECITALS

WHEREAS, on February 28, 2024, the Company and affiliate debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of New Jersey (the “**Bankruptcy Court**”);

WHEREAS, on June 13, 2024, the Bankruptcy Court entered an order confirming that certain Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 398], dated as of April 18, 2024 (as may be amended, supplemented, or modified from time to time, the “**Plan**”);

WHEREAS, in connection with the consummation of the transactions contemplated by the Plan, the Plan provides that this Agreement be established to set forth certain rights and obligations with respect to the Equity Securities that will be owned by the Stockholder Parties on and following the Effective Date, as well as restrictions on certain activities in respect of the Common Stock and other related corporate matters; and

WHEREAS, pursuant to the Plan, this Agreement became automatically binding as of the Effective Date on the Company and all Holders of New Common Stock (as defined in the Plan) receiving Common Stock as if such parties had actually executed this Agreement, regardless of whether such parties executed this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual agreements, covenants and provisions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE I DEFINITIONS

1.1 Certain Defined Terms

As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

“**Advancing Parties**” has the meaning set forth in Section 2.2(c).

“**Affiliate**” means, with respect to any Person, (a) any direct or indirect Subsidiary of such Person, (b) any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such first Person or (c) an Investment Affiliate; provided, that no Stockholder Party shall be deemed an Affiliate of any other Stockholder Party solely by reason of any investment in the Company. The term “control” (including with correlative meanings “controlled by” and “under common control with”) means possession, directly or indirectly, of power to direct or cause the direction of management or policies or the power to appoint and remove a majority of directors (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

“**Agreement**” has the meaning set forth in the Preamble.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“BHCA” means the Bank Holding Company Act of 1956, as may be amended from time to time.

“BHCA Stockholder” means a Stockholder Party that is a bank holding company as defined in the BHCA, or a non-bank subsidiary of such a bank holding company.

“Board” means the board of directors of the Company.

“Business Day” means any day, other than a Saturday, a Sunday or a day on which banks located in New York, New York are authorized or required by applicable Law to close.

“Capital Stock” means the capital stock of the Company.

“Catch-Up Date” has the meaning set forth in Section 2.2(d).

“Certificate of Incorporation” means the Amended and Restated Certificate of Incorporation of the Company, dated as of the Effective Date, and as amended from time to time.

“Common Stock” mean the common stock of the Company.

“Common Stock Equivalents” means, at any time, (i) with respect to each share of Common Stock issued and outstanding and (ii) with respect to any other Equity Security which is at such time exercisable, exchangeable or convertible into or for Common Stock at an exercise price equal to or less than the Fair Market Value of the Common Stock at such time, an amount equal to the number of the Common Stock, if any, into or for which such Equity Security may be exercised, exchanged or converted at such time.

“Company” has the meaning set forth in the Preamble.

“Company Group” means the Company and its Subsidiaries from time to time.

“Company Indemnification Agreement” has the meaning set forth in Section 7.21(d).

“Confidential Information” has the meaning set forth in Section 7.3.

“Corporate Opportunities Group” has the meaning set forth in Section 4.3(a).

“Covered Persons” shall mean each officer, director, stockholder, equityholder, controlling Affiliate, employee, independent contractor, agent or representative of an Institutional Investor, or any of its Investment Affiliates or other Affiliates (other than the Company or its Subsidiaries) and each director, manager or officer of the Company or its Subsidiaries.

“Credit Agreement” means that certain Term Loan Credit Agreement, as amended, amended and restated, or otherwise modified from time to time, dated as of the Effective Date, by and among the Company, Thrasio Immediate Sub, LLC, Thrasio, LLC, the financial institutions party thereto and Wilmington Savings Fund Society, FSB.

“Demand Notice” has the meaning set forth in Section 5.1(a).

“Demand Request” has the meaning set forth in Section 5.1(a).

“DGCL” has the meaning set forth in Section 7.21(g).

“Disclosure Package” means, with respect to any offering of securities, (i) the preliminary prospectus, (ii) each Free Writing Prospectus and (iii) all other information, in each case,

that is deemed, under Rule 159 promulgated under the Securities Act, to have been conveyed to purchasers of securities at the time of sale of such securities (including a contract of sale).

“Dragged Parties” has the meaning set forth in Section 2.3(a).

“Dragging Parties” has the meaning set forth in Section 2.3(a).

“Effective Date” has the meaning set forth in the Preamble.

“Equity Securities” means all (i) Common Stock, (ii) securities, directly or indirectly convertible into or exercisable or exchangeable for Common Stock, (iii) New Securities issued in accordance with the terms of Section 2.2, (iv) options, warrants and other rights to purchase or otherwise, directly or indirectly, acquire the Common Stock from the Company, or securities convertible into or exercisable or exchangeable for Common Stock, whether at the time of issuance or upon the passage of time or the occurrence of some future event and (v) preferred stock of the Company authorized in the Certificate of Incorporation. As to any Common Stock constituting Equity Securities, such shares shall cease to be Equity Securities when they have been acquired by the Company.

“Excess Preemptive Rights Securities” has the meaning set forth in Section 2.2(a).

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Excluded Activities” has the meaning set forth in Section 4.3(a).

“Fair Market Value” means, as of any date, the value of the Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange, the Fair Market Value of a Common Stock shall be the closing sales price for such stock as quoted on such exchange or market (or, if listed on more than one such exchange or market, the exchange or market with the greatest volume of trading in the Common Stock) on the last market trading day prior to such date, as reported in *The Wall Street Journal* or such other source as the Company deems reliable.

(ii) In the absence of such markets for the Common Stock, the Fair Market Value shall be determined in good faith by the Company.

“Financing Agreement” has the meaning set forth in Section 7.23.

“FINRA” means the Financial Industry Regulatory Authority.

“First Offer” has the meaning set forth in Section 2.4(a).

“First Offer Price” has the meaning set forth in Section 2.4(a).

“Free Writing Prospectus” means any “free writing prospectus” as defined in Rule 405 promulgated under the Securities Act.

“GAAP” means accounting principles generally accepted in the United States of America as in effect from time to time, consistently applied.

“Governmental Entity” means any government, regulatory authority, governmental department, agency, commission, bureau, official, ministry, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity or applicable stock exchange: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“Holders’ Counsel” has the meaning set forth in the definition of “Registration Expenses” in this Section 1.1.

“Initial Public Offering” means (i) the first Public Offering, (ii) an initial direct listing or (iii) any merger, amalgamation, business combination or similar transaction with a “blank-check” company or special purpose acquisition company (i.e., a “SPAC”), in each case, by the Company (or, if applicable, a Successor Entity) after which the Common Stock is listed for trading on the New York Stock Exchange, NASDAQ or any other national securities exchange.

“Institutional Investors” means each of the Material Stockholders and each of the other Stockholder Parties who are not employees, officers or directors of the Company or any of its Subsidiaries.

“Investment Affiliate” means, in the case of any Institutional Investor, any fund or investment vehicle (including any co-investment vehicle) that is (i) organized by such Institutional Investor or an Affiliate thereof for the purpose of making equity or debt investments in one or more companies and (ii) managed, advised, controlled by, or under common control with, such Institutional Investor and, in each case, each of their respective stockholders, partners (general or limited), principals or members to the extent such Person receives Equity Securities of the Company. For purposes of this definition, “control” means the power to direct or cause the direction of management and policies of a Person, whether by contract or otherwise.

“Joinder” has the meaning set forth in the Preamble.

“Law” or **“Laws”** means any law, statute, constitution, treaty, convention, code, injunction, order, consent, decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in the United States or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity and any applicable stock exchange rule.

“Lender” has the meaning set forth in Section 7.23.

“Listing Rules” means the listing rules made by the UK FCA in accordance with sections 73A(1) and 73A(2) of FSMA, as amended from time to time.

“Listing Rules Stockholder” has the meaning set forth in Section 2.3(g).

“Listing Rules Subject Sale” has the meaning set forth in Section 2.3(g).

“Listing Rules UK Class 2 Transaction” means a transaction classified as a class 2 transaction under Chapter 10 of the Listing Rules.

“Lock-Up Period” has the meaning set forth in Section 5.7(a).

“Management Incentive Plan” means an incentive equity plan for the directors, officers and certain other members of management of the Company and its Subsidiaries to be implemented by the Company and the Board pursuant to which shares of Common Stock initially representing no more than ten percent (10%) of the aggregate number of shares of Common Stock outstanding as of the Effective Date (calculated on a fully-diluted basis and as adjusted for splits, reverse splits, combinations and recapitalizations) shall be issuable.

“Marketable Securities” means securities that are traded on a U.S. or internationally recognized securities exchange or in an established over-the-counter market and are not subject to material legal or contractual restrictions on transfer (including any lock-up provisions).

“Material Stockholder” means at any applicable time, each SteerCo Member (as such term is defined in the Certificate of Incorporation).

“**New Securities**” means any Equity Securities and any other equity securities of the Company or any of its Subsidiaries (“**Non-Common Stock Equity**”), and any rights, options or warrants to purchase or otherwise, directly or indirectly, acquire any Equity Securities or Non-Common Stock Equity (“**Options**”) and other securities of the Company or any of its Subsidiaries which are, directly or indirectly, convertible, exchangeable or exercisable into Equity Securities or Non-Common Stock Equity; provided, that “**New Securities**” shall not include (collectively the below, the “**Excluded Equity Securities**”):

- (a) Equity Securities issued by the Company pursuant to the Plan;
- (b) Equity Securities issued upon the direct or indirect conversion, exchange or exercise of any securities issued by the Company on or prior to the Effective Date or otherwise in accordance with Section 2.2;
- (c) securities issued by the Company or any of its Subsidiaries in connection with any subdivision of securities (including any stock dividend or stock split, including any reverse stock split) or any reclassification, exchange, recapitalization, consolidation or other similar securities transaction of the Company or any of its Subsidiaries so long as each Stockholder Party holding a particular class or series of Equity Securities is treated proportionately in any such transaction;
- (d) Equity Securities sold, or issued in connection (including any Reorganization), with a Public Offering;
- (e) Equity Securities issued to unaffiliated third parties as consideration for the acquisition of, or part of, a joint venture, merger, business combination or other similar transaction with, another Person or the assets of another Person (whether by merger, recapitalization, business combination or otherwise);
- (f) Equity Securities issued by the Company, or any Company Subsidiary to the Company or to another Subsidiary of the Company;
- (g) issuances to banks, equipment lessors or other financial institutions (including, for the avoidance of doubt, hedge funds), or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction that is not a “related party transaction” (as defined herein) approved by the Board (as applicable); and
- (h) Equity Securities issued to any employee, director, officer or consultant of the Company or any of its Subsidiaries in connection with the Management Incentive Plan or, to the extent approved by the Requisite Stockholder Parties, another similar equity incentive plan for directors, officers, managers, advisors or consultants.

“**Non-Qualified Person**” means any Person who is, at the time of determination, (i) directly or indirectly through a Subsidiary, engaged in any business which the Company reasonably determines, in good faith, to be directly competing in any material respect with any business of the Company or any of its Subsidiaries, (ii) any customer or supplier of the Company or any of its Subsidiaries, (iii) an adverse party in any active and significant (as reasonably determined in good faith by the Company) legal or arbitration proceeding with the Company or any of its Subsidiaries at the time of such Transfer (other than a legal or arbitration proceeding due to such potential transferee being a Lender) (provided, that the foregoing clause (iii) shall not limit a Stockholder Party’s rights under Section 4.1(c)); provided, that an institutional investor, including a private equity sponsor, or any of its respective portfolio companies that are, in each case, “walled off” from, or not directing the conduct of, such legal or arbitration proceeding shall not be deemed to be an Affiliate of such Person for purposes of any Transfer of Equity Securities, or (iv) an Affiliate of any Person described in clauses (i) through (iii); provided, that no Institutional Investor (and, with respect to any Transfer of Equity Securities, no private equity sponsor or other institutional investor) shall be deemed to be a Non-Qualified Person solely due to the fact that one or more portfolio companies managed by such Institutional Investor, private equity sponsor or other institutional investor or any of its Affiliates would otherwise qualify as

a Non-Qualified Person hereunder as long as such investors are either “walled off” from such portfolio company or do not have access to any Confidential Information.

“**Non-Voting Board Observer**” has the meaning set forth in Section 3.1(h).

“**Offer Notice**” has the meaning set forth in Section 2.4(a).

“**Offered Securities**” has the meaning set forth in Section 2.4(a).

“**Offering Holder**” has the meaning set forth in Section 2.4(a).

“**Options**” has the meaning set forth in the definition of “New Securities” in this Section 1.1.

“**Other Stockholder Parties**” has the meaning set forth in Section 2.5(a).

“**Participant**” has the meaning set forth in Section 2.5(b).

“**Person**” means an individual, a corporation, a partnership, a limited liability company, organization, trustee, executor, administrator, a trust, an unincorporated association, a Governmental Entity or any agency, instrumentality or political subdivision of a Governmental Entity, or any other entity or body.

“**Piggyback Holder**” has the meaning set forth in Section 5.2(a).

“**Piggyback Notice**” has the meaning set forth in Section 5.2(a).

“**Piggyback Offering**” has the meaning set forth in Section 5.2(a).

“**Plan**” has the meaning set forth in the Recitals.

“**Preemptive Exercise Notice**” has the meaning set forth in Section 2.2(a).

“**Preemptive Notice**” has the meaning set forth in Section 2.2(a).

“**Preemptive Rights Holder**” has the meaning set forth in Section 2.2(a).

“**Preemptive Rights Securities**” has the meaning set forth in Section 2.2(a).

“**Preemptive Rights Securities Price**” has the meaning set forth in Section 2.2(a).

“**Proceeding**” has the meaning set forth in Section 4.1(b).

“**Public Offering**” means any Underwritten Offering by the Company of Common Stock to the public pursuant to an effective registration statement filed with the SEC under the Securities Act (or the closing of another transaction that results in any Common Stock being publicly traded and widely held by the public); provided, however, that a Public Offering shall not include an offering made in connection with a business acquisition or combination or an employee benefit plan.

“**Registrable Securities**” means, at any time:

(a) any Common Stock issued to, purchased or acquired by any Stockholder Party and any Common Stock issued or issuable to any Stockholder Party upon exercise, exchange or conversion of any securities; and

(b) any securities issued or issuable to any Stockholder Party with respect to any Common Stock (including, by way of stock dividend, stock split, distribution, exchange, combination, merger, recapitalization, reorganization or otherwise).

As to any particular Registrable Securities once issued, such securities shall cease to be Registrable Securities upon the earliest to occur of:

- (i) the date on which such securities are disposed of pursuant to an effective registration statement under the Securities Act;
- (ii) the date on which such securities are disposed of pursuant to Rule 144 (or any successor provision) promulgated under the Securities Act;
- (iii) with respect to the Registrable Securities held by any Stockholder Party, any time that such Stockholder Party, together with its Affiliates, may dispose of such securities pursuant to Rule 144 promulgated under the Securities Act (or any successor provision thereto) without any of the volume, manner of sale, and current public information limitations thereunder; or
- (iv) the date on which such securities cease to be outstanding.

“Registration” means each Required Registration, each Shelf Registration, and each registration with the SEC effected pursuant to a Piggyback Offering.

“Registration Expenses” means all expenses incident to the Company’s performance of or compliance with Article V of this Agreement including, all registration, filing and FINRA fees, including fees payable in connection with the listing of securities on any securities exchange, fees and expenses relating to compliance with securities or “blue sky” laws (including reasonable fees and disbursements of one applicable local counsel in connection with “blue sky” qualifications of any Registrable Securities), expenses of printing certificates for any Registrable Securities in a form eligible for deposit with the Depository Trust Company, all word processing, duplicating and printing expenses, messenger and delivery expenses, internal expenses (including, all salaries and expenses of its officers and employees performing legal or accounting duties), and fees and disbursements of counsel for the Company and of its independent certified public accountants (including the expenses of any management review, special audits or “cold comfort letters” required by or incident to such performance and compliance), securities acts liability insurance (if the Company elects to obtain such insurance), the reasonable fees and expenses of any special experts retained by the Company in connection with such registration, fees and expenses of other Persons retained by the Company, the fees and expenses of one counsel who may also be counsel to the Company (the **“Holders’ Counsel”**) and one applicable local counsel, as reasonably necessary, for the holders of Registrable Securities to be included in each relevant Registration, selected by the holders of a majority of the Registrable Securities to be included in such Registration (except that, where a Registration is a Required Registration, such selection may only be made by Stockholder Parties holding a majority of the Registrable Securities set forth in the relevant Demand Request); and fees and expenses charged by the transfer agent for the Common Stock; but not including any underwriting fees, discounts or commissions attributable to the sale of securities or fees and expenses of counsel representing the holders of Registrable Securities included in such Registration (other than the Holders’ Counsel and applicable local counsel) incurred in connection with the sale of Registrable Securities.

“Regulation D” has the meaning set forth in Section 6.1(e).

“Reorganization” has the meaning set forth in Section 2.6(a)(iii).

“Representatives” means, with respect to any Person, any of such Person’s officers, directors, employees, agents, attorneys, accountants, consultants or financial advisors or other Person associated with, or acting on behalf of, such Person.

“Requesting Stockholder” has the meaning set forth in Section 5.1(a).

“Requisite Stockholder Parties” means (i) one or more Stockholder Parties collectively holding at least fifty percent (50%) of the issued and outstanding Common Stock and (ii)

at least two Stockholder Parties, each holding (together with its Affiliates) at least three percent (3%) of the issued and outstanding Common Stock.

“Sale of the Business” means any bona fide arm’s-length negotiated transaction or series of transactions (whether structured as a stock sale, merger, consolidation, reorganization, recapitalization, redemption, asset sale or otherwise), which results in the Transfer of (a) all or substantially all of the assets of the Company and its Subsidiaries taken as a whole on a consolidated basis, or (b) beneficial ownership or control of a majority of the Voting Stock of the Company, in each case of clauses (a) and (b), to a Person or a “group” (as such term is defined under Regulation 13D under the Exchange Act) other than the Dragging Parties or any of their respective Affiliates in exchange for cash or Marketable Securities; provided, that in no event shall a Sale of the Business be deemed to include (i) any transaction effected solely for the purpose of changing, directly or indirectly, the form of organization or the organizational structure (including due to a Reorganization) of the Company or any of its Subsidiaries or (ii) a Public Offering.

“SEC” means, at any time, the United States Securities and Exchange Commission or any other federal agency at such time administering the Securities Act.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Shelf Notice” has the meaning set forth in Section 5.3(a).

“Shelf Registration” has the meaning set forth in Section 5.3(a).

“Shelf Registration Effectiveness Period” has the meaning set forth in Section 5.3(b).

“Shelf Request” has the meaning set forth in Section 5.3(a).

“Shelf Underwritten Offering” has the meaning set forth in Section 5.3(d).

“Stock Equivalents” has the meaning set forth in Section 2.6(a)(iii).

“Stockholder Affiliate” has the meaning set forth in Section 7.24.

“Stockholder Free Writing Prospectus” means each Free Writing Prospectus prepared by or on behalf of the relevant selling Stockholder Party or used or referred to by such Stockholder Party in connection with the offering of Registrable Securities.

“Stockholder Indemnification Agreement” has the meaning set forth in Section 7.21(d).

“Stockholder Information” has the meaning set forth in Section 5.6(a).

“Stockholder Parties” has the meaning set forth in the Preamble.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of the membership, partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control

the general partner, managing member, managing director (or a board comprised of any of the foregoing) or manager of such limited liability company, partnership, association or other business entity.

“Subsidiary Board” has the meaning set forth in Section 3.1(g).

“Successor Entity” has the meaning set forth in Section 2.6(a)(iii).

“Suspension Period” means any period in respect of which the Company has furnished to Stockholder Parties requesting a Required Registration or whose Registrable Securities are included in a Shelf Registration Statement, as applicable, a certificate signed by the chief executive officer, the chief financial officer, or secretary of the Company stating that in the good faith judgment of the Board the applicable registration statement would (i) require the disclosure of a material transaction or other matter and such disclosure would be materially disadvantageous to the Company or (ii) materially and adversely affect a significant financing, acquisition, disposition of assets, merger or other comparable transaction; provided, however, that (a) the Company shall not exercise such right more than twice in any twelve (12)-month period, (b) no single Suspension Period lasts more than sixty (60) days, (c) all Suspension Periods in any twelve (12)-month period do not last more than ninety (90) days, and (d) at least thirty (30) days must elapse between each Suspension Period.

“Takedown Notice” has the meaning set forth in Section 5.3(d).

“Takedown Request” has the meaning set forth in Section 5.3(d).

“Tax” or **“Taxes”** means any and all federal, non-U.S., state, provincial or local income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, assets, real property, personal property, sales, use, transfer, registration, value added, alternative or add on, minimum, estimated or other tax of any kind whatsoever in the nature of a tax, including any interest, penalty or addition thereto, whether disputed or not.

“Transfer” means, with respect to any security, any direct or indirect sale, assignment, exchange, transfer, loan, gift or any other disposition of such security, including (i) through any derivatives transaction which has the effect of transferring all or part of the economic benefits and/or risks of ownership of such security to another Person, or (ii) in connection with or pursuant to the foreclosure of, or other realization upon, any security interest, pledge, encumbrance, or hypothecation on such security or any interests therein, whether voluntarily or by operation of law, whether for consideration or for no consideration.

“Transfer Notice” has the meaning set forth in Section 2.5(a).

“Transferring Stockholder Party” has the meaning set forth in Section 2.5(a).

“Underwritten Offering” shall mean a sale of securities of the Company to an underwriter or underwriters for reoffering to the public.

“Unpaid Indemnity Amounts” has the meaning set forth in Section 7.21(d).

“Upstream Indemnifying Party” has the meaning set forth in Section 7.21(d).

“Voting Stock” of a Person means all classes of capital stock of such Person then outstanding and normally entitled to vote in the election of directors.

“WKSI” has the meaning set forth in Section 5.3(a).

1.2 Interpretation

Except where otherwise expressly provided or unless the context otherwise necessarily requires, in this Agreement: (i) reference to a given Article, Section, Subsection, clause, Exhibit, Schedule or Appendix is a reference to an Article, Section, Subsection, clause, Exhibit, Schedule or Appendix of this Agreement, unless otherwise specified; (ii) the terms “hereof,” “herein,” “hereto,” “hereunder” and “herewith” refer to this Agreement as a whole; (iii) reference to a given agreement, instrument, document or Law is a reference to that agreement, instrument, document, Law or regulation as modified, amended, supplemented and restated through the date as to which such reference was made, and, as to any Law or regulation, any successor Law or regulation; (iv) accounting terms have the meanings given to them under GAAP, and in any cases in which there exist elective options or choices in GAAP determinations relating to any member of the Company Group, or where management discretion is permitted in classification, standards or other aspects of GAAP related determinations relating to any member of the Company Group, the historical accounting principles and practices of such member of the Company Group, as applicable, shall continue to be applied on a consistent basis; (v) reference to a Person includes its predecessors, successors and permitted assigns and transferees; (vi) the singular includes the plural and the masculine includes the feminine, and vice versa; (vii) the words “include,” “includes” or “including” means “including, for example and without limitation”; (viii) references to “days” means calendar days; (ix) the word “or” shall be disjunctive but not exclusive; (x) references to “Dollars,” “dollars” or “\$,” without more are to the lawful currency of United States of America; and (xi) the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.”

1.3 Ownership Calculation

For the purposes of calculating the ownership percentage of Equity Securities held by a Stockholder Party or any group of Stockholder Parties pursuant to this Agreement, all Equity Securities issued to any employee, director, officer or consultant of the Company or any of its Subsidiaries in connection with the Management Incentive Plan or individual compensation plan approved in accordance with this Agreement shall be excluded.

ARTICLE II TRANSFERS AND ISSUANCES

2.1 Transfers

(a) Subject to applicable Law and the terms and conditions set forth in this Agreement, a Stockholder Party shall be permitted to Transfer from time to time any or all Equity Securities beneficially owned by it without the consent or approval of any Person; provided, that upon the receipt of any Capital Stock with respect to such Equity Securities, (i) the prospective transferee shall agree in writing to be bound by the provisions of this Agreement and shall execute and deliver to the Company a copy of an executed Joinder as a condition to such Transfer and (ii) a Stockholder Party shall not be permitted to Transfer to any person who is directly or indirectly engaged in any business that is competitive with the Company (including a Non-Qualified Person) and its Subsidiaries, as reasonably determined by the Company, other than to any Affiliates of such Stockholder Party or any person who was a Stockholder Party as of the Effective Date.

(b) From and after the Effective Date, each certificate, if any, book-entry accounts or other related statements representing or otherwise evidencing Common Stock issued under the Plan in reliance on the Securities Act exemption provided by Section 1145 of the Bankruptcy Code shall include a legend substantially to the following effect:

“THESE SECURITIES HAVE BEEN ISSUED IN RELIANCE UPON AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SECTION 5 OF THE SECURITIES ACT OF 1933 OF THE UNITED

STATES, AS AMENDED (THE “SECURITIES ACT”) PROVIDED BY SECTION 1145 OF THE BANKRUPTCY CODE, 11 U.S.C. 1145 (THE “BANKRUPTCY CODE”). THESE SECURITIES MAY BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED WITHOUT REGISTRATION UNDER THE SECURITIES ACT; PROVIDED THAT THE HOLDER IS NOT DEEMED TO BE AN UNDERWRITER AS SUCH TERM IS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE. THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OR ANY LOCAL OR STATE SECURITIES LAWS, AND TO THE EXTENT THE HOLDER OF SUCH SECURITIES IS AN “UNDERWRITER,” AS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE, SUCH SECURITIES MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR AN EXEMPTION THEREFROM AND, IN EACH CASE, IN COMPLIANCE WITH APPLICABLE LOCAL OR STATE SECURITIES LAWS.

FURTHER, THE SECURITIES ARE SUBJECT TO THE PROVISIONS OF THE STOCKHOLDERS’ AGREEMENT OF THRASIO HOLDINGS, INC. (THE “CORPORATION”), DATED AS OF JUNE 18, 2024, INCLUDING RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS’ AGREEMENT, AND ALL HOLDERS OF SUCH SECURITIES OF THE CORPORATION (WHETHER ACQUIRED UPON ISSUANCE OR TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS’ AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE CORPORATION TO THE HOLDER HEREOF UPON WRITTEN REQUEST.”

(c) From and after the Effective Date, each certificate, if any, or book-entry accounts and related statements representing or otherwise evidencing Common Stock, issued in reliance on the Securities Act or on any other exemption from registration under the Securities Act, including the exemptions provided by Section 4(a)(2) of the Securities Act or Regulation S promulgated thereunder, shall include, or be deemed to include, a legend substantially to the following effect:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY OTHER SECURITIES LAW, AND SUCH SECURITIES MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (1) PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS UNDER THE SECURITIES ACT, (2) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT TO THE EXTENT APPLICABLE, OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

FURTHER, THE SECURITIES ARE SUBJECT TO THE PROVISIONS OF THE STOCKHOLDERS’ AGREEMENT OF THRASIO HOLDINGS, INC. (THE “CORPORATION”), DATED AS OF JUNE 18, 2024, INCLUDING

RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS' AGREEMENT, AND ALL HOLDERS OF SUCH SECURITIES OF THE CORPORATION (WHETHER ACQUIRED UPON ISSUANCE OR TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS' AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE CORPORATION TO THE HOLDER HEREOF UPON WRITTEN REQUEST."

(d) Notwithstanding anything to the contrary contained herein, no Equity Securities shall be Transferred to any Non-Qualified Person.

(e) Notwithstanding anything to the contrary herein, no Stockholder Party shall Transfer, or permit the Transfer, of any Equity Securities if (A) such Transfer would violate applicable Law, including the Securities Act or any state securities or "blue sky" Laws applicable to the Company or to any Equity Securities to be Transferred, or such Transfer could, or may reasonably be expected to, result in the Company being required to register such securities under the Exchange Act, (B) following such proposed Transfer, the Company would have either (x) in the aggregate more than nineteen hundred (1,900) holders of record (as such concept is understood for purposes of Section 12(g) of the Exchange Act) or (y) in the aggregate more than four hundred and fifty (450) holders of record (as such concept is understood for purposes of Section 12(g) of the Exchange Act) who do not satisfy the definition of an "accredited investor" within the meaning of Rule 501 under Regulation D of the Securities Act, determined in the Board's sole discretion, (C) such Transfer would result in the violation of any applicable Laws, or (D) such Transfer would reasonably be expected to have an adverse regulatory impact (other than an immaterial impact (as reasonably determined by the Board, acting in good faith)) on the Company or its Subsidiaries.

(f) All fees, costs and expenses incurred by any Transferring Stockholder Party shall be borne by such Transferring Stockholder Party. All reasonable out of pocket fees, costs and expenses incurred by the Company in connection with any Transfer (including all reasonable fees, costs and expenses related to any filing required to be made by the Company with any Governmental Entity) shall be borne by the Transferring Stockholder Parties pro rata based upon the aggregate proceeds to be received by the Transferring Stockholder Parties in such Transfer and all such reasonable costs, fees and expenses will be for the account of, and will be a condition to the right to Transfer of, the Transferring Stockholder Parties. The Company shall not be obligated to be a party to any transfer agreement by and between a Transferring Stockholder Party and its transferees. Subject to applicable law, any Transferring Stockholder Party and any of its transferees acknowledge that the Company shall have no liability with respect to any Transfer by a Transferring Stockholder Party to a transferee to the extent that the Company is not a party to such agreement.

(g) Any attempt to Transfer any Equity Security which is not in accordance with this Agreement shall be null and void and the Company agrees that it will not cause, permit or give any effect to any Transfer of any Equity Securities to be made on its books and records unless such Transfer is permitted by this Agreement and has been made in accordance with the terms hereof.

(h) In any direct Transfer of Equity Securities, the transferee shall agree in writing to be bound by the provisions of this Agreement and shall (x) upon receipt of any Capital Stock with respect to such Equity Securities, execute and deliver to the Company a copy of the Joinder as a condition to such Transfer (including an acknowledgement of the representations in Section 6.1 as may be required), (y) deliver such information as the Company may reasonably request in order for the Company to determine in good faith that the proposed Transfer will be made in compliance with Section 2.1(e) (including information, opinions of

counsel or other certifications used to determine whether any Person to whom the proposed Transfer is to be made is not a Non-Qualified Person and such Transfer complies with U.S. federal or state securities laws or other applicable Law) and (z), to the extent applicable, such information as the Company's transfer agent may reasonably request. Each such transferee shall hold such shares of Equity Securities subject to the provisions of this Agreement as a "**Stockholder Party**" hereunder as if such transferee were an original signatory hereto and shall be deemed to be a party to this Agreement.

(i) No Transfer of Equity Securities, whether to another Stockholder Party or to a third party, shall be of force or effect, such Transfer shall not be recorded on the books and records of the Company and the transferee shall not become a Stockholder Party, unless all consents, approvals, authorizations or other orders or actions of Governmental Entities necessary for the Transfer have been obtained, any required filings with Governmental Entities have been made and any waiting periods imposed by applicable Law or Governmental Entity have expired without action that prevent or prohibit such Transfer.

(j) After the date of this Agreement, all holders of Capital Stock (whether received by Transfer or otherwise, including through a later issuance of such securities by the Company or pursuant to the Management Incentive Plan) shall deliver an executed Joinder to the Company; provided, that any such Stockholder Parties who receives such securities as a result of the Management Incentive Plan must comply with any transfer restrictions in the Management Incentive Plan prior to any Transfer.

(k) Any Equity Securities owned by a Stockholder Party on or after the date of this Agreement shall have the benefit of and be subject to the terms and conditions of this Agreement.

2.2 Preemptive Rights

(a) In the event that, at any time, the Company or any of its Subsidiaries decides to undertake an issuance of New Securities (other than Excluded Equity Securities, for the avoidance of doubt) (such New Securities, the "**Preemptive Rights Securities**"), the Company shall at such time deliver to each Stockholder Party holding (collectively with its Affiliates) Common Stock representing not less than one percent (1%) of all issued and outstanding Common Stock (the "**Preemptive Rights Holders**") written notice of the Company's decision, describing the amount, type and terms (including the exercise price and expiration date thereof in the case of any Options) of such Preemptive Rights Securities, the purchase price per Preemptive Rights Security (the "**Preemptive Rights Securities Price**") to be paid by the purchasers of such Preemptive Rights Securities and the other terms upon which the Company has decided to issue the Preemptive Rights Securities including, the expected timing of such issuance, which will in no event be more than sixty (60) days or less than thirty (30) days after the date upon which such notice is given, and any material filings, approvals or other conditions to such issuance under applicable Laws (the "**Preemptive Notice**"). Each such Preemptive Rights Holder shall have thirty (30) days from the date on which the Preemptive Notice is given to agree by written notice to the Company (a "**Preemptive Exercise Notice**") to purchase up to its proportional share of such Preemptive Rights Securities for the Preemptive Rights Securities Price and upon the terms specified in the Preemptive Notice and stating therein the quantity of Preemptive Rights Securities to be purchased by any such Preemptive Rights Holder or by an Affiliate designated by such Preemptive Rights Holder that is an "accredited investor" (as defined under Rule 501 under Regulation D of the Securities Act) and is not a Non-Qualified Person, including any Excess Preemptive Rights Securities such Preemptive Rights Holder wishes to purchase if such securities are available. In the event that, in connection with such a proposed issuance of Preemptive Rights Securities, any such Preemptive Rights Holder for any reason fails or refuses to give such written notice to the Company within such thirty (30) day period, such Preemptive Rights Holder shall, for all purposes of this Section 2.2, be deemed to have refused (in that particular instance only) to

purchase any of such Preemptive Rights Securities and to have waived (in that particular instance only) all of its rights under this Section 2.2 to purchase any of such Preemptive Rights Securities. For purposes of this Section 2.2, a Preemptive Rights Holder's "proportional share" shall mean, at any time, the quotient obtained by dividing the number of Common Stock held by such Preemptive Rights Holder at such time by the aggregate number of Common Stock held by all Preemptive Rights Holders entitled to preemptive rights under this Section 2.2(a). In the event that any Preemptive Rights Holder does not elect to purchase, or designate any of its Affiliates to purchase, all of its respective proportional share, the Preemptive Rights Securities available for purchase but which any such Preemptive Rights Holders elect not to acquire (collectively, the "**Excess Preemptive Rights Securities**") shall automatically be deemed to be accepted for purchase irrevocably by the Preemptive Rights Holders that indicated in their Preemptive Exercise Notice a desire to participate in the purchase of Excess Preemptive Rights Securities. Unless otherwise agreed by all of the Preemptive Rights Holders participating in the purchase, each Preemptive Rights Holder that indicated in its Preemptive Exercise Notice that it desired to purchase more than its proportional share shall purchase a number of Excess Preemptive Rights Securities equal to the lesser of (x) the number of Excess Preemptive Rights Securities indicated in the Preemptive Exercise Notice, if any, and (y) an amount equal to the product of (A) the number of Excess Preemptive Rights Securities and (B) a fraction, the numerator of which is the number of Common Stock held at such time by such Preemptive Rights Holder and the denominator of which is the aggregate number of Common Stock held at such time by all Preemptive Rights Holders participating in such purchase of Excess Preemptive Rights Securities.

(b) In the event and to the extent that, subsequent to the procedure set forth in Section 2.2(a), any Preemptive Rights Securities (including any Excess Preemptive Rights Securities) are not acquired by the Preemptive Rights Holders entitled to purchase such Preemptive Rights Securities, the Company (or any such Subsidiary) shall be free to issue such Preemptive Rights Securities to any one or more Persons; provided, that (x) the price per Preemptive Rights Security at which such Preemptive Rights Securities are being issued is not less than the Preemptive Rights Securities Price and (y) the other terms and conditions pursuant to which such Person or Persons purchases such Preemptive Rights Securities are not more favorable, in any material respect, than the terms set forth in the Preemptive Notice. Any Preemptive Rights Securities not issued or sold within one hundred and eighty (180) days after the date of the Preemptive Notice shall again be subject to the provisions of this Section 2.2.

(c) In the event that the Board determines in good faith, whose determination shall be conclusive, that it would be in the best interests of the Company to issue Preemptive Rights Securities that would otherwise be required to be offered in compliance with the provisions of this Section 2.2, the Company may, in order to expedite the issuance of the Preemptive Rights Securities, issue any and all of the Preemptive Rights Securities to one or more prospective buyers (the "**Advancing Parties**"), without offering the Preemptive Rights Holders the opportunity to participate in such sale in compliance with this Section 2.2, so long as: within thirty (30) days after the occurrence of such issuance, the Company shall provide to each Preemptive Rights Holder who has not previously been offered the opportunity to purchase its *pro rata* portion of the Preemptive Rights Securities in connection therewith but who would otherwise be entitled to so participate in accordance with this Section 2.2 with (i) notice of such sale of Preemptive Rights Securities (which notice shall include a reasonably detailed summary description of the terms and conditions of such sale and a description of the manner in which such other Preemptive Rights Holders may exercise their rights in clause (ii) of this Section 2.2(c)); and (ii) each such applicable Preemptive Rights Holder is provided with the opportunity to purchase its proportional share of applicable Preemptive Rights Securities, within thirty (30) Business Days of receipt of notice from the Company of the consummation of such Preemptive Rights Holder's purchase of Preemptive Rights Securities, on the same terms and conditions (including price) as the Advancing Parties. If one or more Preemptive Rights Holders exercises its right to make a purchase under this Section 2.2(c), the Company

may give effect to each such exercise by (x) requiring that the Advancing Party (in which case the Advancing Party hereby agrees to) Transfer the applicable portion of its Preemptive Rights Securities to such exercising Preemptive Rights Holders, (y) issuing additional Preemptive Rights Securities to such exercising Preemptive Rights Holders or (z) a combination of (x) and (y), in each case at the Board's sole discretion, so long as such action effectively provides such exercising Preemptive Rights Holders with the same amount of Preemptive Rights Securities and resulting pro rata percentage on the same terms and conditions as such Preemptive Rights Securities were issued to the Advancing Parties, that such exercising Preemptive Rights Holders would have been entitled to purchase, pursuant to the procedures set forth in this Section 2.2, had this Section 2.2(c) not been invoked. For the avoidance of doubt, the Company shall not be obligated to issue any Excess Preemptive Rights Securities if Section 2.2(c) is invoked.

(d) The following limitations shall apply to Preemptive Rights Securities sold to the Advancing Parties pursuant to Section 2.2(c) until the purchase of applicable Preemptive Rights Securities by the Preemptive Rights Holders that have elected to purchase their proportional share of applicable Preemptive Rights Securities pursuant to the previous paragraph (or, if no other Preemptive Rights Holder elects to purchase its proportional share of applicable Preemptive Rights Securities during the participation period, until the expiration of such period) (the "**Catch-Up Date**"): (x) any dividend (or similar distribution) on any such Preemptive Rights Securities shall be withheld until the Catch-Up Date, to the extent such dividend or distribution would accrue to the Equity Securities purchased by the Advancing Parties; and (y) the Advancing Parties shall refrain from voting with respect to such Preemptive Rights Securities (and such Preemptive Rights Securities shall be disregarded and considered not outstanding solely for purposes of determining whether any requisite quorum, majority or approval right has been met).

2.3 Drag-Along Rights

(a) At the written request (the "**Drag Notice**") of one or more Stockholder Parties collectively holding at least fifty percent (50%) of the issued and outstanding Common Stock (the "**Dragging Parties**"), each other Stockholder Party (the "**Dragged Parties**") agrees to vote its shares of voting securities of the Company for, consent to, and raise no objection to such Sale of the Business and shall take all other actions necessary or reasonably required to cause the consummation of such Sale of the Business on the terms proposed by the Dragging Parties (subject to Section 2.3(b)), who shall control all decisions in connection therewith (including the hiring or termination of any investment bank). Without limiting the foregoing, (i) if such Sale of the Business is structured as a sale of assets or a merger or consolidation, then each Dragged Party shall vote, or cause to be voted, all of its shares of voting securities of the Company over which such Person has the power to vote or direct the voting and which are entitled to vote on such Sale of the Business at a special or annual meeting of stockholders or by written consent in lieu of a meeting in favor of such transaction and shall irrevocably waive any dissenter's rights, appraisal rights or similar rights which such Dragged Party may be entitled under applicable Law in connection therewith (and each such Dragged Party does hereby irrevocably waive all such rights), (ii) if such Sale of the Business is structured as or involves a sale of Equity Securities, then each Dragged Party shall agree to sell such Dragged Party's "pro rata" portion of the Equity Securities being sold in such Sale of the Business on the economic terms and conditions approved by the Dragging Parties and (iii) in all such cases shall direct any and all of its representatives on the Board to vote in favor of such Sale of the Business. Any Drag Notice delivered pursuant to this Section 2.3(a) shall set forth: (i) a description of the proposed Sale of the Business, (ii) the identity of the proposed transferee, (iii) the number of Equity Securities that the Dragged Parties shall be required to sell, and (iv) the proposed amount and form of consideration and the principal terms and conditions of payment offered by the proposed transferee.

(b) The Company and the Dragged Parties each hereby agree to cooperate fully with the Dragging Parties and the purchaser in any such Sale of the Business (including, in the case of the Company, by (i) identifying and soliciting prospective purchasers (including securing the services of an investment bank, selected by the Dragging Parties, to assist in procuring such purchasers), (ii) preparing and delivering preliminary marketing and auction materials, (iii) preparing or assisting in the preparation of due diligence materials, (iv) making such due diligence materials available to prospective purchasers, (v) providing access to the Company's books, records, properties and other proprietary materials (subject, in each case, to the execution of customary confidentiality and non-disclosure agreements) to prospective purchasers and (vi) making the managers, officers and employees available to prospective purchasers for presentations and due diligence interviews) and, to execute and deliver all documents (including purchase agreements, if applicable) and instruments as the Dragging Parties and such purchaser request to effect such Sale of the Business (to the extent otherwise consistent with this Section 2.3(b)), in each case, consistent with the agreements and instruments being entered into by the Dragging Parties; provided, that (i) no Dragged Party shall be obligated to make any representations or warranties other than in respect of authority, non-contravention, enforceability and title to and ownership, (ii) no Dragged Party shall be obligated to incur indemnification obligations other than indemnification obligations with respect to the breach of any representation or warranty concerning the Company or any of its Subsidiaries or other specific indemnification provided by the Company and which shall be on a several and not joint basis and shall be limited to the lesser of (A) the proceeds actually received by, and any amount deposited into escrow on behalf of, each such Dragged Party in connection with such Sale of the Business and (B) each such Dragged Party's "pro rata portion" of such indemnification obligation based on its "pro rata portion" of the Common Stock held at such time, (iii) upon written notice to the Company five (5) Business Days prior to the consummation of such transaction, each BHCA Stockholder may be excused from participating in a transaction pursuant to this Section 2.3 by either (A) selling and transferring all of its shares of Capital Stock in the Company to another Stockholder Party pursuant to Section 4.4(a) or (B) providing notice to the Company of its intention to effectuate a BHCA Tender pursuant to Section 4.4(b), and (iv) no Dragged Party shall be required to agree to any non-competition or other restrictive covenant (other than customary confidentiality covenants) in connection with such Sale of the Business or, upon receipt of Marketable Securities as consideration for such Sale of the Business, enter into any stockholders, voting or other equity agreement; provided, that in the case of a Sale of the Business whereby the consideration includes noncash consideration in the form of Marketable Securities or other Equity Securities, the Company shall use commercially reasonable efforts to provide each Stockholder Party reasonably requested accommodations to comply with Law, regulation or bona fide internal policies in order to be a holder of such Marketable Securities. For the avoidance of doubt, each of the Dragging Parties and the Dragged Parties shall participate in any escrow arrangements entered into in connection with such Sale of the Business. The Dragging Parties agree that upon such Sale of the Business each Stockholder Party shall receive its "pro rata portion" of the net proceeds (taking into account any transaction costs and expenses incurred by the Dragging Parties in connection with such Sale of the Business, including any fees paid pursuant to Section 2.3(c) and any transaction costs and expenses incurred by the Company in connection with such Sale of the Business, which shall be borne by each Stockholder Party pro rata based upon the aggregate proceeds to be received by such Stockholder Party in connection with such Sale of the Business) and, subject to the foregoing and Section 2.3(d), such sale shall be on the same terms and conditions as afforded to the Dragging Parties. Each Dragged Party shall receive the same form of consideration as the Dragging Parties and if any Dragging Parties are given an option as to the form and amount of consideration to be received as a result of the Sale of the Business, each Dragged Party will be given the same option. For purposes of this Section 2.3, "pro rata portion" shall mean for each Stockholder Party a fraction, the numerator of which is the number of Common Stock Equivalents held by such Stockholder Party immediately prior to such Sale of the Business and the denominator of which is the total number of Common

Stock Equivalents outstanding immediately prior to such Sale of the Business. Expenses incurred by any Stockholder Party on its, his or her own behalf and for his, her or its sole benefit with respect to any Sale of the Business pursuant to this Section 2.3 shall not be considered costs of the Company hereunder.

(c) It is understood and agreed that in consideration of investment banking services provided by a third-party investment banking group that is not an Affiliate of any Dragging Party a reasonable fee may be paid in an amount that is customary and equivalent to a fee arrangement negotiated on an “arm’s-length” basis.

(d) For the purposes of this Section 2.3, the computation of Common Stock Equivalents shall include Equity Securities that would become Common Stock Equivalents in accordance with their terms immediately after the consummation of the transactions contemplated by this Section 2.3.

(e) To secure each Dragged Party’s obligations under this Section 2.3 to vote such Dragged Party’s Equity Securities in accordance with the terms and conditions contained in this Agreement, each Dragged Party hereby appoints the Chairperson of the Board (as defined in the Certificate of Incorporation) of the Company from time to time or his or her designee as such Dragged Party’s true and lawful proxy and attorney, with the power to act along and with full power of substitution, to vote all such Dragged Party’s Equity Securities as set forth in this Agreement and to execute all appropriate instruments consistent with this Agreement on behalf of such Dragged Party if, and only if, such Dragged Party fails to vote all of such Dragged Party’s Equity Securities or to execute such other instruments in accordance with the provisions of this Agreement in respect of such Sale of the Business within ten (10) Business Days of the applicable Company’s written request for such Dragged Party’s written consent or signature; provided, that as a condition to the effectiveness of such proxy and power, the Chairperson of the Board of the Company shall deliver written notice thereof to each such Dragged Party following the completion of such ten (10) Business Day period. The proxy and power granted by each Dragged Party pursuant to this Section 2.3 are coupled with an interest and are given to secure the performance of such party’s duties under this Agreement. Each such proxy and power will be irrevocable for the term hereof. The proxy and power, so long as any party hereto is an individual, will survive the death, incompetency and disability of such party or any other individual holder of the Dragged Party’s Equity Securities, as the case may be, and, so long as any party hereto is an entity, will survive the merger, Reorganization, dissolution or bankruptcy of such party or any other entity holding any Dragged Party’s Equity Securities. The Dragged Parties shall not (i) grant any proxy or enter into or agree to be bound by any voting trust with respect to any Equity Securities or enter into any agreement, arrangement or understanding with any Person that is inconsistent with the terms of this Section 2.3 or any other provisions of this Agreement including agreements or arrangements with respect to the acquisition, Transfer or voting of any Equity Securities (including the entrance into a voting trust, the grant of a proxy or the entry into any other voting or similar agreement or arrangement) or (ii) act, for any reason, as a member of a group or in concert with any other Dragged Parties (or owners of Equity Securities whether or not party to this Agreement) in connection with the acquisition, Transfer or voting of any Equity Securities in any manner which is inconsistent with the provisions of this Section 2.3 or any other provisions of this Agreement.

(f) Notwithstanding anything contained in this Section 2.3 to the contrary, there shall be no liability on the part of the Dragging Parties (or its Affiliates) to any other Stockholder Party in the event a Sale of the Business is not consummated notwithstanding the delivery of any written request by the Dragging Parties pursuant to Section 2.3(a) or the compliance with any other provision in this Section 2.3.

(g) In connection with the consummation of a transaction subject to this Section 2.3 (a “**Listing Rules Subject Sale**”), the maximum amount payable to any Stockholder

Party that elects by notification in writing to the Company (at least five (5) Business Days prior to the consummation of a Listing Rules Subject Sale) to have this Section 2.3(g) apply to such Stockholder Party (a “**Listing Rules Stockholder**”) shall be, with respect to all such Equity Securities (as may be converted to Capital Stock) then-held by such Listing Rule Stockholder, either: (a) the minimum amount that would result in such Listing Rules Subject Sale constituting a Listing Rules UK Class 2 Transaction minus one dollar (\$1.00) or (b) such other amount that is less than the consideration otherwise owed to such Listing Rules Stockholder pursuant to this Section 2.3. Any payment received pursuant to this Section 2.3(g) will be deemed payment in full with respect to such Equity Securities (as may be converted to Capital Stock) and all claims with respect to such payment shall be deemed discharged by the applicable Listing Rules Stockholder. For the avoidance of doubt, Barclays Bank PLC and UBS Group AG may be deemed Listing Rules Stockholders for the purposes of this Section 2.3(g).

2.4 Right of First Offer

(a) If any Stockholder Party wishes to Transfer any of its Equity Securities (other than to its Affiliate), such Stockholder Party (the “**Offering Holder**”) shall deliver to each Material Stockholder (collectively, the “**ROFO Recipients**”) and to the Company written notice (the “**Offer Notice**”), setting forth such Offering Holder’s intention to effect such a Transfer, the number of Equity Securities proposed to be Transferred (the “**Offered Securities**”), the proposed purchase price therefor (the “**First Offer Price**”), and the other material terms and conditions of the proposed Transfer, and offering the ROFO Recipients the right (the “**First Offer**”) to purchase the Offered Securities as set forth herein.

(b) The Company shall have the option to purchase, at the First Offer Price and otherwise on the terms and conditions described in the Offer Notice, all or a portion of the Offered Securities by delivering written notice to the Offering Holder within 5 days of receipt of the Offer Notice. Subject to applicable Law, the Company shall have no liability to the Offering Holder and the ROFO Recipients with respect to the Company’s determination whether or not to complete an option to purchase the Offered Securities.

(c) In the event the Company does not elect to purchase all of the Offered Securities pursuant to Section 2.4(b) (all Offered Securities not so purchased, the “**Soak-Up Securities**”), the Offering Holder shall promptly notify the ROFO Recipients identified by the Company (a “**Soak-Up Notice**”), and each ROFO Recipient shall have the option to purchase, at the First Offer Price and otherwise on the terms and conditions described in the Offer Notice, up to a number of Soak-Up Securities equal to the product of (i) the total number of Soak-Up Securities and (ii) a fraction, the numerator of which is the number of Equity Securities beneficially owned by such ROFO Recipient as of the applicable Transfer date, and the denominator of which is the total number of Equity Securities beneficially owned by all ROFO Recipients as of such date (such amount, the “**ROFO Portion**”). Each ROFO Recipient shall, within 10 days from receipt of the Soak-Up Notice, send irrevocable written notice (a “**ROFO Acceptance Notice**”) to the Offering Holder and the Company indicating whether it has accepted the First Offer and if so, the maximum number of Soak-Up Securities sought to be purchased. For the avoidance of doubt, a ROFO Recipient shall be deemed to have waived its right to participate in the First Offer if it fails to deliver a ROFO Acceptance Notice within the time period prescribed in this Section 2.4(b).

(d) The ROFO Recipients shall have a right of oversubscription such that, if any ROFO Recipient does not elect to purchase Soak-Up Securities or elects to purchase less than all of its ROFO Portion of the Soak-Up Securities (all Soak-Up Securities not so purchased, the “**Remaining Soak-Up Securities**”), each ROFO Recipient that accepted the First Offer shall have the right to purchase its pro rata portion (based on the aggregate number of Soak-Up Securities elected to be purchased by all ROFO Recipients) of the Remaining Soak-Up Securities.

(e) If the Company and the ROFO Recipients, in the aggregate, do not elect to purchase all of the Offered Securities, then, subject to Section 2.5, the Offering Holder shall be free for a period of 90 days from the date ROFO Acceptance Notices were due to be sent to the Offering Holder to Transfer any remaining portion of the Offered Securities to an unaffiliated third party for a price not less than the First Offer Price. Any Equity Securities not so Transferred shall continue to be subject to the provisions of this Section 2.4.

2.5 Tag-Along Rights

(a) In the event that one or more Stockholder Parties (the “**Transferring Stockholder Parties**”) propose to effect a Transfer of at least fifty percent (50%) of the then issued and outstanding Common Stock (in one transaction or a series of related transactions), the Transferring Stockholder Parties shall promptly give written notice (the “**Transfer Notice**”) to the Company and each of the other Stockholder Parties (the “**Other Stockholder Parties**”) at least twenty (20) days prior to the closing of such Transfer. The Transfer Notice shall (i) describe in reasonable detail the terms of the proposed Transfer including, the class and number of shares of Equity Securities to be sold, the number of Common Stock Equivalents represented thereby, the identity of the prospective transferee(s), the purchase price of each such share of Equity Securities to be sold and the date such proposed sale is expected to be consummated and (ii) have attached thereto, if available, a substantially final draft of the agreement pursuant to which the proposed Transfer is to be consummated.

(b) Each of the Other Stockholder Parties shall have the right, exercisable upon delivery of an irrevocable written notice to the Transferring Stockholder Parties within ten (10) Business Days after receipt of the Transfer Notice, to participate in such proposed Transfer on the same terms and conditions as set forth in the Transfer Notice including, the making of all representations, warranties and covenants and the granting of all indemnifications and similar agreements and arrangements reasonably agreed to by the Transferring Stockholder Parties in the executed agreement (or substantially final draft agreement) delivered with the Transfer Notice pursuant to Section 2.5(a) hereof (including, participating in any escrow arrangements to the extent of their respective “pro rata portion”) provided, that (i) no Other Stockholder Party shall be obligated to make any representations or warranties other than in respect of authority, non-contravention, enforceability and title and ownership, (ii) each Other Stockholder Party shall not be required to provide any indemnification with respect to any representations, warranties, covenants or agreements made by any Transferring Stockholder Parties or any other Stockholder Parties, (iii) the indemnification obligation of each Other Stockholder Party provided to the proposed transferee with respect to the breach of any representation or warranty made in the definitive documents governing any Transfer under this Section 2.5 shall be on a several and not joint basis and shall be limited to the lesser of (A) the proceeds actually received by, and any amount deposited into escrow on behalf of, each such Other Stockholder Party in connection with such Transfer and (B) each such Other Stockholder Party’s “pro rata portion” of such indemnification obligation based on its “pro rata portion” of the Common Stock held at such time and (iv) no Other Stockholder Party shall be required to agree to any non-competition or other restrictive covenant (other than customary confidentiality covenants) in connection with such Transfer or, upon receipt of Marketable Securities as consideration for such Transfer, enter into any stockholders, voting or other equity agreement. Each Other Stockholder Party electing to participate in the Transfer described in the Transfer Notice (each, a “**Participant**”) shall indicate in its irrevocable notice of election to the Transferring Stockholder Parties the maximum number of Common Stock Equivalents it desires to Transfer. Each such Participant shall be entitled to Transfer a number of Common Stock Equivalents equal to such holder’s “pro rata portion” of the total number of Common Stock Equivalents to be Transferred, as set forth in the Transfer Notice, up to such maximum number. For purposes of this Section 2.5(b), “pro rata portion” shall mean for each Participant a fraction, the numerator of which is the number of Common Stock Equivalents held by such Participant immediately prior to the Transfer proposed in the Transfer Notice and the

denominator of which is the total number of Common Stock Equivalents outstanding immediately prior to the Transfer proposed in the Transfer Notice. For the avoidance of doubt, each of the Transferring Stockholder Parties and the Participants (as defined below) shall participate in any escrow arrangements entered into in connection with such Transfer contemplated by this Section 2.5. No holder of Equity Securities shall be entitled to sell Equity Securities (other than the Common Stock) pursuant to this Section 2.5, but shall be permitted to convert, exchange or exercise its applicable portion of Equity Securities (subject to the terms of such Equity Securities) for Common Stock concurrently with, and subject to, the consummation of the proposed Transfer. At the election of the Transferring Stockholder Parties, either (i) the number of Common Stock Equivalents that the Transferring Stockholder Parties and each other Participant have elected to sell pursuant to this Section 2.5 shall be proportionally reduced such that the Common Stock Equivalents to be sold by the Transferring Stockholder Parties and each other Participant shall be equal to the total number of Common Stock Equivalents specified in the Transfer Notice, or (ii) the aggregate number of Common Stock Equivalents to be sold pursuant to this Section 2.5 shall be increased to accommodate the Equity Securities elected to be sold by the Participants; provided, that if the Transferring Stockholder Parties are unable to make such election within five (5) Business Days, then they shall be deemed to have elected clause (i).

(c) Each Participant shall effect its participation in the Transfer by delivering to the Transferring Stockholder Parties (to hold in trust as agent for such Participant), at least three (3) Business Days prior to the date scheduled for such Transfer as set forth in the Transfer Notice, (i) one or more certificates or other instruments, as applicable, in proper form for Transfer, which represent the number of shares of Common Stock Equivalents which such Participant is entitled to Transfer in accordance with Section 2.5(b) (but subject to the limitations set forth in Section 2.5(b)), (ii) a Joinder or other similar agreement pursuant to which such Participant shall agree to be bound by the terms and conditions set forth in the agreement included with the Transfer Notice pursuant to Section 2.5(a)(ii) in form and substance reasonably satisfactory to the Transferring Stockholder Parties, and (iii) executed copies (or signature pages thereof) of such other agreements, documents or certificates as the Transferring Stockholder Parties and/or their respective transferees shall reasonably request. Such certificate or certificates or other instruments, as applicable, shall be delivered by the Transferring Stockholder Parties to such prospective purchaser on the date scheduled for the consummation of the Transfer pursuant to the terms and conditions specified in the Transfer Notice and such prospective purchaser shall remit to each such Participant its pro rata portion of the net sale proceeds (taking into account any fee paid pursuant to Section 2.5(e), and any reasonable out-of-pocket transaction costs and expenses incurred by the Transferring Stockholder Parties on behalf of the Company and the Participants in connection with such Transfer, which shall be borne by the Transferring Stockholder Parties and the Participants pro rata based upon the aggregate proceeds to be received by such Transferring Stockholder Parties and Participants in connection with such Transfer) to which such Participant is entitled by reason of its participation in such sale. Expenses incurred by any Transferring Stockholder Party on its, his or her own behalf and for his, her or its sole benefit with respect to any Transfer pursuant to this Section 2.5 shall not be considered costs incurred on behalf of the Company and the Participants hereunder. For purposes of this Section 2.5(c), “pro rata portion” shall mean for each Participant a fraction, the numerator of which is the number of Common Stock Equivalents to be Transferred by such Participant pursuant to this Section 2.5 and the denominator of which is the total number of Common Stock Equivalents to be Transferred pursuant to this Section 2.5. The Transferring Stockholder Parties’ sale of shares of Equity Securities in any sale proposed in a Transfer Notice shall be effected on terms and conditions set forth in such Transfer Notice and those applicable to the other Participants.

(d) The exercise or non-exercise of the rights of any of the Other Stockholder Parties hereunder to participate in one or more Transfers of Equity Securities made

by the Transferring Stockholder Parties shall not adversely affect their rights to participate in subsequent Transfers of Equity Securities subject to this Section 2.5.

(e) It is understood and agreed that in consideration of investment banking services provided by a third-party investment banking group that is not an Affiliate of any Transferring Stockholder Party a reasonable fee may be paid in an amount that is customary and equivalent to a fee arrangement negotiated on an “arm’s-length” basis.

(f) Notwithstanding anything contained in this Section 2.5 to the contrary, there shall be no liability on the part of the Transferring Stockholder Parties (or any of their respective Affiliates) to any Other Stockholder Party in the event no Common Stock Equivalents are sold notwithstanding the delivery of any Transfer Notice pursuant to Section 2.5(a) or the compliance with any other provision in this Section 2.5.

(g) For purposes of this Section 2.5, the computation of Common Stock Equivalents shall include Equity Securities that would become Common Stock Equivalents in accordance with their terms immediately after the consummation of the transactions contemplated by this Section 2.5.

2.6 Initial Public Offerings

(a) If the Board and the Requisite Stockholder Parties approves an Initial Public Offering:

(i) each Stockholder Party shall take all steps reasonably within its power as are reasonably required to effect the consummation of the Initial Public Offering, including (I) voting, or causing to be voted, all of its Equity Securities in favor of such Initial Public Offering at the applicable special or annual meetings of the stockholders of the Company, (II) causing its Board appointees (if any) to vote in favor of such Initial Public Offering at the applicable special or annual meetings of the Board or by written consent in lieu of a meeting of the Board in favor of such transaction, and (III) complying with Section 5.7, entering into customary agreements with respect to the potential Initial Public Offering and executing and delivering all documents (including lock-up agreements, if applicable) and instruments as the Board reasonably requests to effect such Initial Public Offering.

(ii) all costs and expenses incurred by the Company and its Subsidiaries in connection with the proposed Initial Public Offering pursuant to this Section 2.6, whether or not consummated, including legal fees, accounting fees and all finders, brokerage or investment banking fees, charges or commissions, shall be paid by the Company; provided, that each Stockholder Party acknowledges that its, his or her consideration (if any) pursuant to an Initial Public Offering may be reduced by transaction expenses incurred by the Company or its Subsidiaries related to such Initial Public Offering pro rata based upon the aggregate proceeds to be received by such Stockholder Party in connection with the Initial Public Offering. Expenses incurred by any Stockholder Party on its, his or her own behalf related to an Initial Public Offering shall not be considered costs of the Company hereunder.

(iii) if, in connection with an Initial Public Offering, (A) the Board approves a recapitalization of or internal reorganization (including whether by conversion, merger or consolidation, reorganization, sale of securities or otherwise), or a transaction that contemplates the recapitalization of or internal reorganization of (including whether by conversion, merger or consolidation, reorganization, sale of securities or otherwise), the Company or any of its Subsidiaries, whether involving a merger, contribution of Common Stock or other securities or equity in a Subsidiary of the Company, share exchange or otherwise (a “**Reorganization**”) and (B) pursuant to

such Reorganization, Stockholder Parties would receive either common stock or another equity interest or American Depositary Receipts in respect of common stock or another equity interest (“**Stock Equivalents**”) of the corporation that will consummate such Initial Public Offering in exchange for the Common Stock then held by such Stockholder Parties, then the Company and all Stockholder Parties shall take, at the Company’s expense, all reasonable actions in connection with the consummation of such Reorganization as the Board so requests, including the approval of a merger or conversion of the Company or any of its Subsidiaries with and into a corporation, execution of applicable customary holdback and underwriting agreements, and compliance with the terms of this Section 2.6, the requirements of all Laws and Governmental Entities, exchanges and other self-regulatory organizations that are applicable to, or have jurisdiction over, such Initial Public Offering and the execution of any agreement which would effectuate the foregoing. The entity resulting from such Reorganization shall be the “**Successor Entity**.” The Stock Equivalents to be issued to Stockholder Parties in connection with any Reorganization shall (1) be allocated to each Stockholder Party on a pro rata basis based on the Common Stock held such Stockholder Party relative to all other Stockholder Parties and (2) have substantially the same relative value and be issued on the same terms and conditions applicable to all Stockholder Parties.

(iv) Each of the Stockholder Parties shall, upon the request of the Board in connection with or in anticipation of the consummation of an Initial Public Offering, sell to the Successor Entity any or all fractional securities of such Stock Equivalents or other Equity Securities for cash consideration equal to the fair market value of such fractional securities.

ARTICLE III

BOARD MATTERS AND CORPORATE GOVERNANCE

3.1 Composition

(a) Directors of Board shall be elected in accordance with the Organizational Documents.

(b) The Stockholder Parties hereby agree, in any election of the members of the Board, to cast any vote for any Person in accordance with the procedures and requirements set forth in Certificate of Incorporation and not to grant any proxy or become party to any voting trust or other agreement or arrangement which is inconsistent with, conflicts with or violates any provision of this Agreement or the Company’s Organizational Documents. If any Stockholder Party votes any of its voting securities of the Company over which such Person has the power to vote or direct the voting in a manner contrary to the terms of the Organizational Documents, such Stockholder Party hereby grants to the Chairperson of the Board with respect to all of such voting securities of the Company an irrevocable proxy (which is deemed to be coupled with an interest) for the term of this Agreement with respect to any stockholder vote or action by written consent solely to effect such election and maintenance of the Board in compliance with the Organizational Documents. Subject to applicable law, if any Stockholder Party entitled to designate a director pursuant to the terms of the Organizational Documents fails to appoint a director, such position in the Board shall remain vacant until the applicable Stockholder Party exercises its right to appoint a director as provided thereunder.

(c) The By-laws of the Company shall provide that, except as otherwise provided by applicable Law, no quorum shall exist at any meeting of the Board unless a majority of the directors of such Board are present at such meeting. Each director of the Board shall be entitled to one (1) vote in any action by the Board. Except as required by applicable

Law or as set forth in the By-laws, all actions of the Board shall be approved by the affirmative vote of a majority of the votes of the directors present at any duly convened Board meeting in which a quorum is present.

(d) The By-laws of the Company shall provide that meetings of the Board may be called by any director at any time; provided, that at least forty-eight (48) hours' written notice of such meeting has been provided to the directors or notice thereof has been waived by any director failing to receive such timely written notice. Meetings of the Board or of any committee thereof may be held by means of telephone or video conferencing or other communications equipment by means of which all persons participating in the meeting can hear each other and be heard. Participation by a director in a meeting pursuant to this Section 3.1(d) will constitute presence in person at such meeting.

(e) Standing committees of the Board shall consist of an audit committee and compensation committee only to the extent the Board determines that the membership of such committees would be composed of fewer than each director then-serving on the Board. The Board shall be entitled to create additional committees, which shall be permitted to act in any manner only to the extent authorized by the Board and permitted by applicable law. Each director shall the right, but not the obligation, to serve on any committee of the Board; provided, that any executive directors may be excluded from any committees or sessions at which his or her compensation may be discussed. The By-laws of the Company shall provide that any committee designated hereunder shall have and may exercise all of the powers and authority that are expressly delegated to such committee by the Board, except that no committee shall have the power to take any action that the Board does not have the power to take.

(f) The By-laws of the Company shall provide that any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all directors (or members of such committee, in the case of a committee of the Board) consent thereto in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board or committee in accordance with applicable Law.

(g) With respect to any Initial SteerCo Directors (as defined in the Certificate of Incorporation), if any Subsidiary of the Company has a board of directors, board of managers or equivalent governing body (such governing body, a "**Subsidiary Board**"), then, subject to applicable Law, such Stockholder Party shall have the right, but not the obligation, to designate directors or managers, as applicable and as soon as reasonably practicable, to a Subsidiary Board on which any Stockholder Party has one or more director or manager representatives, in which case such Subsidiary Board shall have the same structure, number of managers or directors and shall be similarly constituted, as the Board; provided, that no Stockholder Party shall be required to designate a manager or director to any Subsidiary Board.

(h) Each Material Stockholder shall be permitted to designate one non-voting observer (each, a "**Non-Voting Board Observer**") that shall be entitled to reasonable written notice of meetings of the Board and to receive copies of all notices, minutes, consents, and other materials that the Company provides to its directors at the same time as such materials are provided to its directors; provided, that such Non-Voting Board Observer shall agree to hold in confidence all information so provided. For the avoidance of doubt, (x) each Non-Voting Board Observer shall be entitled to attend all meetings of the Board and each committee of the Board, but shall not be entitled to vote on any matter and (y) the Company shall give each Non-Voting Board Observer copies of all notices, minutes, consents, and other materials that it or any officer provides to directors at the same time and in the same manner as provided to such directors; provided, that the Company shall be entitled to not include such Non-Voting Observer in any meeting or provide any materials where such inclusion or provision would divulge privileged information, competitively sensitive information, trade secrets or, upon the advice of the Company's counsel, may cause a conflict of interest; provided, further, that the

Company shall treat in the same manner Non-Voting Board Observers appointed by similarly situated Material Stockholders.

3.2 Term

Except as otherwise set forth in the Organizational Documents, unless otherwise removed or replaced in accordance with Section 3.1 or Section 3.3, Directors shall hold office until the next annual election and until their successors shall have been elected and shall have qualified, except as in the case of such director's earlier death, resignation, or removal.

3.3 Vacancy and Removal

(a) Except as otherwise set forth in the Organizational Documents, in the event that any of the directors ceases to serve as a member of the Board during his or her term of office for any reason (including death, resignation or removal), the remaining members of the Board shall elect a substitute director to fill the resulting vacancy; provided, that the substitute of any such director designated by a Stockholder Party or group of Affiliated Stockholder Parties shall be designated by the Stockholder Parties which nominated the director who is being replaced, to serve until his or her successor shall have been duly appointed or elected and qualified in accordance with the Organizational Documents.

(b) Except as otherwise set forth in the Organizational Documents, any member of the Board designated by one or more Affiliated Stockholder Parties shall be removed from the Board only (i) upon the request or approval of such Stockholder Parties which nominated such director and only in accordance with the Organizational Documents or (ii) at such time as such Affiliated Stockholder Parties' right to appoint a director shall terminate pursuant to the terms of the Certificate of Incorporation. In such case, each Stockholder Party agrees to vote all of its voting securities of the Company over which such Person has the power to vote or direct the voting and do all things necessary under applicable Law to remove such director and replace such director in accordance with the provisions of Section 3.1 and the Organizational Documents, to the extent applicable.

(c) Except as otherwise set forth in the Organizational Documents, the chief executive officer of the Company shall be deemed removed from the Board simultaneously with his or her removal as the chief executive officer of the Company and its Subsidiaries and/or the termination of his or her employment with the Company and its Subsidiaries. If there is no chief executive officer of the Company, then such position on the Board shall remain vacant until a new chief executive officer of the Company is appointed.

3.4 Compensation and Reimbursement As consideration for their agreement to serve as members of the Board, the Company may pay to each member of the Board who is not an employee of the Company or any of its Subsidiaries, an annual fee (including in cash or Equity Securities), in an amount determined from time to time by the Board, and shall reimburse each member of the Board and the Non-Voting Board Observer for its reasonable, documented out-of-pocket fees, costs, expenses and disbursements (including reasonable and documented travel and lodging expenses) in connection with attending meetings of the Board in person.

3.5 Limitation on Liability of Directors The directors shall not, by reason of being a director, be bound by, or be personally liable to any third Person for a judgment, decree or order of any Governmental Entity or in any other manner, for the expenses, liabilities or obligations of the Company whether arising in contract, tort or otherwise, solely by reason of being a member of the Board.

3.6 No Organizational Document Conflicts.

Neither the Company nor the Board shall take any action to cause the Certificate of Incorporation and the By-laws of the Company (the "By-laws") and, together with the Certificate of

Incorporation, the “Organizational Documents”) or any of its Subsidiaries to conflict in any respect with the provisions of this Agreement or the rights of the Stockholder Parties hereunder, and if at any time such Organizational Documents are determined to conflict in any manner with this Agreement or the rights of the Stockholder Parties hereunder, then, subject to requirements under the DGCL, the Stockholder Parties, the Company and the Board shall take such actions within their control to cause the applicable Organizational Documents not to conflict in any respect with the provisions of this Agreement or the rights of the Stockholder Parties hereunder, including by amending such Organizational Documents or submitting an amendment to the Stockholder Parties for approval, and each Stockholder Party shall vote all of the voting securities of the Company over which such Person has the power to vote or direct the voting in favor of any such amendment.

ARTICLE IV STOCKHOLDER RIGHTS AND RELATED COVENANTS

4.1 Information Rights and Financial Information

(a) Without limitation to applicable Law, the Company shall deliver to each Stockholder Party holding, collectively with its Affiliates, at such time, one percent (1%) or more of the issued and outstanding Common Stock (other than with respect to any Stockholder Party who is a current or former director, officer, employee, consultant or advisor), within fifteen days of the periods specified below:

(i) within (x) one hundred and twenty (120) days after the end of the first fiscal quarter ending after the Effective Date and (y) otherwise sixty (60) days after the end of each of the first three quarterly accounting periods in each fiscal year, (A) consolidated statements of earnings, stockholders’ equity and cash flows of the Company and its Subsidiaries for such fiscal quarter and consolidated balance sheets of the Company and its Subsidiaries as of the end of such fiscal quarter, in each case, prepared in accordance with GAAP and certified by the chief financial officer or controller of the Company and (B) to the extent the Company may be required to prepare under the Credit Agreement, a management discussion and analysis with respect to such fiscal quarter;

(ii) within one hundred and twenty (120) days after the end of each fiscal year, (A) audited consolidated statements of earnings, stockholders’ equity and cash flows of the Company and its Subsidiaries for such fiscal year and consolidated balance sheets of the Company and its Subsidiaries as of the end of such fiscal year, prepared in accordance with GAAP and accompanied by the opinion of an internationally recognized independent accounting firm selected by the Board and (B) a projected budget for the following fiscal year,

unless any such Stockholder Party elects, upon written notice to the Company, to decline to receive the foregoing information, which election may be revoked upon written notice to the Company. The covenants set forth in Sections 4.1(a) and (b) shall terminate and be of no further force or effect upon the date on which the Company first becomes subject to the periodic reporting requirements of Section 13 or 15(d) of the Exchange Act.

(b) Without limitation to the Stockholder Parties’ information rights under applicable Law, the Company shall, and, as may be reasonably necessary for the purposes set forth in this Section 4.1(b), shall cause each of its Subsidiaries to, (i) upon reasonable request of a Stockholder Party holding, collectively with its Affiliates, at such time five percent (5%) or more of the issued and outstanding Common Stock, give such Stockholder Party and its Representatives, reasonable access during normal business hours to the officers, employees, auditors, properties, books and records of the Company and its Subsidiaries, on a consolidated basis, on reasonable notice (provided, that such access shall not unreasonably interfere with the operation of the business of the Company and its Subsidiaries in the ordinary course); provided,

that any such Stockholder Party, including its Affiliates, may not exercise such rights more than one time during any calendar year; (ii) upon reasonable request of a Stockholder Party in connection with any governmental or regulatory inquiries, investigations, actions and/or proceedings (each, a “**Proceeding**”) relating to that Stockholder Party (or its Affiliates or Investment Affiliates) in order for such Stockholder Party (or its Affiliates or Investment Affiliates) to comply with any applicable bona fide tax law, Law or regulation (in each case, as determined in the opinion of such Stockholder Party’s outside counsel), provide the copies of the books and records of the Company and its Subsidiaries, taken as a whole on a consolidated basis, to the extent necessary for such Person to comply with such Proceeding; provided, that the requesting Stockholder Party shall, upon request by the Company, reimburse the Company or its Subsidiaries, as applicable, for the costs incurred by it in making any copies of the books and records of the Company pursuant to this clause; and (iii) promptly upon any request therefor, use its reasonable efforts to furnish to any Stockholder Party information and documentation reasonably requested by such Stockholder Party for purposes of such Stockholder Party’s compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT ACT of 2001 and 31 C.F.R. § 1010.230.

(c) All information furnished or made available pursuant to Section 4.1(a) and Section 4.1(b) shall be subject to the confidentiality obligations set forth in Section 7.3. Notwithstanding anything to the contrary in Section 4.1(a) and Section 4.1(b), the Company may restrict the access and the disclosure of information pursuant to Section 4.1(b) to the extent that (A) in the reasonable good faith judgment of the Company, any applicable Law requires the Company or its Subsidiaries to restrict or prohibit access to any such properties or information, (B) in the reasonable good faith judgment of the Company, making available or furnishing the information pursuant to Section 4.1(a) and Section 7.3 would violate any applicable confidentiality obligations to a third party, (C) disclosure of any such information or document would reasonably be expected to result in the loss of attorney-client privilege or (D) in the reasonable good faith judgment of the Board, disclosure of any such information or document would reasonably be expected to compromise the Company’s competitive position or make available sensitive commercial information to a competitor of the Company (including any Non-Qualified Person); provided, that in the circumstances described in each of the foregoing clauses (A) through (D), the Company and the Stockholder Parties will use commercially reasonable efforts to make, to the extent practicable, reasonable and appropriate substitute disclosure arrangements in a manner that is consistent with clauses (A) through (D). For greater certainty, a Stockholder Party that the Company reasonably determines is a Non-Qualified Person shall not be entitled to any information, access and disclosure rights pursuant to Section 4.1(a) and Section 4.1(b); provided, in the case of a Stockholder Party that is an Institutional Investor, that the rights of a Stockholder Party pursuant to Section 4.1(a) and Section 4.1(b) shall not be affected solely due to the fact that one or more portfolio companies managed by such Stockholder Party or any of its Affiliates otherwise constitutes a Non-Qualified Person; provided, further, that no information furnished or made available pursuant to Section 4.1(a) and Section 4.1(b) shall be provided by a Stockholder Party to any such portfolio company that constitutes a Non-Qualified Person.

(d) Each Stockholder Party shall use commercially reasonable efforts to supply the Company with any information that may be reasonably required in connection with any material applications, filings or notifications made to or with any Governmental Entity pursuant to, or any information provided to comply with, any applicable Law, in each case in connection with such Stockholder Party’s holding of Equity Securities or debt of the Company or any of its Subsidiaries issued pursuant to Section 2.2.

(e) The Company agrees that, with respect to each Stockholder Party that provides confidential information pursuant to Section 4.1(d) (“Stockholder Confidential Information”), for a period beginning on the Effective Date until three (3) years after none of

such Stockholder Party and its Affiliates is a Stockholder Party, the Company will use, and will cause any of its or its Subsidiaries' respective Representatives to use its commercially reasonable efforts not to, disclose any Stockholder Confidential Information to any Person; provided, that Stockholder Confidential Information may be disclosed (i) to the Company's or its Subsidiaries' respective Representatives, subject to the terms and conditions of this Section 4.1(e), (ii) to the extent required by applicable Law (including complying with any oral or written questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process to which the Company or any of its Subsidiaries or their respective Representatives is subject), provided, that the Company promptly gives the applicable Stockholder Party prior notice of such request(s), to the extent practicable (and not prohibited by Law), so that such Stockholder Party may seek, at its expense, an appropriate protective order or similar relief (and the Company shall cooperate with such efforts by such Stockholder Party), or (iii) if the prior written consent of such Stockholder Party shall have been obtained.

4.2 Related Party Transactions

(a) Without the approval of the Requisite Stockholder Parties, to the actual knowledge of the Company's Chief Executive Officer or Chief Financial Officer, after reasonable due inquiry of their direct reports, the Company shall not, and shall cause each of its Subsidiaries not to, enter into or amend or modify any transaction with (A) its Affiliates (other than Subsidiaries of the Company), (B) current or former officers or directors, (C) Stockholder Parties that, together with their Affiliates, hold at least 5.0% of the outstanding Common Stock, (D) any entity in which one or more directors or officers of the Company owns, directly or indirectly, individually or in the aggregate, 5.0% or more of the outstanding equity securities of such entity, or (E) any Affiliates of any of the foregoing (any such agreement, a **"related party transaction"**) unless such transaction is (x) a commercial transaction in the ordinary course of business or consistent with past practice, (y) on terms that are fair and reasonable and no less favorable to the Company or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate or current or former officer or director as determined in good faith by the Company in consultation, as may be required, with the Board, and/or (z) any equity financing transaction of the Company and its Subsidiaries, taken as a whole on a consolidated basis, which is offered to the applicable Stockholder Parties pursuant to Section 2.2.

(b) For purposes of this Section 4.2, "related party transaction" shall exclude (i) customary employment (in the case of employees), compensation, indemnification or expense reimbursement arrangements with directors, any board observers, officers or employees of the Company in the ordinary course of business or awards pursuant to any management incentive plan and (ii) any debt financing transaction of the Company and its Subsidiaries, taken as a whole on a consolidated basis, that is offered to all Stockholder Parties to participate on a *pro rata* basis.

(c) Further to Section 4.2(a) above, the Company hereby represents and warrants to each of the Stockholder Parties hereto that the Company and its Subsidiaries have not entered into any side letters or other similar agreements with any equityholders of the Company or any Affiliates of the foregoing which provide such Person, directly or indirectly, any additional rights or benefits in respect of such equityholder's Equity Securities. For the avoidance of doubt, equity compensation with management and other employees of the Company or its Subsidiaries in their capacities as such that contain terms and conditions approved by the Board shall not be deemed side letters or other similar agreements hereunder.

4.3 No Exclusive Duty to Company. In recognition that certain Institutional Investors or one or more of their respective Investment Affiliates or other Affiliates currently have, and will in the future have or will consider acquiring, investments in numerous companies with respect to which such Institutional Investors or their respective Investment Affiliates or other Affiliates or

Representatives may serve as an advisor, a director or in some other capacity, and in recognition that such Institutional Investors may have a myriad of duties to various investors and partners, and in anticipation that the Company, on the one hand, and any Stockholder Party (or one or more of its Investment Affiliates or Affiliates), on the other hand, may engage in the same or similar activities or lines of business and have an interest in the same business opportunities, and in recognition of the benefits to be derived by the Company hereunder and in recognition of the difficulties which may confront such Institutional Investors in their desire and endeavor fully to satisfy their respective duties, in determining the full scope of such duties in any particular situation, the provisions of this Section 4.3 are set forth to regulate, define and guide the conduct of certain affairs of the Company as they may involve the Institutional Investors (and any directors nominated by any such Institutional Investors hereunder, as applicable).

(a) Each Institutional Investor and their Investment Affiliates and other Affiliates and their respective officers, directors, director designees and observer designees pursuant to this Agreement, partners, equityholders, agents and employees (collectively, the “**Corporate Opportunities Group**”), shall have the right:

(i) to directly or indirectly engage in or invest in any business (including, without limitation, any business activities or lines of business that are the same as or similar to those pursued by, or competitive with, the Company and its Subsidiaries);

(ii) to directly or indirectly do business with any client or customer of the Company or any of its Subsidiaries;

(iii) to take any other action that such member of the Corporate Opportunities Group believes in good faith is necessary to or appropriate to fulfill its obligations as described in the first sentence of this Section 4.3; and

(iv) not to present potential transactions, matters or business opportunities to the Company or any of its Subsidiaries, and to pursue, directly or indirectly, any such opportunity for itself, and to direct any such opportunity to another Person ((i) through (iv) of the foregoing collectively, the “**Excluded Activities**”).

(b) No member of the Corporate Opportunities Group shall have any duty (contractual or otherwise) to communicate or present any business opportunities to the Company or any of its Subsidiaries or to refrain from any actions specified in Section 4.3(a), and the Company, on its own behalf and on behalf of its Subsidiaries, hereby renounces and waives any right to require any such member of the Corporate Opportunities Group to act in a manner inconsistent with the provisions of Section 4.3(a).

(c) No member of the Corporate Opportunities Group be liable to the Company or any of its Affiliates for breach of any duty or obligation (contractual or otherwise) as a result of any activities or omissions of the types referred to in Section 4.3(a) or such Person’s participation therein. For the avoidance of doubt, any contracts or agreements among a member of the Corporate Opportunities Group and the Company or its Subsidiaries shall not be deemed an Excluded Activity for the purposes of this Section 4.3.

(d) Notwithstanding anything to the contrary in this Agreement and without limiting or modifying Section 4.3(a) above, or in the organizational documents of any Subsidiary of the Company, (i) each director designated by the Stockholder Parties pursuant to the terms of the Certificate of Incorporation, in his or her capacity as such, may at any time and from time to time (directly or indirectly) engage in and own interests in other business ventures of any and every type and description, independently or with others, with no obligation to offer to the Company or its Subsidiaries or any Stockholder Party the right to participate therein, and (ii) neither the Company or its Subsidiaries nor any Stockholder Party shall have any rights by virtue of this Agreement, or the organizational

documents of any Subsidiary of the Company, in any such business interests or activities of any such Person.

(e) For the elimination of doubt, this Agreement is not intended to, and does not create or impose any fiduciary duty on any members of the Corporate Opportunities Group. Further, each Stockholder Party waives any and all fiduciary duties of on the other members of the Corporate Opportunities Group that, absent such waiver, may be implied by Law, and in doing so, recognizes, acknowledges and agrees that the duties and obligations of the members of the Corporate Opportunities Group to the Company are only as expressly set forth in this Agreement.

4.4 Redemptions.

(a) Notwithstanding any provisions hereof to the contrary, in the event that a BHCA Stockholder determines in its sole discretion that the holding of any rights, interests or obligations with respect to the Company or this Agreement will or could be unlawful or a breach of any Laws, whether U.S. or foreign, upon 15 Business Days prior written notice to the Company, the BHCA Stockholder shall have the right to: (x) subject to Section 2.1, sell or assign all of its Equity Securities held by such BHCA Stockholder, at the time of such notice, with respect to this Company or this Agreement to a Person on such terms (including as to price) as determined by the Stockholder Party (other than to a Non-Qualified Person); or (y) require the Company to repurchase its rights, interests and obligations with respect to this Company or this Agreement for \$1.00, in aggregate, for all such Equity Securities held by such BHCA Stockholder, at the time of such notice.

(b) The Company shall, upon written notice by a BHCA Stockholder, accept the tender of all shares of Capital Stock of the Company held by such BHCA Stockholder or any of its Affiliates as a contribution to the Company at no cost (zero U.S. dollars) to the Company or such BHCA Stockholder (the “**BHCA Tender**”). The Company shall accept and redeem at no cost (zero U.S. dollars) to the Company all such shares of Capital Stock subject to such BHCA Tender as soon as practicable (and in no event later than fifteen(15) Business Days after receipt of such BHCA Stockholder’s notice to the Company of such BHCA Tender), and, subject to applicable law, without a requirement for any further action by such BHCA Stockholder, the Company, the Board or any other Person. Subject to Section 4.5, the exercise of a BHCA Tender shall be within each BHCA Stockholder’s sole and exclusive discretion and shall be in addition to, and not in lieu of, any other remedies available to a BHCA Stockholder under this Agreement, the Organizational Documents or any other agreement between the Company and a BHCA Stockholder.

4.5 BHCA Covenant. The Company shall not and shall cause each of its Subsidiaries not to, in each case, without the prior written consent of each BHCA Stockholder, form or acquire a subsidiary, or acquire equity interests in any other Person, if such formation or acquisition, as applicable, would require the Company or any of its Subsidiaries to be classified as a “covered fund” under Section 13 of the BHCA and the applicable rules and regulations promulgated thereunder.

ARTICLE V REGISTRATION RIGHTS

5.1 Required Registration

(a) At any time after the date that is six (6) months after the Initial Public Offering, (x) any Stockholder Party or Stockholder Parties that collectively beneficially own, in the aggregate and together with their Affiliates, at least 10% of the Common Stock or (y) any Material Stockholder who is subject to the volume, manner of sale and public information requirements under Rule 144 promulgated under the Securities Act (or any similar provisions then in force) (each of (x) and (y), as applicable, the “**Requesting Stockholder**”) may request in writing (a “**Demand Request**”) that the Company effect a registration under the Securities Act of Registrable Securities held by such Stockholder Party or Stockholder Parties (each, a “**Required Registration**”). Any Required Registration shall be on Form S-3 or any similar

short-form registration, if available; otherwise, a Required Registration shall be on Form S-1 or any similar long-form registration only if the Company is ineligible to use a short-form registration. Any Demand Request shall specify the Registrable Securities to be sold and the intended method of disposition thereof. Promptly (but in any event within five (5) Business Days thereafter), the Company shall deliver a written notice (a “**Demand Notice**”) to each Stockholder Party then holding Registrable Securities that did not make such Demand Request stating that the Company intends to comply with a Demand Request and informing each such Stockholder Party of its right to include Registrable Securities in such Required Registration. Within ten (10) Business Days after receipt of a Demand Notice, each Stockholder Party who received such Demand Notice shall have the right to request in writing that the Company include all or a specific portion of the Registrable Securities held by such Stockholder Party in such Required Registration, and the Company shall include such Registrable Securities in such Required Registration, subject to Section 5.1(c). The Company shall file a registration statement on the appropriate form as promptly as practicable (but no later than sixty (60) days after the date the Demand Request is delivered in the case of a registration on Form S-1 and thirty (30) days after the date the Demand Request is delivered in the case of a registration on Form S-3) and use its commercially reasonable efforts to cause such registration statement to be declared effective by the SEC at the earliest possible date permitted under the rules and regulations of the SEC and, subject to Section 5.3(b), remain effective for a period of one hundred and twenty (120) days or, if earlier, until all of such Registrable Securities covered thereby have been disposed of; provided, however, that the Company shall not be obligated to effect, or take any action to effect, any such registration pursuant to this Section 5.1:

(i) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act or applicable rules or regulations thereunder;

(ii) if the Registrable Securities requested to be registered pursuant to such request have an anticipated aggregate public offering price (before any underwriting discounts and commissions) of less than \$10,000,000;

(iii) within three (3) months of any other Required Registration, a Shelf Underwritten Offering or Underwritten Block Trade;

(iv) within three (3) months of a Piggyback Offering in which all Stockholder Parties were given the right to include Registrable Securities and at least seventy five percent (75%) of the Registrable Securities requested by such Stockholder Parties to be included in such Piggyback Offering were included; or

(v) during any Suspension Period.

(b) Underwritten Offering. If the Requesting Stockholder intends to distribute the Registrable Securities in a Required Registration by means of an underwritten offering, it shall so advise the Company as a part of its Demand Request. In such event, the underwriters of such Required Registration shall be one or more underwriting firms of nationally recognized standing selected by the Requesting Stockholder or a majority-in-interest of the Requesting Stockholders and reasonably acceptable to the Company. The right of each Stockholder Party to include securities in such Required Registration shall be conditioned upon such Stockholder Party entering into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected pursuant hereto.

(c) Priority on Underwritten Offerings. In the case of any Required Registration that is an Underwritten Offering, if the managing underwriter for the Required Registration shall advise the Company in writing that, in such underwriter’s opinion, the

number of securities requested to be included in such Required Registration would adversely affect the Required Registration and sale (including pricing) of such Registrable Securities, the Company shall include in such Required Registration the number of Registrable Securities that the Company is so advised can be sold in such Required Registration, in the following amounts and order of priority:

- (i) first, all Registrable Securities requested to be sold by all holders of Registrable Securities pursuant to this Section 5.1 pro rata among such holders on the basis of the number of Registrable Securities then held by such holders; and
- (ii) second, all other securities proposed to be sold in the Underwritten Offering, including securities proposed to be sold by the Company for its own account.

If the underwriter has not limited the number of Registrable Securities to be underwritten, the Company may include securities for its own account (or for the account of any other Persons) in such registration if the underwriter so agrees and if the number of Registrable Securities would not thereby be limited.

(d) Form S-3. The Company shall use its commercially reasonable efforts to qualify for registration on Form S-3 for secondary sales and shall effect any Required Registration on Form S-3 after such qualification.

5.2 Piggyback Rights

(a) Company and Other Offerings. If the Company at any time proposes to register or offer, for its own account or the account of another Person (including a Shelf Registration hereunder), any of its securities (a “**Piggyback Offering**”) under the Securities Act (other than pursuant to a registration statement on Form S-4 or Form S-8 or any successor forms thereto or in an offering subject to Section 5.1 hereof or a registration relating to its Initial Public Offering) for sale (including, for the avoidance of doubt, an “at-the-market offering” or a “registered direct offering”) it will at each such time give prompt written notice to all Stockholder Parties then holding Registrable Securities (a “**Piggyback Holder**”) of its intention to do so (a “**Piggyback Notice**”). In the case of a Piggyback Offering under a shelf registration statement filed by the Company pursuant to Rule 415 under the Securities Act, such Piggyback Notice shall be sent not less than ten (10) Business Days prior to the expected date of commencement of marketing efforts for such Piggyback Offering. In the case of a Piggyback Offering under a registration statement that is not a shelf registration statement, such Piggyback Notice shall be given not less than ten (10) Business Days prior to the expected date of filing of such registration statement. Upon the written request of any Piggyback Holder to include Registrable Securities held by it under such registration statement (which request shall (i) be made within five (5) Business Days after the receipt of any such notice, and (ii) specify the Registrable Securities intended to be included by such Piggyback Holder), the Company will use its commercially reasonable efforts to effect the registration of all Registrable Securities that the Company has been so requested to register by such Piggyback Holder; provided, that if such Piggyback Offering is not consummated within forty five (45) days following the delivery of the notice for such Piggyback Offering, then the Company shall not thereafter launch the Piggyback Offering without first complying again with this Section 5.2(a); provided, further, that if, at any time after giving written notice of its intention to offer any securities and prior to the pricing of such Piggyback Offering, the Company shall determine for any reason not to consummate such offering, the Company shall give written notice of such determination to each such Piggyback Holder and, thereupon, shall be relieved of its obligation to register or offer any Registrable Securities of such Persons in connection with such proposed offering.

(b) Underwritten Offering. If Company intends to distribute the Registrable Securities in a Piggyback Offering by means of an underwriting, it shall so advise the Stockholder Parties as a part of its Piggyback Notice. In such event, the underwriters of such Piggyback Offering shall be one or more underwriting firms of nationally recognized standing selected by the Company. The right of each Piggyback Holder to include securities in such Piggyback Offering shall be conditioned upon such Piggyback Holder entering into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected pursuant hereto.

(c) Priority on Piggyback Offerings. If the managing underwriter for an Underwritten Offering pursuant to this Section 5.2 shall advise the Company in writing that, in such underwriter's opinion, the number of securities requested to be included in such Piggyback Offering would adversely affect such offering and sale (including pricing) of such securities, the Company shall include in such Piggyback Offering the number of securities that the Company is so advised can be sold in such offering, in the following amounts and order of priority:

(i) if the Piggyback Offering relates to an offering for the Company's own account, then (i) first, such number of Equity Securities to be sold by the Company for its own account, (ii) second, Registrable Securities of Stockholder Parties pro rata among such holders on the basis of the number of Registrable Securities then held by such holders, and (iii) third, other securities held by any other Person; or

(ii) if the Piggyback Offering relates to an offering for holders other than for the Company's own account ("**Other Holders**"), then (i) first, Registrable Securities of Stockholder Parties pro rata among such holders on the basis of the number of Registrable Securities then held by such holders, (ii) second, such number of securities sought to be registered by each such Other Holders, and (iii) third, other Equity Securities held by any other Person.

5.3 Shelf Registration

(a) Subject to Section 5.3(d), if the Company shall be requested in writing (a "**Shelf Request**") by (x) one or more Stockholder Parties that collectively beneficially own, in the aggregate and together with Affiliates, at least 10% of the Registrable Securities or (y) any Material Stockholder who is subject to the volume, manner of sale and public information requirements under Rule 144 promulgated under the Securities Act (or any similar provisions then in force) (which request may be delivered at any time after the date that is six (6) months after the date of the Initial Public Offering) to the Company, then the Company shall deliver a written notice (a "**Shelf Notice**") to each Stockholder Party that did not make such Shelf Request stating that the Company intends to comply with a Shelf Request on Form S-3 and informing each such Stockholder Party of its right to include Registrable Securities in such Shelf Registration. Within five (5) Business Days after receipt of a Shelf Notice, each Stockholder Party who received such Shelf Notice shall have the right to request in writing that the Company include all or a specific portion of the Registrable Securities held by such Stockholder Party in such Shelf Registration, and the Company shall include such Registrable Securities in such Shelf Registration. Subject to the Company's eligibility to use Form S-3 for secondary sales, the Company shall (i) file as promptly as practicable (but no later than ten (10) days after the date the Shelf Request is delivered) and use commercially reasonable efforts to cause to be declared effective by the SEC at the earliest possible date permitted under the rules and regulations of the Commission, a Form S-3, or (ii) designate an existing Form S-3 filed with the SEC, in each case providing for offers and sales to be made on a delayed or continuous basis pursuant to Rule 415 under the Securities Act with respect to the Registrable Securities held Stockholder Parties making the Shelf Request and any other Stockholder Party who elects to participate therein (the "**Shelf Registration**" and "**Shelf Registration Statement**," as applicable). To the extent the Company is a Well-Known Seasoned Issuer ("**WKSI**") at the

time any Shelf Notice is submitted to the Company pursuant to this Section 5.3(a), which requests that the Company file an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) (an “**Automatic Shelf Registration Statement**”), the Company shall file an Automatic Shelf Registration Statement that covers those Registrable Securities which are requested to be registered and shall use its commercially reasonable efforts to remain a WKSI (and not become an ineligible issuer (as defined in Rule 405 under the Securities Act)) during the period during which such Automatic Shelf Registration Statement is required to remain effective.

(b) Subject to Section 5.3(c), the Company will use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective until (i) the date on which all Registrable Securities covered by the Shelf Registration Statement have been sold thereunder in accordance with the plan and method of distribution disclosed in the prospectus included in the Shelf Registration Statement, or otherwise or (ii) all of such Registrable Securities have become eligible for immediate sale pursuant to Rule 144 promulgated under the Securities Act by the Stockholder Party thereof without the volume, manner of sale and public information limitations under Rule 144 (or any similar provisions then in force) (the “**Shelf Registration Effectiveness Period**”).

(c) During any Suspension Period, the Stockholder Parties whose Registrable Securities are covered by the Shelf Registration Statement shall suspend sales of Registrable Securities under the Shelf Registration Statement until the requisite changes to the prospectus have been made as required below. After the expiration of any Suspension Period and without any further request from any Stockholder Party, the Company shall as promptly as practicable prepare a post-effective amendment or supplement to the Shelf Registration Statement or the related prospectus, or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) At any time, and from time-to-time, during the Shelf Registration Effectiveness Period (except during a Suspension Period), any (x) one or more Stockholder Parties that collectively beneficially own, in the aggregate and together with Affiliates, at least 25% of the Common Stock or (y) any Material Stockholder may notify the Company in writing (the “**Takedown Request**”) of its intent to sell Registrable Securities covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a “**Shelf Underwritten Offering**”). Such notice shall specify the aggregate number of Registrable Securities requested to be registered in such Shelf Underwritten Offering. Promptly (but in any event within five (5) Business Days thereafter) following receipt by the Company of such notice, the Company shall deliver a written notice (a “**Takedown Notice**”) to each Stockholder Party then holding Registrable Securities that did not make such Takedown Request informing each such Stockholder Party of its right to include Registrable Securities in such Shelf Underwritten Offering. Within five (5) Business Days after receipt of a Takedown Notice, each Stockholder Party who received such Takedown Notice shall have the right to request in writing that the Company include all or a specific portion of the Registrable Securities held by such Stockholder Party in such Shelf Underwritten Offering and the Company shall include such Registrable Securities in such Shelf Underwritten Offering. The underwriters of such Shelf Underwritten Offering shall be one or more underwriting firms of nationally recognized standing selected by the Stockholder Party or a majority-in-interest of the Stockholder Parties requesting the Shelf Underwritten Offering and reasonably acceptable to the Company. The right of each other Stockholder Party to include securities in such Shelf Underwritten Offering shall be conditioned upon such Stockholder Party entering into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected pursuant hereto.

(e) At any time, and from time-to-time, during the Shelf Registration Effectiveness Period (except during a Suspension Period), any Stockholder Party may notify the Company in writing of its intent to sell Registrable Securities in an underwritten block trade or bought deal pursuant to a Shelf Registration Statement, either through filing an Automatic Shelf Registration Statement or through a take-down from an already existing Shelf Registration Statement (each, an “**Underwritten Block Trade**”) not less than two (2) Business Days prior to the day such offering is first anticipated to commence. The Company will promptly notify in writing other Stockholder Parties of such Underwritten Block Trade and such notified Stockholder Parties (each, a “**Potential Participant**”) may elect whether or not to participate no later than the next Business Day (*i.e.* one (1) Business Day prior to the day such offering is to commence) unless a longer period is agreed to by such Stockholder Party that provided notice of the Underwritten Block Trade to the Company, and the Company will as expeditiously as possible use its best efforts to facilitate such Underwritten Block Trade (which may close as early as one (1) Business Day after the date it commences). Any Potential Participant’s request to participate in an Underwritten Block Trade shall be binding on the Potential Participant. The underwriters of such Underwritten Block Trade shall be one or more underwriting firms of nationally recognized standing selected by the Stockholder Party or a majority-in-interest of the Stockholder Parties requesting the Underwritten Block Trade and reasonably acceptable to the Company. The right of each other Stockholder Party to include securities in such Underwritten Block Trade shall be conditioned upon such Stockholder Party entering into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected pursuant hereto.

(f) The Company shall not be obligated to effect, or take any action to effect, any Shelf Underwritten Offering or Underwritten Block Trade:

(i) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act or applicable rules or regulations thereunder;

(ii) if the Registrable Securities requested to be registered pursuant to such request have an anticipated aggregate public offering price (before any underwriting discounts and commissions) of less than \$10,000,000;

(iii) within three (3) months of any other Required Registration, Shelf Underwritten Offering or Underwritten Block Trade;

(iv) within three (3) months of a Piggyback Offering in which all Stockholder Parties were given the right to include Registrable Securities and at least seventy-five (75%) of the Registrable Securities requested by such Stockholder Parties to be included in such Piggyback Offering were included; or

(v) during any Suspension Period.

5.4 Registration Procedures

The Company will use its commercially reasonable efforts to effect each Required Registration pursuant to Section 5.1, each Piggyback Offering pursuant to Section 5.2, any Shelf Registration and Shelf Underwritten Offering pursuant to Section 5.3, and to cooperate with the sale of such Registrable Securities in accordance with the intended method of disposition thereof as quickly as possible, and the Company will as expeditiously as possible:

(a) subject, in the case of a Piggyback Offering, to the proviso of Section 5.2(a), prepare and file with the SEC the registration statement and use its commercially reasonable efforts to cause the registration statement to become effective; provided, however,

that, to the extent practicable, at least five (5) Business Days prior to filing any registration statement or prospectus or any amendments or supplements thereto, the Company will furnish to the holders of the Registrable Securities covered by such registration statement and their Holders' Counsel (and any reasonably necessary local counsel), copies of all such documents proposed to be filed and shall have the opportunity to comment on any information pertaining solely to such holder and its plan of distribution that is contained therein and the Company shall make the corrections reasonably requested by such holder with respect to such information prior to filing any such registration statement, prospectus, supplement or amendment (it being understood that such five (5) Business Day period need not apply to successive drafts of the same document proposed to be filed so long as such successive drafts are supplied to such counsel in advance of the proposed filing by a period of time that is customary and reasonable under the circumstances).

(b) subject, in the case of an Piggyback Offering, to the proviso to Section 5.2(a), prepare and file with the SEC such amendments and post-effective amendments to any registration statement and any prospectus used in connection therewith as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such registration statement until the earlier of the time such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or (i) in the case of a Required Registration pursuant to Section 5.1, the expiration of one hundred and twenty (120) days after such registration statement becomes effective or (ii) in the case of a Shelf Registration pursuant to Section 5.3, the end of the Shelf Registration Effectiveness Period, and cause the prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act;

(c) furnish, upon request, to each holder of Registrable Securities to be included in such Registration and the underwriter or underwriters, if any, without charge, at least one signed copy of the registration statement and any post-effective amendment thereto, and such number of conformed copies thereof and such number of copies of the prospectus (including each preliminary prospectus and each prospectus filed under Rule 424 under the Securities Act), any amendments or supplements thereto and any documents incorporated by reference therein, as such holder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities being sold by such holder (it being understood that the Company consents to the use of the prospectus and any amendment or supplement thereto by each holder of Registrable Securities covered by such registration statement and the underwriter or underwriters, if any, in connection with the public offering and sale of the Registrable Securities covered by the prospectus or any amendment or supplement thereto);

(d) promptly notify each holder of the Registrable Securities to be included in such Registration and the underwriter or underwriters, if any:

(i) of any stop order or other order suspending the effectiveness of any registration statement, issued or threatened by the SEC in connection therewith, and take all reasonable actions required to prevent the entry of such stop order or to remove it or obtain withdrawal of it at the earliest possible moment if entered;

(ii) when such registration statement or any prospectus used in connection therewith, or any amendment or supplement thereto, has been filed and, with respect to such registration statement or any post-effective amendment thereto, when the same has become effective;

(iii) of any written request by the SEC for amendments or supplements to such registration statement or prospectus; and

(iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the applicable securities or “blue sky” laws of any jurisdiction;

(e) if requested by the managing underwriter or underwriters or any holder of Registrable Securities to be included in such registration statement in connection with any sale pursuant to a registration statement, promptly incorporate in a prospectus supplement or post-effective amendment such information relating to such underwriting as the managing underwriter or underwriters or such holder reasonably requests to be included therein; and make all required filings of such prospectus supplement or post-effective amendment as soon as practicable after being notified of the matters incorporated in such prospectus supplement or post-effective amendment;

(f) on or prior to the date on which a registration statement is declared effective, use commercially reasonable efforts to register or qualify, and cooperate with the holders of Registrable Securities to be included in such Registration, the underwriter or underwriters, if any, and their counsel, in connection with the registration or qualification of the Registrable Securities covered by such Registration for offer and sale under the securities or “blue sky” laws of each state of the United States and other jurisdiction which may be reasonably necessary or advisable to enable such holders to consummate their disposition in such jurisdictions; use commercially reasonable efforts to keep each such registration or qualification effective, including through new filings, or amendments or renewals, during the period such registration statement is required to be kept effective; and do any and all other acts or things necessary or advisable to enable the disposition of the Registrable Securities in all such jurisdictions reasonably requested to be covered by such Registration; provided, however, that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to general service of process in any such jurisdiction where it is not then so subject;

(g) in connection with any sale pursuant to a Registration, cooperate with the holders of Registrable Securities to be included in such Registration and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing securities to be sold under such Registration, and enable such securities to be in such denominations and registered in such names as the managing underwriter or underwriters, if any, or such holders may request;

(h) use its commercially reasonable efforts to cause the Registrable Securities to be registered with or approved by such other governmental agencies or authorities within the United States and having jurisdiction over the Company or any Subsidiary as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such securities;

(i) use its commercially reasonable efforts to obtain:

(i) at the time of pricing of any Underwritten Offering (including an “at-the-market offering” or a “registered direct offering”) a “cold comfort letter” from the Company’s independent certified public accountants covering such matters of the type customarily covered by “cold comfort letters” as a majority in interest of the participating Stockholder Parties and the underwriters reasonably request; and

(ii) at the time of any underwritten sale pursuant to the registration statement, a “bring-down comfort letter,” dated as of the date of such sale, from the Company’s independent certified public accountants covering such matters of the type customarily covered by “bring-down comfort letters” as the Requisite Stockholder Parties and the underwriters reasonably request;

(j) use its commercially reasonable efforts to obtain, at the time of effectiveness of each Registration or, in the case of a Shelf Underwritten Offering, at the time of pricing, and at the time of any sale pursuant to each Registration, an opinion or opinions addressed to the holders of the Registrable Securities to be included in such Registration and the underwriter or underwriters, if any, in customary form and scope from counsel for the Company (who may be its internal counsel);

(k) promptly notify each seller of Registrable Securities covered by such Registration, upon discovery that, or upon the happening of any event as a result of which, the prospectus included in such Registration, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and promptly prepare and file with the SEC and furnish to such seller a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers or prospective purchasers of such securities, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they are made;

(l) otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the SEC, and make generally available to its security holders (as contemplated by Section 11(a) under the Securities Act), as soon as reasonably practicable, an earnings statement satisfying the provisions of Rule 158 under the Securities Act with such earnings statements covering the period of at least twelve (12) months beginning with the first day of the Company's first full calendar quarter after the effective date of the registration statement;

(m) use commercially reasonable efforts to provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by each Registration from and after a date not later than the effective date of such Registration;

(n) use commercially reasonable efforts to cause all Registrable Securities covered by each Registration to be listed subject to notice of issuance, prior to the date of first sale of such Registrable Securities pursuant to such Registration, on each securities exchange on which the Company's securities are then listed;

(o) enter into such agreements (including underwriting agreements in customary form) and take such other actions as the Requisite Stockholder Parties shall reasonably request in order to expedite or facilitate the disposition of such Registrable Securities, including customary holdback / lock-up provisions; and

(p) cause its employees and personnel to use their commercially reasonable efforts to support the marketing of the Registrable Securities (including, without limitation, the participation by electronic means in "road shows," to the extent reasonably requested by the underwriters or the Requisite Stockholder Parties) to the extent possible taking into account the Company's business needs and the requirements of the marketing process.

The Company may require each holder of Registrable Securities that will be included in such Registration to furnish the Company with such information in respect of such holder of its Registrable Securities that will be included in such Registration as the Company may reasonably request in writing and as is required by applicable Law.

5.5 Registration Expenses

The Company will pay all Registration Expenses in connection with each Registration of Registrable Securities, including, without limitation, any such registration not effected by the Company.

5.6 Indemnification; Contribution

(a) The Company agrees to indemnify and hold harmless each Stockholder Party holding Registrable Securities, the Affiliates, directors, officers, employees, stockholders, managers and agents of each such Stockholder Party and each Person who controls any such Stockholder Party within the meaning of either the Securities Act or the Exchange Act, to the fullest extent permitted by applicable Law, from and against any and all losses, claims, damages, liabilities and expenses to which they or any of them may become subject insofar as such losses, claims, damages, liabilities and expenses (or actions in respect thereof) arise out of or are based upon any violation of the Securities Act, Exchange Act or state securities laws, or upon any untrue statement or alleged untrue statement of a material fact contained in a registration statement as originally filed or in any amendment thereof, or the Disclosure Package, or any preliminary, final or summary prospectus or Free Writing Prospectus included in any such registration statement, or in any amendment thereof or supplement thereto or in any document incorporated by reference therein, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of the Disclosure Package, or any preliminary, final or summary prospectus or Free Writing Prospectus included in any such registration statement, in light of the circumstances under which they were made) not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action (whether or not the indemnified party is a party to any proceeding); provided, however, that the Company will not be liable in any case to the extent that any such loss, claim, damage, liability or expense arises (i) out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Company by or on behalf of any such Stockholder Party specifically for inclusion therein including, without limitation, any notice and questionnaire (“**Stockholder Information**”), or (ii) out of sales of Registrable Securities made during a Suspension Period after notice is given pursuant to Section 5.3(c) hereof. This indemnity agreement will be in addition to any liability which the Company may otherwise have. The Company and the Stockholder Parties hereby acknowledge and agree that the only Stockholder Information furnished or to be furnished to the Company by any Stockholder Party are statements specifically relating to (i) the beneficial ownership of Registrable Securities by such Stockholder Party and its Affiliates and (ii) the name and address of such Stockholder Party.

(b) Each Stockholder Party severally (and not jointly) agrees to indemnify and hold harmless the Company and each of its Affiliates, directors, employees, stockholders, managers and agents and each Person who controls the Company within the meaning of either the Securities Act or the Exchange Act, to the fullest extent permitted by applicable Law, from and against any and all losses, claims, damages or liabilities to which they or any of them may become subject insofar as such losses, claims, damages or liabilities arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in a registration statement as originally filed or in any amendment thereof, or in the Disclosure Package or any Stockholder Free Writing Prospectus, preliminary, final or summary prospectus included in any such registration statement, or in any amendment thereof or supplement thereto or in any document incorporated by reference therein, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of the Disclosure Package, or any preliminary, final or summary prospectus or Free Writing Prospectus included in any such registration statement, in light of the circumstances under which they were made) not misleading, to the extent, but only to the extent, that any such untrue statement or alleged untrue statement or omission or alleged omission is contained in any Stockholder Information; provided, however, that the total amount to be indemnified by such Stockholder Party pursuant to this Section 5.6(b) shall be limited to the net proceeds (after deducting underwriters’

discounts and commissions) received by such Stockholder Party in the offering to which such registration statement or prospectus relates.

(c) Promptly after receipt by an indemnified party under this Section 5.6(c) of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 5.6, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party will not relieve it from liability under paragraph (a) or (b) above or paragraphs (d) or (f) below unless and to the extent such action and such failure results in material prejudice to the indemnifying party and forfeiture by the indemnifying party of substantial rights and defenses. The indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, except as provided in the next sentence, after notice from the indemnifying party to such indemnified party of its election to so assume the defense thereof, the indemnifying party shall not be liable to such indemnified party for any legal expenses of other counsel or any other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. Notwithstanding the indemnifying party's rights in the prior sentence, the indemnified party shall have the right to employ its own counsel (and one local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. No indemnifying party shall, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general circumstances or allegations, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all indemnified parties. An indemnifying party shall not be liable under this Section 5.6 to any indemnified party regarding any settlement or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent is consented to by such indemnifying party, such consent not to be unreasonably withheld, conditioned or delayed. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement or compromise unless such settlement or compromise (i) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) In the event that the indemnity provided in Section 5.6(a) or Section 5.6(b) above is unavailable to or insufficient to hold harmless an indemnified party for any reason, then each applicable indemnifying party agrees to contribute to the aggregate losses, claims, damages and liabilities (including, without limitation, legal or other expenses reasonably incurred in connection with investigating or defending same) to which such indemnifying party may be subject in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand in

connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to Stockholder Information supplied by the indemnifying party, on the one hand, or information supplied by the indemnified party, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties agree that it would not be just and equitable if contribution pursuant to this Section 5.6(d) were determined by pro rata allocation (even if the Stockholder Parties holding Registrable Securities or any agents or underwriters or all of them were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 5.6(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this Section 5.6(d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 5.6(d), no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 5.6, each Person who controls any Stockholder Party holding Registrable Securities, agent or underwriter within the meaning of either the Securities Act or the Exchange Act and each director, officer, employee and agent of any such Stockholder Party, agent or underwriter shall have the same rights to contribution as such Stockholder Party, agent or underwriter, and each Person who controls the Company within the meaning of either the Securities Act or the Exchange Act and each officer and director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this Section 5.6(d). Notwithstanding the foregoing, the total amount to be contributed by any Stockholder Party pursuant to this Section 5.6(d) shall be limited to the net proceeds (after deducting underwriters' discounts and commissions) received by such Stockholder Party in the offering to which such registration statement or prospectus relates.

(e) The provisions of this Section 5.6 will remain in full force and effect, regardless of any investigation made by or on behalf of any Stockholder Party holding Registrable Securities or the Company or any of the officers, directors or controlling Persons referred to in this Section 5.6, and will survive the Transfer of Registrable Securities.

(f) To the extent any indemnification by an indemnifying party is prohibited or limited by Law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under this Section 5.6 to the fullest extent permitted by applicable Law; provided, however, that: (i) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Shelf Registration.

5.7 Holdback Agreements; Registration Rights to Others

(a) In the event and to the extent requested by the managing underwriter of the Initial Public Offering or any Underwritten Offering, each Stockholder Party and any holder of Equity Securities agrees that it will enter into a customary "lock-up agreement" with such managing underwriter pursuant to which it will agree not to sell, make any short sale of, grant any option for the purchase of, or otherwise dispose of any Equity Securities of the Company, other than those Registrable Securities included in such Registration pursuant to the

terms hereof, for the seven (7) days prior to (x) the effectiveness of a registration statement (other than a Shelf Registration Statement) pursuant to which such Public Offering shall be made, or (y) the pricing of an Underwritten Offering and ending on the earlier to occur of (1) in case of the Company's Initial Public Offering, the date that is one hundred and eighty (180) days after the effectiveness of the registration statement relating to the Initial Public Offering, or (2) in the case of any other Underwritten Offering, the date that is ninety (90) days after the pricing of such Underwritten Offering, or such shorter period of time as is sufficient and appropriate, in the opinion of the managing underwriter, to complete the sale and distribution of the securities included in such Underwritten Offering (the "Lock-Up Period"); provided, that the limitations contained in this Section 5.7 shall not apply to the extent a Stockholder Party is prohibited by applicable Law from so withholding such Equity Securities from sale during such period; provided, further, that if any Institutional Investor is or becomes subject to a shorter Lock-Up Period or receives more advantageous terms relating to the Lock-Up Period under any lock-up agreement (including but not limited to as a result of any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters), then the Lock-Up Period for the Institutional Investors shall be such shorter period and also on such more advantageous terms. The provisions of this Section 5.7 will no longer apply to a Stockholder Party if such Stockholder Party ceases to hold any Common Stock.

(b) Except to the extent required in the opinion of the managing underwriter to facilitate an Initial Public Offering or Underwritten Offering, nothing in Section 5.7(a) shall prevent: (i) any Stockholder Party that is a partnership, limited liability company or corporation from (A) making a distribution of Common Stock to the partners, members or stockholders thereof or (B) Transferring Common Stock to an Affiliate of such Stockholder Party, (ii) any Stockholder Party who is an individual from Transferring Common Stock to (A) an individual by will or the laws of descent or distribution or by gift without consideration of any kind or (B) a trust or estate planning-related entity for the sole benefit of such Stockholder Party or a lineal descendant or antecedent or spouse, (iii) any Stockholder Party from (A) pledging, hypothecating or otherwise granting a security interest in Common Stock or securities convertible into or exchangeable for Common Stock to one or more lending institutions as collateral or security for any loan, advance or extension of credit and any transfer upon foreclosure upon such Common Stock or such securities or (B) Transferring Common Stock pursuant to a final non-appealable order of a court or regulatory agency or (iv) any Stockholder Party from Transferring Common Stock in a manner that was permitted under, but subject to the conditions described in, the lock-ups entered into in connection with the Company's Initial Public Offering or any Underwritten Offering; provided, that in the case of clauses (i), (ii), (iii) and (iv), such Transfer is otherwise in compliance with applicable securities laws; provided, further, that in the case of clause (i), clause (ii) and, if applicable, clause (iv), each such transferee agrees in writing to become subject to the terms of this Agreement by executing a Joinder (or similar agreement contemplated by Section 2.1(h)) and agrees to be bound by the applicable underwriter lock-up.

5.8 Availability of Information

Following the Company's Initial Public Offering, the Company shall use commercially reasonable efforts to enable the disposition of the Registrable Securities pursuant to an exemption from the Securities Act for the sale of any Registrable Securities (including, without limitation, the current public information requirements of Rule 144(c) and Rule 144A under the Securities Act). The Company shall use commercially reasonable efforts to cooperate with each holder of any Registrable Securities in supplying such information as may be reasonably necessary for such holder to complete and file any information reporting forms presently or hereafter required by the SEC as a condition to the availability of an exemption from the Securities Act for the sale of any Registrable Securities.

5.9 Other Registration Rights

As of the Effective Date, the Company represents and warrants that it is not a party to, or otherwise subject to, any other agreement granting registration rights to any other Person with respect to any Common Stock or Common Stock equivalents. If the Company shall at any time hereafter provide to any holder of any Equity Securities of the Company rights with respect to the registration of such securities under the Securities Act, such rights shall not be inconsistent with, conflict with or adversely affect any of the rights provided to the Stockholder Parties of Registrable Securities in, or conflict (in a manner that adversely affects such holders of Registrable Securities) with any other provisions included in this Agreement.

5.10 Successor Entity

In the event that a Successor Entity is formed to effect the Initial Public Offering: (a) for the purposes of this Article V, the term “Company” shall refer to such Successor Entity and the term “Common Stock” (including where it is used in the definition of Registrable Securities) shall refer to the common equity of such Successor Entity and (b) if requested by the Board, the Stockholder Parties shall enter into a registration rights agreement with the Successor Entity consistent with the terms of this Article V in all material respects.

5.11 BHCA Group

With respect to any Public Offerings in which a BHCA Stockholder, its Affiliates and its and their respective limited partners, general partners, members, managed accounts, stockholders and portfolio companies (collectively, a “**BHCA Group**”) is not voluntarily acting as an “underwriter,” as defined in Section 2(a)(11) of the Exchange Act, the Company agrees that, if a member of a BHCA Group could reasonably be deemed upon the advice of its outside counsel to be an “underwriter” in connection with the applicable registration statement for a Public Offering of Registrable Securities pursuant to this Agreement, and any amendment or supplement of such registration statement (any such registration statement or amendment or supplement, an “**Underwriter Registration Statement**”), then the Company will cooperate with such member of a BHCA Group, at such member of a BHCA Group’s expense, in allowing such member of a BHCA Group to conduct customary “underwriter’s due diligence” with respect to the Company and satisfy its obligations in respect thereof; provided, that to the extent any activity that would reasonably cause the member of a BHCA Group to be deemed an “underwriter” is not consistent with such member’s past practices, such member shall not engage in such new activity during the period that such member is aware of such Public Offering. In addition, at the request of such member of a BHCA Group, the Company will use commercially reasonable efforts to furnish to such member of a BHCA Group, at such member of a BHCA Group’s expense, on the date of the effectiveness of any Underwriter Registration Statement and thereafter from time to time on such dates as such member of a BHCA Group as may reasonably request (i) a letter, dated in accordance with the practice of the Company’s independent certified public accountants, from the Company’s independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an Underwritten Offering, addressed to such member a BHCA Group, and (ii) an opinion of counsel, dated in accordance with the practice of such counsel, representing the Company for purposes of such Underwriter Registration Statement, in form, scope and substance as is customarily given in an Underwritten Offering, including, without limitation, a “negative assurances” opinion for such Underwritten Offering, addressed to such member of a BHCA Group. To the extent such member of a BHCA Group could reasonably be deemed such “underwriter,” the Company will also permit legal counsel to such member of a BHCA Group to review and comment upon any such Underwriter Registration Statement at least five (5) Business Days prior to its initial non-confidential filing with the SEC and all amendments and supplements to any such Underwriter Registration Statement within a reasonable time period prior to their filing with the SEC and will work in good faith to resolve any reasonable objections to the Underwriter Registration Statement set forth in writing (email being sufficient) by the legal counsel to such member of a BHCA Group.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of the Stockholder Parties

Each Stockholder Party and each Person who becomes a Stockholder Party after the Effective Date with respect to itself hereby represents and warrants to and acknowledges with the Company and each other Stockholder Party that, as of the time such Stockholder Party becomes a party to this Agreement by executing a Joinder:

(a) Such Stockholder Party has (x) such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Company and making an informed investment decision with respect thereto, (y) has independently and based on such information and the advice of such advisors as such Stockholder Party has deemed appropriate, having made such Stockholder Party's own analysis and decision to enter into this Agreement, and (z) has read and understood this Agreement;

(b) such Stockholder Party is able to bear the economic and financial risk of an investment in the Company for an indefinite period of time and to suffer a complete loss of such Stockholder Party's investment;

(c) such Stockholder Party acknowledges that the Company has a limited financial and operating history and that an investment in the Company is highly speculative and involves substantial risks;

(d) such Stockholder Party, upon entry into this Agreement and receipt of any Equity Securities, acknowledges and agrees that such Stockholder Party is not relying on any legal, tax, accounting or other advice from any other Stockholder Party, the Company or their respective counsel with respect to any of the Company's Equity Securities;

(e) other than with respect to a Stockholder Party who is a current or former director, officer, employee, consultant or advisor, such Stockholder Party is an "accredited investor" as that term is defined in Rule 501 of Regulation D ("**Regulation D**") under the Securities Act, or if such Stockholder Party is not an "accredited investor," such Stockholder Party acknowledges and agrees that it has received the information specified in Rule 502(b) of Regulation D under the Securities Act and such Stockholder Party is a member of senior management who has access to the financial statements and has sufficient knowledge and experience in business and financial matters so as to enable such Stockholder Party to analyze and evaluate the merits and risks of the transactions contemplated hereby and is capable of protecting his or her interest in connection with such transactions;

(f) such Stockholder Party is acquiring or has acquired Equity Securities for its own account and not as nominee or agent for any other Person and for investment only and not with a view to, or for offer or sale in connection with, any distribution thereof or with any present intention of offering or selling or otherwise disposing of such Equity Securities, all without prejudice, however, to the right of such Stockholder Party at any time to sell or dispose of all or any part of the Equity Securities held by such Stockholder Party pursuant to a lawful Transfer in accordance with this Agreement;

(g) such Stockholder Party has not granted and is not party to any contract or agreement, including any voting trust or other voting arrangement, whereby any of the Equity Securities or any interest therein held by such party on the Effective Date is to be offered, sold, assigned, pledged, hypothecated or otherwise transferred;

(h) such Stockholder Party understands that (i) the Equity Securities have not been registered under the Securities Act or the securities or "blue sky" laws of any jurisdiction, (ii) such Stockholder Party agrees that its Equity Securities cannot be offered, sold

or transferred unless they are subsequently registered and/or qualified under the Securities Act or other applicable securities and “blue sky” laws, or are exempt from such qualification or registration, and the provisions of this Agreement have been complied with, (iii) there is no assurance that any exemption from registration under the Securities Act and any applicable state or “blue sky” laws or regulations will be available, or if available, that such exemption will allow such Stockholder Party to dispose of or otherwise Transfer any or all of its Equity Securities in the amounts or at the times such Stockholder Party may propose, (iv) except as otherwise set forth herein, the Company has no obligation or present intention of registering the Equity Securities, and (v) the Company is relying upon the representations, warranties and agreements made by such Stockholder Party in this Agreement;

(i) such Stockholder Party (i) has been provided with access to all information concerning the Equity Securities, the Company and its Subsidiaries, as he, she or it has requested and has had an opportunity to ask questions of management of the Company and to obtain such additional information concerning the Equity Securities, the Company and its Subsidiaries as such Stockholder Party deems necessary in connection with his, her or its acquisition of Equity Securities, (ii) understands that information with respect to existing business and historical operating results of the Company and its Subsidiaries and estimates and projections as to future operations involve significant subjective judgment and analysis, which may or may not be correct, and (iii) acknowledges that on the Effective Date the Company cannot, and does not, make any representation or warranty as to the accuracy of the information concerning the past or future results of any of its Subsidiaries;

(j) if a natural person, (i) neither the Company nor any Person acting on behalf of the Company has offered to sell or sold the Equity Securities to such Person by means of any form of general solicitation or advertising, (ii) such Person has not received, paid or been given, directly or indirectly, any commission or remuneration for or on account of any sale, or the solicitation of any sale of the Equity Securities, (iii) such Person, if a management Stockholder Party, has been intimately involved in the operations of the business of the Company and its Subsidiaries and/or expects to continue to be intimately involved in the operations of the business of the Company and its Subsidiaries subsequent to the consummation of the transactions contemplated by the Plan, (iv) the address set forth below such Person’s name as reported to the Company on the registration form for the New Common Stock submitted pursuant to the Plan or the signature page to the Joinder (or similar agreement), as applicable, is the address of the Person’s residence and domicile (not a temporary or transient residence) and (v) no right of employment of any such Person is implied either by ownership of any Equity Securities or by any provision of this Agreement;

(k) if a natural person, such Stockholder Party has the legal capacity to execute and deliver this Agreement (or a separate Joinder, if applicable) and to consummate the transactions contemplated hereby (and thereby, if applicable) and, with or without the giving of notice or lapse of time, or both, neither shall require such Stockholder Party to obtain any consent or approval that has not been obtained or shall contravene or shall result in a breach or default which is material under any provision of any Law, rule, regulation, order, judgment or decree applicable to such Stockholder Party or any agreement or instrument to which such Stockholder Party is party or by which such Stockholder Party or any of such Stockholder Party’s assets or properties is bound;

(l) if not a natural person, the execution, delivery and performance of this Agreement (or a separate Joinder, if applicable) and the consummation of the transactions contemplated hereby (and thereby, if applicable) have been duly authorized by such Stockholder Party and, with or without the giving of notice or lapse of time, or both, do not require such Stockholder Party to obtain any consent or approval that has not been obtained and do not contravene or result in a breach or default which is material under any provision of any Law, rule, regulation, order, judgment or decree applicable to such Stockholder Party, its

certificate of incorporation, by-laws or other governing documents (if an entity) or any agreement or instrument to which such Stockholder Party is party or by which such Stockholder Party or any of such Stockholder Party's assets or properties is bound; and

(m) this Agreement is valid, binding and enforceable obligation against such Stockholder Party in accordance with its terms except to the extent that its enforceability may be subject to applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding brought in equity or at law).

ARTICLE VII MISCELLANEOUS

7.1 Severability

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transaction is not affected in any manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in a manner that makes such term or provision valid, legal or capable of being enforced, as the case may be.

7.2 Entire Agreement

This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior arrangements or understandings (whether written or oral) with respect thereto.

7.3 Confidential Information

(a) Each Stockholder Party agrees that Confidential Information (as defined below) may be made available in connection with the provisions of this Agreement and the Company's Organizational Documents. Such Stockholder Party agrees that, for a period beginning on the Effective Date until three (3) years after such Stockholder Party and its Affiliates and permitted transferees are no longer a Stockholder Party, it will use, and will cause any Recipient (as defined below) to use the Confidential Information only in connection with its investment in the Company and not for any other purpose. Each Stockholder Party further acknowledges and agrees that such Stockholder Party will not, and will cause any Recipient not to, disclose any Confidential Information to any Person; provided, that Confidential Information may be disclosed (i) to such Stockholder Party, its Affiliates and its and their respective Representatives (each, a "**Recipient**"), subject to the terms and conditions of this Section 7.3, (ii) to any bona fide prospective purchaser of Equity Securities (so long as such prospective purchaser agrees to execute a customary confidentiality agreement with the Company on terms substantially similar to those set forth in this Section 7.3 and certifies it is not a competitor of the Company (including a Non-Qualified Person) (including via a click-through confidentiality agreement (prior to receipt of such materials)), (iii) to the extent required by applicable Law (including complying with any oral or written questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process to which such Stockholder Party is subject), provided, that such Recipient promptly gives the Company prior notice of such request(s), to the extent practicable (and not prohibited by Law), so that the Company may seek, at its expense, an appropriate protective order or similar relief (and such Recipient shall cooperate with such efforts by the Company), (iv) pursuant to the routine or ordinary regulatory request or examination of any banking,

financial, accounting, securities, self-regulatory, governmental or regulatory authority or similar supervisory authority exercising its routine supervisory or audit functions over the applicable Stockholder Party; provided, further, that such Stockholder Party, at its own expense, seeks customary confidential treatment of any Confidential Information so disclosed, or (v) if the prior written consent of the Board shall have been obtained. In addition, the Stockholder Parties may: (A) disclose Confidential Information to their and their Affiliates' (including Investment Affiliates') respective limited partners or investors, so long as such investors are then bound by customary confidentiality and non-disclosure obligations with terms substantially consistent with this Section 7.3 with respect to such information; (B) disclose the following information to their and their Affiliates' (including Investment Affiliates') respective prospective limited partners or investors and to the prospective limited partners or investors of any private investment vehicle for which any Stockholder Party or an Affiliate of a Stockholder Party provides investment advisory services or serves as general partner or managing member, so long as such prospective limited partner or investor is then bound by customary confidentiality and non-disclosure obligations with terms substantially consistent with this Section 7.3 with respect to such information: (i) the name of the Company, (ii) the fact that such Stockholder Party is an equityholder of the Company, (iii) the general business of the Company, (iv) such Stockholder Party's equity ownership in the Company at any given time, (v) the amount of Common Stock Equivalents held by such Stockholder Party and (vi) the performance of such Stockholder Party's investment in the Company, including the net return on its investment in the Company (calculated as an internal rate of return or a multiple of capital) as of a specified date; and (C) disclose information about the Company as required by any applicable stock exchange rule. The parties hereby acknowledge that (x) certain Stockholder Parties and their Affiliates are engaged in the business of private equity investing and may from time to time invest in entities that develop and utilize technologies, products or services that are similar to or competitive with those of the Company, and (y) the provisions of Section 7.3 shall not prevent any such Stockholder Parties or any of their respective Affiliates from (1) engaging in or operating any business, (2) entering into any agreement or business relationship with any third party, or (3) evaluating or engaging in investment discussions with, or investing in, any third party, whether or not competitive with the Company or any of its Subsidiaries, in each case, so long as such Stockholder Parties and their Affiliates do not use, make available, sell, disclose or otherwise communicate Confidential Information, except as permitted in this Section 7.3.

(b) **"Confidential Information"** means any information concerning the Company and its current or future Subsidiaries or equityholders or the financial condition, business, operations or prospects of the Company and its current or future Subsidiaries; provided, that the term "Confidential Information" does not include information that (x) is or becomes generally available to the public other than as a result of a disclosure by such Recipient in violation of this Agreement, (y) is or was made available to such Recipient on a non-confidential basis or (z) was or becomes available to such Recipient on a non-confidential basis from a source other than the Company or its Subsidiaries or Representatives, provided, that such source is or was (at the time of receipt of the relevant information) not, to the best of such Recipient's knowledge, bound by a confidentiality agreement with (or other confidentiality obligation to) the Company or another Person, with respect to such information. Each Stockholder Party shall be liable for the breach of any of such Stockholder Party's Recipients (and in the case of any Institutional Investor, any of such Institutional Investor's investors or prospective investors) with the terms of this Section 7.3 with respect to any Confidential Information provided to any such Representatives, investors or prospective investors (as applicable).

(c) Notwithstanding the foregoing, the Company hereby grants each Stockholder Party that is a Material Stockholder as of the Effective Date permission to use the Company's name and logo in each such Material Stockholder's marketing materials; provided, that any use of the Company's name and logo on a publicly available website or in publicly

available materials shall require the written consent of the Company (not to be unreasonably withheld, conditioned or delayed). Each such Material Stockholder shall include a trademark attribution notice giving notice of the Company's ownership of its trademarks in the marketing materials in which the Company's name and logo appear.

7.4 Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Company, the Stockholder Parties and their respective successors, assigns and permitted transferees. Any or all of the rights of a Stockholder Party under this Agreement may be assigned or otherwise conveyed by any Stockholder Party only in connection with a Transfer of Equity Securities which is in compliance with this Agreement.

7.5 Counterparts

This Agreement may be executed in separate counterparts each of which shall be an original and all of which taken together shall constitute one and the same agreement. Signed counterparts of this Agreement may be delivered by facsimile and by .pdf format, which shall constitute effective and binding forms of execution and delivery of this Agreement.

7.6 Notices

Except as otherwise provided herein, all notices, requests, claims, demands, waivers and other communications required or permitted under this Agreement shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email transmission (in the case of email transmission, with copies by overnight courier service or registered mail) to the respective parties as follows (or, in each case, as otherwise notified by any of the parties hereto) and shall be effective and deemed to have been duly given (a) immediately when sent by email between 8:00 am and 8:00 pm (New York City time) on any Business Day and when sent outside of such hours, at 8:00 am (New York City time) on the next Business Day, and (b) when received if delivered by hand or overnight courier service or certified or registered mail on any Business Day:

If to the Company, addressed to it at:

Thrasio Holdings, Inc.
85 West Street
Walpole, MA 02081
Attention: Michael Fahey, Chief Legal Officer & Secretary
Email: mike@thrasio.com

and to (which shall not constitute notice):

Freshfields Bruckhaus Deringer US LLP
855 Main Street
Redwood City, CA 94063
Attention: Scott Blumenkranz
Email: scott.blumenkranz@freshfields.com

and if to any of the Stockholder Party, on file with the Company (as provided in connection with the receipt of New Securities) or to such other address or email address as any such party hereto may, from time to time, designate in writing to the Company. The Company will provide a Stockholder Party with the addresses for the other Stockholder Party upon a written request for such information for the purpose of sending out a notice in accordance with this Agreement. Notices sent by multiple means, each of which is in compliance with the provisions of this Agreement will be deemed to have been received at the earliest time provided for by this Agreement.

7.7 Governing Law; Jurisdiction

(a) This Agreement, including its existence, validity, construction and operating effect, and the rights of each of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

(b) Each of the parties hereto hereby irrevocably acknowledges and consents that any legal action or proceeding brought with respect to any of the obligations arising under or relating to this Agreement may be brought in the Court of Chancery of the State of Delaware, or to the extent such court does not have subject matter jurisdiction, the Superior Court of the State of Delaware or any federal court within the State of Delaware and each of the parties hereto hereby irrevocably submits to and accepts with regard to any such action or proceeding, for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts. Each party hereby further irrevocably waives any claim that any such courts lack jurisdiction over such party, and agrees not to plead or claim, in any legal action or proceeding with respect to this Agreement or the transactions contemplated hereby brought in any of the aforesaid courts, that any such court lacks jurisdiction over such party or that any such court is not a convenient forum for any such suit, action or proceeding. Each party also agrees not to bring any suit, action or proceeding arising out of or relating to this Agreement in any other court (other than upon the appeal of any judgment, decision or action of any such court located in Delaware or, as applicable, any federal appellate court that includes the State of Delaware within its jurisdiction). The parties hereto irrevocably agree that venue would be proper in such court, and hereby waive any objection that any such court is an improper or inconvenient forum for the resolution of such suit, action or proceeding. Each of the parties hereto further irrevocably and unconditionally consents to service of process in the manner provided for notices in Section 7.6 of this Agreement. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

(c) Each of the parties hereto hereby agrees that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 7.6, or in such other manner as may be permitted by applicable Law, shall be valid and sufficient service thereof and hereby waives any objections to service accomplish in the manner herein provided.

7.8 Waiver of Jury Trial

The parties hereto waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement or any dealings between them relating to the subject matter of this Agreement and the relationship that is being established. The parties hereto also waive any bond or surety or security upon such bond which might, but for this waiver, be required of any of the other parties. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. The parties hereto acknowledge that this waiver is a material inducement to enter into a business relationship, that each has already relied on the waiver in entering into this Agreement and that each will continue to rely on the waiver in their related future dealings. Each party hereto further warrants and represents that he, she or it has reviewed this waiver with his, her or its legal counsel, and that such Person knowingly and voluntarily waives his, her or its jury trial rights following consultation with legal counsel. This waiver is irrevocable, meaning that it may not be modified either orally or in writing, and the waiver shall apply to any subsequent amendments, renewals, supplements or modifications to this Agreement or to any other documents or agreements relating to the transaction completed hereby. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

7.9 Specific Performance

The parties hereto agree that money damages would not be a sufficient remedy for any breach of this Agreement and that the parties hereto shall be entitled to specific performance and injunctive relief as remedies for any such breach, and the parties hereto further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedies shall not be deemed to be the exclusive remedies for the breach of this Agreement but shall be in addition to all other remedies available at law or in equity, and the parties hereto further agree to waive any requirement for the securing or posting of any bond in connection with such other remedies.

7.10 Descriptive Headings

The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

7.11 Further Assurances

Each of the parties hereto covenants and agrees on behalf of itself, its successors and its assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish and deliver such other instruments, documents and statements, and to take such other action, as may be required by Law or reasonably necessary to effectively carry out the purposes of this Agreement and the intentions of the parties expressed herein.

7.12 Publicity

Except with respect to filings or notices required by Law (including any governmental or regulatory body), any motions or other pleadings or documents with the Bankruptcy Court in connection with the implementation of the Plan, or in connection with an Initial Public Offering, or as otherwise permitted by this Section 7.12, (x) none of the Company, its Subsidiaries and their respective representatives shall issue any press releases or other public disclosure with respect to this Agreement using the name of any Stockholder Party or any of its Affiliates without such Stockholder Party's prior written consent and (y) no Stockholder Party hereto will issue any press releases or other public disclosure with respect to the Company without the Company's prior written consent; provided, that the Company shall promptly disclose, and provide a copy of such document, to each applicable Stockholder Party any such filing or notice made by the Company as required by Law (including any government or regulatory body) to the extent such disclosure is permissible by Law, any motions or other pleadings or documents with the Bankruptcy Court in connection with the implementation of the Plan, or in connection with the public filing of a registration statement for an Initial Public Offering that uses the name of such Stockholder Party or any of its Affiliates.

7.13 No Third Party Beneficiaries

Nothing expressed by or mentioned in this Agreement is intended or shall be construed to give any Person, other than the parties hereto and their respective successors or assigns and permitted transferees, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and their respective successors and assigns and permitted transferees, and for the benefit of no other Person; provided, that any stockholder of the Company not party hereto is hereby made a third party beneficiary of the rights, benefits and remedies granted to the Stockholder Parties herein.

7.14 Amendment and Waiver

Except as otherwise provided herein, no modification, amendment or waiver of any provision of this Agreement shall be effective against the Company or the Stockholder Parties unless such modification, amendment or waiver is approved in writing by each of the Company and the Requisite Stockholder Parties. Notwithstanding the foregoing, (i) if any amendment, modification or waiver of

any provision of this Agreement would materially and adversely affect the rights of any Stockholder Party or group of Stockholder Parties in a manner disproportionate to the other Stockholder Parties, then such amendment, modification or waiver shall also require the prior written consent of the Stockholder Parties holding a majority of the Common Stock held by the Stockholder Parties so affected, (ii) no amendment that modify the rights or would increase the obligations of any Stockholder Party or group of Stockholder Parties shall be effective against such Stockholder Party or such group of Stockholder Parties without the prior written consent of the such Stockholder Party or such group of Stockholder Parties holding a majority of the Common Stock held by the Stockholder Parties so affected, and (iii) any amendment or modification of any clause of this Section 7.14 or any other provision of this Agreement that provides for the approval of a given Stockholder Party or group of Stockholder Parties or approval by Stockholder Parties holding at least a specified percentage of Common Stock held by Stockholder Parties shall also require approval of such Stockholder Party or group of Stockholder Parties, as applicable. Notwithstanding the foregoing, the addition of parties to this Agreement in accordance with the terms of this Agreement (and the updating of the Exhibits and Schedules in connection therewith or in connection with changes in equity holdings by a Stockholder Party) will not be considered to be an amendment, supplement, waiver or modification to this Agreement. The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

7.15 Termination

This Agreement shall terminate (a) on the written agreement of the Stockholder Parties who are parties hereto, (b) when all the Stockholder Parties except any one Stockholder Party no longer hold any Equity Securities, (c) upon the sale of all Common Stock or (d) upon an Initial Public Offering; provided, that this Article VII and Section 4.1(e) shall survive the termination of this Agreement; provided, further, that Article V shall survive the termination of this Agreement pursuant to Section 7.15(d).

7.16 Party No Longer Owning Securities

If a party hereto ceases to own any Equity Securities, such party shall no longer be deemed to be a Stockholder Party for purposes of this Agreement, except for in respect of Sections 4.1(e) and 7.3 any breaches of this Agreement or the Organizational Documents of the Company prior to the date such Stockholder Party ceases to own any Equity Securities, for which such party will remain liable (and shall further be deemed to be a Stockholder Party to the extent and at such time as such party reacquires any Equity Securities thereunder).

7.17 Binding Agreement

This Agreement is binding on and shall inure to the benefit of the Stockholder Parties and their respective heirs, legal representatives, successors and permitted assigns. The parties hereto have participated jointly in the negotiation and drafting of this Agreement; accordingly, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provisions of this Agreement.

7.18 Title to Company Assets

The Company assets shall be deemed to be owned by the Company as an entity, and no Stockholder Party, individually or collectively, shall have any ownership interest in such Company assets or any portion thereof. Legal title to any or all Company assets may be held in the name of the Company, the Board or one or more nominees, as the Board may determine. The Board hereby declares and warrants that any Company assets for which legal title is held in its name or the name of any nominee shall be held in trust by the Board or such nominee for the use and benefit of the Company in accordance with the provisions of this Agreement. All Company assets shall be recorded as the property

of the Company on its books and records, irrespective of the name in which legal title to such Company assets is held.

7.19 Parties in Interest

Except as expressly provided in the Act or this Agreement, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any Persons other than the Stockholder Parties, the Company, the directors and their respective successors and assigns nor shall anything in this Agreement relieve or discharge the obligation or liability of any other Person to any party to this Agreement, nor shall any provision give any other Person any right of subrogation or action over or against any party to this Agreement.

7.20 No Appraisal Rights

Each Stockholder Party, by executing this Agreement, hereby acknowledges that, in the event of any merger, redemption or consolidation involving the Company, such Stockholder Party shall be entitled only to the rights, if any, provided in the applicable plan of merger, redemption agreement or other applicable transaction document and shall not be entitled to appraisal or similar rights.

7.21 Limitation on Liability of Covered Persons

(a) No Covered Person shall be liable to the Company or any other Covered Person (i) for mistakes of judgment or for any act or omissions suffered or taken by them, or for losses due to any such mistakes, action or inaction, except to the extent that such Covered Person has engaged in fraud, intentional acts of willful misconduct or acts or omissions not in good faith or (ii) for the willful misfeasance, negligence, bad faith, fraud or other conduct of any independent contractor of the Company selected by such Covered Person; provided, that such independent contractor (including any who may be a Covered Person) was selected, engaged and retained in good faith. In addition, no Covered Person shall, solely by reason of being a Covered Person, be bound by, or be personally liable to any third Person for a judgment, decree or order of any in any other manner, for the expenses, liabilities or obligations of the Company, whether arising in contract, tort or otherwise.

(b) To the maximum extent permitted by applicable Law, no Covered Person shall be liable for, and the Company shall indemnify all of the Covered Persons against, and agrees to hold all of the Covered Persons harmless from, all liabilities and claims (including reasonable attorneys' fees and expenses in defending against any claimant seeking to impose any such liabilities and claims) against the Covered Persons, arising from the Covered Persons' performance of their duties or otherwise relating to or arising out of such Covered Person's affiliation or association with the Company, except to the extent that such Covered Person has been adjudged to have engaged in fraud, intentional acts of willful misconduct or acts or omissions not in good faith. Expenses incurred by any Covered Person who may have a right of indemnification under this Section 7.21(b) in defending a civil or criminal action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Covered Person to repay such amount where such Covered Person has been adjudged to have engaged in fraud, intentional acts of willful misconduct or acts or omissions not in good faith.

(c) Covered Persons may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Covered Persons may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by them, and any action or omission suffered or taken in good faith in reliance and in accordance with the opinion or advice of any such Persons as to matters that the Covered Persons reasonably believe to be within such

Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such and shall be full protection and justification with respect to the action or omission so suffered or taken.

(d) The obligation of the Company under this Section 7.21 to indemnify or advance expenses to a Covered Person shall be the primary source of indemnification and advancement of such Covered Person in connection therewith and any obligation on the part of an equityholder of the Company or any of its Affiliates (excluding, for the avoidance of doubt, the Company and its Subsidiaries) (an "**Upstream Indemnifying Party**") with respect thereto (such obligation, a "**Stockholder Indemnification Agreement**") shall be secondary to the Company's obligation and shall be reduced by the amount that the Covered Person may collect as indemnification or advancement from the Company. In the event that the Company fails to indemnify or advance expenses to a Covered Person as required or contemplated by this Agreement (such amounts the "**Unpaid Indemnity Amounts**") and an Upstream Indemnifying Party makes any payment to such Covered Person in respect of indemnification or advancement of expenses under any Stockholder Indemnification Agreement on account of such Unpaid Indemnity Amounts, such Upstream Indemnifying Party shall be subrogated to the rights of such Covered Person under this Section 7.3 or any similar arrangement or agreement for indemnification or advancement of expenses by the Company (a "**Company Indemnification Agreement**").

(e) The Company hereby agrees that, to the fullest extent permitted by applicable Law, its obligation to indemnify a Covered Person under this Section 7.21 or any Company Indemnification Agreement shall include any amounts expended by an Upstream Indemnifying Party under any Stockholder Indemnification Agreement in respect of indemnification or advancement of expenses to any Covered Person relating to or arising out of such Covered Person's affiliation or association with the Company.

(f) The Company shall purchase and maintain director and officer liability insurance, on terms and in an amount approved by the Board, on behalf of any Covered Person, against any liability asserted against such Covered Person or incurred by such Covered Person arising out of its, his or her status as a Covered Person, whether or not the Company would have the power to indemnify such Covered Person against that liability under this Section 7.21.

(g) In the event that any Covered Person or former Covered Person shall, notwithstanding any provisions of the Delaware General Corporation Law (the "**DGCL**") to the contrary (and solely as a result of the inapplicability, or deemed inapplicability of such provision of the DGCL), become liable under a judgment, decree or order of a Governmental Entity, or in any other manner, for a debt, obligation or liability of the Company, then the Company shall indemnify such Covered Person or former Covered Person and hold such Covered Person or former Covered Person harmless from and against any such debt, obligation or liability of such Covered Person or former Covered Person (together with reasonable attorneys' fees and expenses in defending against any claimant seeking to impose any such debt, obligation or liability).

7.22 Limitation of Litigation

No Stockholder Party shall be entitled to initiate or participate in a class action suit on behalf of all or any part of the Stockholder Parties against the Company or against any other Stockholder Party, unless such action or suit has been approved by the Board. A Stockholder Party who initiates a class action in violation of this Agreement shall be liable to the Company and any Stockholder Party who are defendant parties to the action or suit for all damages and expenses which they incur as a result, including without limitation reasonable fees and expenses of legal counsel and expert witnesses and court costs. Further, each Stockholder Party irrevocably waives any right it may have to maintain any action for dissolution of the Company or for partition of the property of the Company.

7.23 No Effect Upon Lending Relationships

Notwithstanding anything herein to the contrary, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Stockholder Party or its Affiliates, or any of their respective successors or assigns, or any other lender in its capacity as a lender to the Company or any of its Subsidiaries (each, a “**Lender**”) pursuant to any agreement, document or instrument under which the Company or any of its Subsidiaries has borrowed money or received other financial accommodations (each, a “**Financing Agreement**”). Without limiting the generality of the foregoing, no Lender, in exercising its rights, remedies or claims as a lender or other creditor, shall have any duty to consider (a) its status as a direct or indirect equityholder of the Company, (b) the interests of the Company or any of its Subsidiaries, or (c) any duty it may have to any other direct or indirect equityholder of the Company, except, with respect to the foregoing clauses (b) and (c), as may be required under the applicable Financing Agreement or by Law. Each Stockholder Party consent to and acknowledge that (x) the Lenders have acquired certain shares of Common Stock and such Lenders, or certain of their Affiliates, are lenders to the Company and/or its Subsidiaries and (y) that there is a potential conflict of interest of the Lenders as holders of shares of Common Stock and as lenders, or Affiliates of lenders, to the Company and/or its Subsidiaries.

7.24 No Recourse

Notwithstanding anything to the contrary in this Agreement, the Company and each Stockholder Party agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement, shall be had against any former, current or future director, officer, employee, agent, advisor, attorney, representative, general or limited partner, stockholder or member of any Stockholder Party or of any Affiliate (including Investment Affiliate) or assignee thereof, or any former, current or future director, officer, employee, agent, advisor, attorney, representative, general or limited partner, stockholder or member of the foregoing (in each case, other than any such Person that is itself or becomes a Stockholder Party) (each a “**Stockholder Affiliate**”), whether by the enforcement of any judgment or assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation, theory or other applicable Law or otherwise, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred, whether by piercing of the corporate (or limited liability company or limited partnership) veil, by a claim (whether at law, in equity, in contract, in tort or otherwise), by any Stockholder Affiliate or assignee thereof (in each case, other than any such assignee that is itself or becomes a Stockholder Party), as such for any obligation of any Stockholder Party under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

7.25 No Partnership Nothing in this Agreement and no actions taken by the parties hereto under this Agreement shall constitute a partnership, joint venture, association or other co-operative entity between any of the parties hereto or cause any party hereto to be deemed the agent of any other party for any purpose.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY:

THRASIO HOLDINGS, INC.

Name: Michael Fahey

Title: Chief Legal Officer and Secretary

[STOCKHOLDER PARTY]

[●]

Name:
Title:

Appendix A

Form of Joinder Agreement

THIS JOINDER AGREEMENT (this “Agreement”) is made as of [*insert date*], by and among [*Insert Name of Investor*] (the “Investor”) and Thrasio Holdings, Inc., a corporation incorporated under the laws of the State of Delaware (the “Company”).

W I T N E S S E T H:

WHEREAS, reference is hereby made to that certain Stockholders Agreement (the “SHA”), dated as of [●], by and among the Company and the Stockholder Parties signatory thereto; and

WHEREAS, this Agreement has been entered into to record and effect the admission of the Investor as a Stockholder Party under the SHA.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

§1. Definitions. Capitalized terms defined in the SHA shall have the same meaning when used in this Agreement.

§2. Admission of Investor.

(a) By executing and delivering this Agreement to the Company, the Investor hereby agrees to become a party to, to be bound by, and to comply with the terms, conditions and provisions of the SHA in the same manner as if the undersigned Investor were an original signatory and named as a Stockholder Party thereunder, including, but not limited to, the SHA’s Section 6.1 (Representations and Warranties of the Stockholder Parties). By executing and delivering this Agreement to the Investor, the Company hereby consents to and confirms its acceptance of the Investor as a Stockholder Party for purposes of the SHA.

(b) By executing and delivering this Agreement to the Company, the Investor hereby acknowledges, agrees and confirms (i) that his, her or its address details for notices under the SHA are as set forth on Schedule A attached hereto and made a part thereof, and (ii) the Investor has received a copy of the SHA and has reviewed the same and understands its contents.

§3. Entire Agreement. This Agreement and the SHA contain the entire understanding, whether oral or written, of the parties with respect to the matters covered hereby. Any amendment or change in this Agreement shall not be valid unless made in writing and signed by both parties hereto.

§4. Effect; Counterparts. Except as herein provided, the SHA shall remain unchanged and in full force and effect. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

§5. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial. The provisions of Section 7.7 (Governing Law; Jurisdiction; Waiver of Jury Trial) of the SHA shall apply to this Agreement as though set out in full herein.

§6. Headings; Construction. The headings of particular provisions of this Agreement are inserted for convenience only and shall not be construed as a part of this Agreement or serve as a limitation or expansion on the scope of any term or provision of this Agreement. The parties hereto have participated jointly in the negotiation and drafting of this Agreement; accordingly, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if

drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provisions of this Agreement.

[•]

Name:
Title:

[Insert name of Investor]

*[Insert contact information of Investor
(including address, telephone and email)]*

SCHEDULE A TO APPENDIX A

ADDRESS FOR NOTICES

[Insert Investor's address]

Facsimile:

Attention:

AMENDED AND RESTATED BY-LAWS

OF

THRASIO HOLDINGS, INC.

(the “Corporation”)

**Effective as of the Plan’s Effective Date
(as defined below)**

ARTICLE I

STOCKHOLDERS

Section 1. Annual Meeting. Unless directors are elected by written consent in lieu of an annual meeting as permitted by law and these By-Laws, the annual meeting of the stockholders of the Corporation (the “Stockholders”) shall be held either within or without the State of Delaware, at such place as the board of directors of the Corporation (the “Board of Directors”) may designate in the call or in a waiver of notice thereof, at such place (within or without the State of Delaware), date and time as shall be designated from time to time by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting. Meetings may, in addition to or instead of a physical location, be held by means of remote communication (including virtually). Participation of one or more Stockholders by voice conferencing allowing all persons participating in the meeting to hear each other at the same time shall constitute presence at a meeting.

Section 2. Special Meetings. Special meetings of the Stockholders may be called by the Board of Directors or by the Chief Executive Officer (as defined below), and shall be called by the Chief Executive Officer or by the Secretary upon the written request of the holders of record of at least fifty percent (50%) of the shares of stock of the Corporation, issued and outstanding and entitled to vote, at such times and at such place (within or without the State of Delaware), date and time as may be stated in the call or in a waiver of notice thereof. Meetings may, in addition to or instead of a physical location, be held by means of remote communication (including virtually). Participation of one or more Stockholders by voice conferencing allowing all persons participating in the meeting to hear each other at the same time shall constitute presence at a meeting.

Section 3. Notice of Meetings. Notice of the time, place and purpose of every meeting of Stockholders shall be delivered personally or mailed not less than ten (10) days nor more than sixty (60) days previous thereto to each Stockholder of record entitled to vote, at such Stockholder’s post office address appearing upon the records of the Corporation or at such other address as shall be furnished in writing by him or her to the Corporation for such purpose. Such further notice shall be given as may be required by law or by these by-laws (“By-Laws”). Any meeting may be held without notice if all Stockholders entitled to vote are present in person or by proxy, or if notice is waived in writing, either before or after the meeting, by those not present.

Section 4. Quorum. The holders of record of at least a majority of the shares of the stock of the Corporation, issued and outstanding and entitled to vote, present in person or by proxy, shall, except as otherwise provided by law, by these By-Laws or by the Stockholders Agreement, constitute a quorum at all meetings of the Stockholders. Where a separate vote by a class or classes may be required, one-third of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter. If no quorum shall be present, the holders of a majority of such shares so present or represented may adjourn the meeting from time to time until a quorum shall have been obtained in accordance with Section 10 of Article I.

Section 5. Organization of Meetings. Meetings of the Stockholders shall be presided over by the Chairperson of the Board, if there be one, or if the Chairperson of the Board is not present, by the Chief Executive Officer, or if the Chief Executive Officer is not present, by a chairperson to be chosen at the meeting. The Secretary of the Corporation, or in the Secretary of the Corporation's absence, an Assistant Secretary, shall act as Secretary of the meeting, if present.

Section 6. Notice of Business to be Brought Before a Meeting.

For business to be properly brought before an annual meeting by a Stockholder, the Stockholder must provide Timely Notice (as defined below) thereof in writing and in proper form to the Secretary of the Corporation with such information as the Secretary of the Corporation may reasonably request, including, but not limited to, a description of business to be discussed along with information about their holdings of record and interests in the Corporation. To be timely, a Stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not less than sixty (60) days nor more than ninety (90) days prior to the one-year anniversary of the preceding year's annual meeting; provided, however, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the Stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made by the Corporation (such notice within such time periods, "Timely Notice"). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of Timely Notice as described above.

Section 7. Voting & Action at Meetings. At each meeting of Stockholders, except as otherwise provided by statute or the Amended and Restated Certificate of Incorporation of the Corporation (the "Amended and Restated Certificate of Incorporation") or that certain stockholders agreement of the Corporation, dated as of the Plan's Effective Date, by and among the Corporation and the Stockholders of the Corporation party thereto (as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms, the "Stockholders Agreement"), every holder of record of stock entitled to vote shall be entitled to one vote in person or by proxy for each share of such stock standing in his, her or its name on the records of the Corporation. Subject to the provisions of the Stockholders Agreement, elections of directors shall be determined by a plurality of the votes cast and, except as otherwise provided by statute, the Amended and Restated Certificate of Incorporation, these By-Laws or the Stockholders Agreement, all other action shall be determined by a majority of the votes cast at such meeting.

Each proxy to vote shall be in writing and signed by the Stockholder or by such Stockholder's duly authorized attorney.

At all elections of directors, the voting shall be by ballot or in such other manner as may be determined by the Stockholders present in person or by proxy entitled to vote at such election. With respect to any other matter presented to the Stockholders for their consideration at a meeting, any Stockholder entitled to vote may, on any question, demand a vote by ballot. If authorized by the Board of Directors, any such requirement of a ballot shall be satisfied by a ballot submitted by electronic transmission; provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Stockholder or a proxy holder.

A complete list of the Stockholders entitled to vote at each such meeting, arranged in alphabetical order, with the address of each, and the number of shares registered in the name of each Stockholder, shall be prepared by the Secretary and shall be open to the examination of any Stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Stockholder who is present.

Section 8. Inspectors of Election. The Board of Directors in advance of any meeting of Stockholders may appoint one or more inspectors of election ("Inspectors of Elections") to act at the meeting or any adjournment thereof. If Inspectors of Election are not so appointed, the chairperson of the meeting may, and on the request of any Stockholder entitled to vote shall, appoint one or more Inspectors of Election. Each Inspector of Election, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of an Inspector of Election at such meeting with strict impartiality and according to the best of his or her ability. If appointed, Inspectors of Election shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law.

Section 9. Action by Consent. Any action required or permitted to be taken at any meeting of Stockholders, including the annual meeting or any special meeting, may be taken without a meeting, without prior notice and without a vote, if, prior to such action, a written consent or consents thereto, setting forth such action, is signed by the holders of record of shares of the stock of the Corporation, issued and outstanding and entitled to vote thereon, having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Section 10. Adjournment.

At any meeting of Stockholders of the Corporation, if less than a quorum be present, the chairperson of the meeting (or Stockholders upon the vote of a majority of the votes cast), shall have the power to adjourn the meeting from time to time without notice, other than the announcement (which can be displayed during the time scheduled for the meeting on the same

electronic network used to enable Stockholders and proxy holders to participate in the meeting by means of remote communication) at the meeting at which the adjournment is taken of the date and time of the adjourned meeting; provided, that the chairperson of the meeting (or Stockholders upon the vote of a majority of the votes cast) shall also have the power to adjourn the meeting from time to time to address a technical failure to convene or continue a meeting using remote communication, which adjournment can be done without notice (other than the announcement (which can be displayed during the time scheduled for the meeting on the same electronic network used to enable Stockholders and proxy holders to participate in the meeting by means of remote communication) at the meeting at which the adjournment is taken of the date and time of the adjourned meeting). Any business may be transacted at the adjourned meeting that might have been transacted at the meeting originally noticed. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each Stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of Stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining Stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of Stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each Stockholder of record entitled to vote at such adjourned meeting as of the record date so fixed for notice of such adjourned meeting.

ARTICLE II

DIRECTORS

Section 1. Number, Quorum, Term, Vote Required for Action, Vacancies, Removal. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities these By-Laws expressly confer upon them, the Board of Directors may exercise all such powers of the Corporation and all such lawful acts and things as are not prohibited by the Delaware General Corporation Law (as may be amended, the “DGCL”), the Amended and Restated Certificate of Incorporation, the Stockholders Agreement or these By-Laws required to be exercised or done by the Stockholders.

The Board of Directors shall consist of no less than one (1) person. The number of directors shall initially be five (5) and thereafter may be changed, except as otherwise set forth in the Amended and Restated Certificate of Incorporation or the Stockholders Agreement, by a resolution passed by a majority of the whole Board of Directors or by a vote of the holders of record of at least a majority of the shares of stock of the Corporation, issued and outstanding and entitled to vote.

Subject to the provisions of the Stockholders Agreement and except as otherwise provided by applicable law, a majority of the members of the Board of Directors (or any committee thereof) (unless the number of directors then in office shall be one, in which case one director) shall constitute a quorum for the transaction of business; provided, that if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum shall have been obtained. Except as otherwise provided by the Amended and Restated Certificate of Incorporation, these By-Laws or the Stockholders Agreement, each director of the Board of Directors shall be entitled to one (1) vote in any action by the Board of Directors. Except as required by applicable law, all actions of

the Board of Directors shall be approved by the affirmative vote of a majority of the votes of the directors present at any duly convened meeting of the Board of Directors in which a quorum is present.

Except as otherwise set forth in the Amended and Restated Certificate of Incorporation, directors shall hold office until the next annual election and until their successors shall have been elected and shall have qualified, except as in the case of such director's earlier death, disability, resignation, or removal. Any director may resign at any time upon written notice to the Corporation at its principal place of business or to the Chief Executive Officer or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Except as otherwise set forth in the Amended and Restated Certificate of Incorporation or the Stockholders Agreement, whenever any vacancy shall have occurred in the Board of Directors, by reason of death, disability, resignation, or otherwise, other than removal of a director with or without cause by a vote of the Stockholders, it shall be filled by a majority vote of the remaining directors, though less than a quorum (except as otherwise provided by applicable law), or by the Stockholders by a plurality of the votes cast, and the person so chosen shall hold office until the next annual election and until a successor is duly elected and has qualified.

Except as otherwise set forth in the Amended and Restated Certificate of Incorporation or the Stockholders Agreement, any one or more of the directors of the Corporation may be removed either with or without cause at any time by a vote of the holders of record of at least a majority of the shares of stock of the Corporation, issued and outstanding and entitled to vote, and thereupon the term of the director or directors who shall have been so removed shall forthwith terminate and there shall be a vacancy or vacancies in the Board of Directors, to be filled by a vote of the Stockholders as provided in these By-Laws (subject to the provisions of the Stockholders Agreement).

Section 2. Meetings, Notice. Meetings of the Board of Directors shall be held at such place either within or without the State of Delaware, as may from time to time be fixed by resolution of the Board of Directors, or as may be specified in the call or in a waiver of notice thereof. Meetings of the Board of Directors may be called by any director at any time; provided that at least forty-eight (48) hours' written notice of such meeting has been provided to the directors or notice thereof has been waived by any director failing to receive such timely written notice. Meetings of the Board of Directors or of any committee thereof may be held by means of telephone or video conferencing or other communications equipment by means of which all persons participating in the meeting can hear each other and be heard. Participation by a director in a meeting pursuant to this Section 2 of Article II will constitute presence in person at such meeting. Notwithstanding the foregoing, regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board of Directors; provided that any director who is absent when such a determination is made shall be given prompt notice of such determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as any annual meeting of Stockholders.

Section 3. Committees. Subject to the provisions of the Stockholders Agreement, the Board of Directors may, in its discretion, by resolution passed by a majority of the

whole Board of Directors, designate from among its members one or more committees which shall consist of one or more directors. Subject to the provisions of the Stockholders Agreement, any committee designated hereunder shall have and may exercise all of the powers and authority that are expressly delegated to such committee by the Board of Directors, except that no committee shall have the power to take any action that the Board of Directors does not have the power to take. Each committee member shall be entitled to one (1) vote in any action by such committee. Actions of such committee or committees shall require an affirmative vote of at least a number of the committee members holding a majority of the votes of the entire committee and each committee shall keep regular minutes of its meetings and, upon request by the Board of Directors, may report the same to the Board of Directors. Subject to the provisions of the Stockholders Agreement, a majority of any such committee may determine its action and fix the time and place of its meetings and any procedures for such meetings, unless the Board of Directors shall otherwise provide. Subject to the provisions of the Stockholders Agreement, the Board of Directors shall have power at any time to change the membership of any such committee, to fill vacancies in it, or to dissolve it. For the avoidance of doubt, any committees of the Board of Directors and any related governing documents for such committees in existence prior to the Plan's Effective Date have been dissolved or terminated, as applicable in each case, upon the effectiveness of these By-Laws on the Plan's Effective Date.

Section 4. Action by Consent. Subject to the provisions of the Stockholders Agreement, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting, if all directors (or members of such committee, in the case of a committee of the Board of Directors) consent thereto in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee in accordance with applicable law.

Section 5. Compensation. Subject to the provisions of the Stockholders Agreement, the Board of Directors may determine, from time to time, the amount of compensation which shall be paid to its members. Subject to the provisions of the Stockholders Agreement, the Board of Directors shall also have power, in its discretion, to allow a fixed sum and expenses for attendance at each regular or special meeting of the Board of Directors, or of any committee of the Board of Directors. In addition, subject to the provisions of the Stockholders Agreement, the Board of Directors shall also have power, in its discretion, to provide for and pay to directors rendering services to the Corporation not ordinarily rendered by directors, as such, special compensation appropriate to the value of such services, as determined by the Board of Directors from time to time.

ARTICLE III

OFFICERS

Section 1. Titles and Election. The officers of the Corporation, who shall be chosen by the Board of Directors, shall be a Chief Executive Officer, Chief Financial Officer, a Treasurer and a Secretary. The Board of Directors from time to time may elect a Chairperson of the Board and may appoint one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers and such other officers and agents as the Board of Directors shall deem necessary and may define their powers and duties. Any number of offices may be held by the same person.

Section 2. Terms of Office & Initial Officers. Officers shall hold office until their successors are chosen and qualify. As of the Plan's Effective Date, the initial officers of the Corporation shall be Stephanie Fox (Chief Executive Officer), Stephen Nee (Chief Financial Officer and Treasurer), Michael Fahey (Chief Legal Officer & Secretary), Terrance Grossman (Bankruptcy Administration Officer), Cailin Harris (Assistant Secretary) and Scott Grossman (Assistant Treasurer).

Section 3. Removal. Any officer may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors.

Section 4. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors or to the Secretary. Such resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. If the office of any officer or agent becomes vacant by reason of death, disability, resignation, retirement, disqualification, removal from office or otherwise, the Board of Directors may choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred.

Section 6. Chairperson of the Board. The Chairperson of the Board of Directors (the "Chairperson of the Board"), if one be named or elected, shall preside at all meetings of the Board of Directors and of the Stockholders, and the Chairperson of the Board shall have and perform such other duties as from time to time may be assigned to the Chairperson of the Board by the Board of Directors. Subject to the Stockholders Agreement, the initial Chairperson of the Board shall be the Chief Executive Officer.

Section 7. Chief Executive Officer. The chief executive officer of the Corporation (the "Chief Executive Officer"), in the absence of the Chairperson of the Board, shall preside at all meetings of the Board of Directors, and of the Stockholders. The Chief Executive Officer shall exercise the powers and perform the duties usual to the chief executive officer and, subject to the control of the Board of Directors, shall have general management and control of the affairs and business of the Corporation; the Chief Executive Officer shall appoint and discharge employees and agents of the Corporation (other than officers elected by the Board of Directors) and fix their compensation; and the Chief Executive Officer shall see that all orders and resolutions of the Board of Directors are carried into effect. The Chief Executive Officer shall have the power to execute bonds, mortgages and other contracts, agreements and instruments of the Corporation, and shall do and perform such other duties as from time to time may be assigned to the Chief Executive Officer by the Board of Directors.

Section 8. Vice Presidents. If chosen, the Vice Presidents of the Corporation (each, a "Vice President"), in the order of their seniority, shall, in the absence or disability of the Chief Executive Officer, exercise all of the powers and duties of the Chief Executive Officer. The Vice Presidents shall have the power to execute bonds, notes, mortgages and other contracts, agreements and instruments of the Corporation, and shall do and perform such other duties incident to the office of Vice President and as the Board of Directors, or the Chief Executive Officer shall direct.

Section 9. Secretary. The Secretary of the Corporation (the “Secretary”) shall attend all sessions of the Board of Directors and all meetings of the Stockholders and record all votes and the minutes of proceedings in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the Stockholders and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors. The Secretary shall affix the corporate seal to any instrument requiring it, and when so affixed, it shall be attested by the signature of the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer who may affix the seal to any such instrument in the event of the absence or disability of the Secretary. The Secretary shall have custody of the stock records and all other books, records and papers of the Corporation (other than financial) and shall see that all books, reports, statements, certificates and other documents and records required by law are properly kept and filed. In the absence or disability of the Secretary, an Assistant Secretary may perform the duties commonly incident to the office of Secretary, including the foregoing.

Section 10. The Chief Financial Officer, Treasurer and Assistant Treasurers. The chief financial officer (the “Chief Financial Officer”) shall keep or cause to be kept the books of account of the Corporation in a full and accurate manner. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the Corporation. The Chief Financial Officer shall perform other duties commonly incident to such office and shall also perform such other duties and have such other powers as the Board of Directors, the Chief Executive Officer or the President shall designate from time to time. The Chief Executive Officer or President may direct the treasurer of the Corporation (the “Treasurer”) or any Assistant Treasurer, if there is such an officer, to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer shall perform other duties commonly incident to such office and shall also perform such other duties and have such other powers as the Board of Directors, the Chief Executive Officer or the President shall designate from time to time.

Section 11. Duties of Officers may be Delegated. In case of the absence or disability of any officer of the Corporation, or for any other reason that the Board of Directors may deem sufficient, the Board of Directors may delegate, for the time being, the powers or duties, or any of them, of such officer to any other officer, or to any director.

ARTICLE IV

INDEMNIFICATION

Section 1. Actions by Others. The Corporation, to the fullest extent permitted by applicable law as it currently exists or may hereafter be amended, shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation as set forth in Section 2 of Article IV below) (in each case, a “Proceeding”) by reason of the fact that he or she is or was a director, an officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, agent of or participant in another corporation, partnership, joint venture, trust, non-profit or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and

reasonably incurred by such person in connection with such action, suit or proceeding. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. Notwithstanding the preceding sentence, except for claims for indemnification (following the final disposition of such Proceeding), the Corporation shall be required to indemnify a person in connection with a Proceeding (or part thereof) commenced by such person only if the commencement of such Proceeding (or part thereof) by the person was authorized in the specific case by the Board of Directors.

Section 2. Actions by or in the Right of the Corporation. The Corporation, to the fullest extent permitted by applicable law as it currently exists or may hereafter be amended, shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, non-profit or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit.

Section 3. Successful Defense. To the extent that a person who is or was a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or Section 2 of this Article IV, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Section 4. Advance of Expenses. Expenses (including attorneys' fees) incurred by any person who may have a right of indemnification under this Article IV in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director, officer, employee or agent to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation pursuant to this Article IV. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents of the Corporation or by persons serving at the request of the Corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust, non-profit or other enterprise, including service with respect to employee benefit plans, may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate.

Section 5. Right of Indemnity not Exclusive. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IV shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of Stockholders or disinterested directors or otherwise, both as to action

in his or her official capacity and as to action in another capacity while holding such office. A right to indemnification or to advancement of expenses arising under a provision of the certificate of incorporation or a by-law shall not be eliminated or impaired by an amendment, modification or repeal of such provision after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IV shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 6. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article IV, Section 145 of the DGCL or otherwise.

Section 7. Invalidity of any Provisions of this Article. The invalidity or unenforceability of any provision of this Article IV shall not affect the validity or enforceability of the remaining provisions of this Article IV.

ARTICLE V

CAPITAL STOCK

Section 1. Certificates. The interest of each Stockholder may be evidenced by physical certificates for shares of stock in such form as may be prescribed from time to time by the Corporation or be uncertificated as provided in the DGCL. Any such physical certificates shall be signed by, or in the name of the Corporation by, at least two of the following officers of the Corporation: the Chairperson or a vice-Chairperson of the Board of Directors (to the extent acting in the capacity of an officer of the Corporation), the Chief Executive Officer, the President or a Vice President, the Secretary or an Assistant Secretary, or the Chief Financial Officer, Treasurer or an Assistant Treasurer. Any or all signatures on the certificate may be a facsimile signature (including through an electronic signature method). For the avoidance of doubt, any electronic form of a stock certificate shall not be deemed a physical stock certificate. Although any officer, transfer agent, or registrar whose manual or facsimile signature is affixed to such a certificate ceases to be such officer, transfer agent, or registrar before such certificate has been issued, it may nevertheless be issued by the Corporation with the same effect as if such officer, transfer agent, or registrar were still such at the date of its issue. In lieu of issuing certificates for shares of stock, the Board of Directors may either issue receipts therefor or may keep accounts upon the books of the Corporation for the record holders of such shares, who shall in either case be deemed, for all purposes hereunder, to be the holders of certificates for such shares as if they had accepted such certificates and shall be held to have expressly assented and agreed to the terms hereof.

Section 2. Transfer. Subject to the provisions of the Stockholders Agreement, the shares of stock of the Corporation shall be transferred only upon the books of the Corporation by the holder thereof in person or by his or her attorney and, to the extent represented by physical stock certificates, upon surrender for cancellation of physical stock certificates for the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require. Subject to the Stockholders Agreement, a written restriction on the transfer or registration of transfer of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, if permitted by the DGCL, may be enforced against the holder of such shares or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

Section 3. Record Dates. The Board of Directors may fix in advance a date, not less than ten (10) nor more than sixty (60) days preceding the date of any meeting of Stockholders, or the date for the payment of any dividend, or the date for the distribution or allotment of any rights, or the date when any change, conversion or exchange of capital stock shall go into effect, as a record date for the determination of the Stockholders entitled to notice of, and to vote at, any such meeting, or entitled to receive payment of any such dividend, or to receive any distribution or allotment of such rights, or to exercise the rights in respect of any such change, conversion or exchange of capital stock, and in such case only such Stockholders as shall be Stockholders of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting, or to receive payment of such dividend, or to receive such distribution or allotment or rights or to exercise such rights, as the case may be, notwithstanding any transfer of any stock on the books of the Corporation after any such record date fixed as aforesaid.

Section 4. Lost Certificates. In the event that any physical stock certificate is lost, stolen, destroyed or mutilated, the Board of Directors may authorize the issuance of a new certificate of the same tenor and for the same number of shares in lieu thereof. The Board of Directors may in its discretion, before the issuance of such new certificate, require the owner of the lost, stolen, destroyed or mutilated certificate, or the legal representative of the owner to make an affidavit or affirmation setting forth such facts as to the loss, destruction or mutilation as it deems necessary, and to give the Corporation a bond in such reasonable sum as it directs to indemnify the Corporation.

ARTICLE VI

CHECKS, NOTES, ETC.

Section 1. Checks, Notes, Etc. All checks and drafts on the Corporation's bank accounts and all bills of exchange and promissory notes, and all acceptances, obligations and other instruments for the payment of money, may be signed by any director of the Corporation, the Chief Executive Officer, the Chief Financial Officer, any Vice President or the Treasurer and may also be signed by such other officer or officers, agent or agents, as shall be thereunto authorized from time to time by the Board of Directors.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Offices. The registered office of the Corporation within the State of Delaware shall be located at the place set forth in the Corporation's Amended and Restated Certificate of Incorporation, as the same may be amended or restated from time to time. The Corporation may have other offices either within or without the State of Delaware at such places as shall be determined from time to time by the Board of Directors or as the business of the Corporation may require.

Section 2. Fiscal Year. The fiscal year of the Corporation shall end on December 31st of each year or as otherwise may be fixed by the Board of Directors.

Section 3. Corporate Seal. The Board of Directors may adopt a corporate seal, which shall be in such form as the Board of Directors determines. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

Section 4. Books. The books and records of the Corporation may be kept within or outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

Section 5. Voting of Stock. Unless otherwise specifically authorized by the Board of Directors, all stock owned by the Corporation, other than stock of the Corporation, shall be voted, in person or by proxy, by the Chief Executive Officer, the Chief Financial Officer or any Vice President of the Corporation on behalf of the Corporation.

Section 6. Conflicts. In the event of any conflicts between the terms and provisions of these By-Laws and those contained in the Stockholders Agreement, the terms and provisions of the Stockholders Agreement shall govern.

Section 7. Effectiveness of Initial By-Laws as of the Plan's Effective Date. On the Plan's Effective Date (as defined in the Plan), these By-Laws have been made effective in accordance with an order by the United States Bankruptcy Court for the District of New Jersey confirming that certain Joint Plan of Reorganization of Thrasio Holdings, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 398], dated as of April 18, 2024 (as may be amended, supplemented, or modified from time to time, the "Plan").

ARTICLE VIII

AMENDMENTS

Section 1. Amendments. The vote of the Requisite Stockholder Parties (as defined in the Stockholders Agreement) shall be necessary at any meeting of Stockholders to amend or repeal these By-Laws or to adopt new by-laws. Except as otherwise set forth in the Amended and Restated Certificate of Incorporation or the Stockholders Agreement, these By-Laws may also be amended or repealed, or new by-laws adopted, at any meeting of the Board of Directors by the vote of at least a majority of the entire Board of Directors; provided that any by-law adopted by the Board of Directors may be amended or repealed by the Stockholders in the manner set forth above.

Any proposal to amend or repeal these By-Laws or to adopt new by-laws shall be stated in the notice of the meeting of the Board of Directors or the Stockholders, or in the waiver of notice thereof, as the case may be, unless all of the directors or the holders of record of all of the shares of stock of the Corporation, issued and outstanding and entitled to vote, are present at such meeting.

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