

REFINITIV

# DELTA REPORT

## 10-Q

MGRC - MCGRATH RENTCORP

10-Q - JUNE 30, 2024 COMPARED TO 10-Q - MARCH 31, 2024

The following comparison report has been automatically generated

TOTAL DELTAS 6114

CHANGES 329

DELETIONS 5509

ADDITIONS 276

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

FORM 10-Q

☒ ☐ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITY AND EXCHANGE ACT OF 1934

For the quarterly period ended March 31, June 30, 2024

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

Commission file number 000-13292

McGRATH RENTCORP  
(Exact name of registrant as specified in its Charter)

California

(State or other jurisdiction

of incorporation or organization)

94-2579843

(I.R.S. Employer

Identification No.)

5700 Las Positas Road, Livermore, CA 94551-7800

(Address of principal executive offices)

Registrant's telephone number: (925) 606-9200

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	MGRC	NASDAQ Global Select Market

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

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

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

Large accelerated filer ☒ Accelerated filer ☐  
 Non-accelerated filer ☐ Smaller reporting company ☐  
 Emerging growth company ☐

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

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

As of April 24, 2024 July 24, 2024, 24,548,743 24,550,058 shares of Registrant's Common Stock were outstanding.

## FORWARD LOOKING STATEMENTS

Statements contained in this Quarterly Report on Form 10-Q (this "Form 10-Q") which are not historical facts are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical facts, regarding McGrath RentCorp's (the "Company's") expectations, strategies, prospects or targets are forward looking statements, including statements about (1) our expectations around the effect of the proposed acquisition of us by WillScot Mobile Mini, and (2) our belief that we will continue to be able to negotiate general bank lines of credit and issue senior notes adequate to meet capital requirements not otherwise met by operational cash flows and proceeds from sales of rental equipment. These forward-looking statements also can be identified by the use of forward-looking terminology such as "anticipates", "believes", "continues", "could", "estimates", "expects", "intends", "may", "plan", "predict", "project", or "will", or the negative of these terms or other comparable terminology.

Management cautions that forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties that could cause our actual results to differ materially from those projected in such forward-looking statements. Further, our future business, financial condition and results of operations could differ materially from those anticipated by such forward-looking statements and are subject to risks and uncertainties as set forth under "Risk Factors" in this Form 10-Q. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of the forward-looking statements.

Forward-looking statements are made only as of the date of this Form 10-Q and are based on management's reasonable assumptions, however these assumptions can be wrong or affected by known or unknown risks and uncertainties. No forward-looking statement can be guaranteed and subsequent facts or circumstances may contradict, obviate, undermine or otherwise fail to support or substantiate such statements. Readers should not place undue reliance on these forward-looking statements and are cautioned that any such forward-looking statements are not guarantees of future performance. Except as otherwise required by law, we are under no duty to update any of the forward-looking statements after the date of this Form 10-Q to conform such statements to actual results or to changes in our expectations.

## Part I - Financial Information

### Item 1. Financial Statements

#### REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders  
McGrath RentCorp

#### **Results of review of interim financial statements**

We have reviewed the accompanying condensed consolidated balance sheet of McGrath RentCorp (a California Corporation) and subsidiaries (the "Company") as of **March 31, 2024** **June 30, 2024**, and the related condensed consolidated statements of income, comprehensive income, and shareholders' equity, for the three-month and six-month periods ended **June 30, 2024 and 2023**, cash flows for the **three-months six month periods** ended **March 31, 2024** **June 30, 2024** and 2023, and the related notes (collectively referred to as the "interim financial statements"). Based on our reviews, we are not aware of any material modifications that should be made to the accompanying interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheet of the Company as of December 31, 2023, and the related consolidated statements of income, comprehensive income, shareholders' equity, and cash flows for the year then ended (not presented herein); and in our report dated February 21, 2024, we expressed an unqualified opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying condensed consolidated balance sheet as of December 31, 2023, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

#### **Basis for review results**

These interim financial statements are the responsibility of the Company's management. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB. We conducted our reviews in accordance with the standards of the PCAOB. A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the PCAOB, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

/s/ GRANT THORNTON LLP

San Francisco, California  
**April** **July** 25, 2024

**MCGRATH RENTCORP**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**  
**(UNAUDITED)**

	Three Months Ended March 31,		Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023	2024	2023
<i>(in thousands, except per share amounts)</i>						
<b>Revenues</b>						
Rental	\$ 120,332	\$ 110,247	\$ 121,176	\$ 117,840	\$ 241,508	\$ 228,087
Rental related services	29,580	27,132	34,358	33,857	63,938	60,989
Rental operations	149,912	137,379	155,534	151,697	305,446	289,076
Sales	35,069	23,660	54,414	47,801	89,483	71,461
Other	2,846	2,679	2,663	3,532	5,509	6,211
Total revenues	187,827	163,718	212,611	203,030	400,438	366,748
<b>Costs and Expenses</b>						
Direct costs of rental operations:						
Depreciation of rental equipment	22,366	21,833	22,165	22,597	44,531	44,430
Rental related services	20,786	19,268	24,990	23,825	45,776	43,093
Other	29,010	31,135	27,920	30,560	56,930	61,695
Total direct costs of rental operations	72,162	72,236	75,075	76,982	147,237	149,218
Costs of sales	22,397	14,115	34,121	31,438	56,518	45,553
Total costs of revenues	94,559	86,351	109,196	108,420	203,755	194,771
Gross profit	93,268	77,367	103,415	94,610	196,683	171,977
Expenses:						
Selling and administrative expenses	59,818	57,498	61,370	47,026	121,188	104,524
Other income, net	(9,281)	—	—	—	(9,281)	—
Income from operations	42,731	19,869	42,045	47,584	84,776	67,453
Interest expense	12,704	7,464	13,037	9,945	25,741	17,409
Foreign currency exchange loss (gain)	132	(226)	31	18	163	(208)
Income from continuing operations before provision for income taxes	29,895	12,631	28,977	37,621	58,872	50,252
Provision for income taxes from continuing operations	7,047	1,113	8,359	9,669	15,406	10,782
Income from continuing operations	22,848	11,518	20,618	27,952	43,466	39,470
Discontinued operations:						
Income from discontinued operations before provision for income taxes	—	1,709	—	—	—	1,709
Provision for income taxes from discontinued operations	—	453	—	—	—	453
Gain on sale of discontinued operations, net of tax	—	58,883	—	2,630	—	61,513

Income from discontinued operations	—	60,139	—	2,630	—	62,769
Net income	\$ 22,848	\$ 71,657	\$ 20,618	\$ 30,582	\$ 43,466	\$ 102,239
Earnings per share from continuing operations:						
Basic	\$ 0.93	\$ 0.47	\$ 0.84	\$ 1.14	\$ 1.77	\$ 1.61
Diluted	\$ 0.93	\$ 0.47	\$ 0.84	\$ 1.14	\$ 1.77	\$ 1.61
Earnings per share from discontinued operations:						
Basic	\$ —	\$ 2.46	\$ —	\$ 0.11	\$ —	\$ 2.57
Diluted	\$ —	\$ 2.45	\$ —	\$ 0.11	\$ —	\$ 2.56
Earnings per share:						
Basic	\$ 0.93	\$ 2.93	\$ 0.84	\$ 1.25	\$ 1.77	\$ 4.18
Diluted	\$ 0.93	\$ 2.92	\$ 0.84	\$ 1.25	\$ 1.77	\$ 4.17
Shares used in per share calculation:						
Basic	24,513	24,416	24,549	24,479	24,531	24,448
Diluted	24,564	24,542	24,560	24,512	24,562	24,527
Cash dividends declared per share	\$ 0.475	\$ 0.465	\$ 0.475	\$ 0.465	\$ 0.950	\$ 0.930

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

**MCGRATH RENTCORP**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**(UNAUDITED)**

	Three Months Ended March		Three Months Ended June			
	31,		30,		Six Months Ended June 30,	
	2024	2023	2024	2023	2024	2023
<i>(in thousands)</i>						
Net income	\$ 22,848	\$ 71,657	\$ 20,618	\$ 30,582	\$ 43,466	\$ 102,239
Other comprehensive income:						
Foreign currency translation adjustment, net of tax impact	67	(18)	11	43	78	25
Comprehensive income	\$ 22,915	\$ 71,639	\$ 20,629	\$ 30,625	\$ 43,544	\$ 102,264

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

**MCGRATH RENTCORP**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
**(UNAUDITED)**

<i>(in thousands)</i>	March 31, 2024	December 31, 2023	June 30, 2024	December 31, 2023
<b><u>Assets</u></b>				
Cash	\$ 1,912	\$ 877	\$ 9,396	\$ 877
Accounts receivable, net of allowance for credit losses of \$2,819 at March 31, 2024 and \$2,801 at December 31, 2023	211,950	227,368		
Accounts receivable, net of allowance for credit losses of \$2,866 at June 30, 2024 and \$2,801 at December 31, 2023	217,379	227,368		
Rental equipment, at cost:				
Relocatable modular buildings	1,345,919	1,291,093	1,398,475	1,291,093
Portable storage containers	240,517	236,123	242,107	236,123
Electronic test equipment	370,641	377,587	368,324	377,587
	1,957,077	1,904,803	2,008,906	1,904,803
Less: accumulated depreciation	(588,535)	(575,480)	(601,584)	(575,480)
Rental equipment, net	1,368,542	1,329,323	1,407,322	1,329,323
Property, plant and equipment, net	189,166	169,114	191,801	169,114
Inventories	24,548	15,425	28,213	15,425
Prepaid expenses and other assets	82,066	87,364	81,547	87,364
Intangible assets, net	62,020	64,588	59,453	64,588
Goodwill	323,224	323,224	323,224	323,224
Total assets	\$ 2,263,428	\$ 2,217,283	\$ 2,318,335	\$ 2,217,283
<b><u>Liabilities and Shareholders' Equity</u></b>				
Liabilities:				
Notes payable	\$ 798,561	\$ 762,975	\$ 794,271	\$ 762,975
Accounts payable	57,162	58,760	73,132	58,760
Accrued liabilities	95,725	108,763	108,928	108,763
Deferred income	122,696	111,428	134,624	111,428
Deferred income taxes, net	246,264	241,555	253,147	241,555
Total liabilities	1,320,408	1,283,481	1,364,102	1,283,481
Shareholders' equity:				
Common stock, no par value - Authorized 40,000 shares				

Issued and outstanding - 24,541 shares as of March 31, 2024 and 24,496 shares as of December 31, 2023	109,249	111,122		
Issued and outstanding - 24,550 shares as of June 30, 2024 and 24,496 shares as of December 31, 2023	111,596	111,122		
Retained earnings	833,820	822,796	842,675	822,796
Accumulated other comprehensive loss	(49)	(116)	(38)	(116)
Total shareholders' equity	943,020	933,802	954,233	933,802
Total liabilities and shareholders' equity	\$ 2,263,428	\$ 2,217,283	\$ 2,318,335	\$ 2,217,283

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

**MCGRATH RENTCORP**  
**CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**(UNAUDITED)**

	Accumulated					Accumulated				
	Common Stock		Retained	Other	Total	Common Stock		Retained	Other	Total
	Shares	Amount	Earnings	Comprehensive Income (Loss)	Shareholders' Equity	Shares	Amount	Earnings	Comprehensive Income (Loss)	Shareholders' Equity
(in thousands, except per share amounts)										
<b>Balance at December 31, 2023</b>	24,496	\$ 111,122	\$ 822,796	\$ (116)	933,802	24,496	\$ 111,122	\$ 822,796	\$ (116)	933,802
Net income	—	—	22,848	—	22,848	—	—	22,848	—	22,848
Share-based compensation	—	2,209	—	—	2,209	—	2,209	—	—	2,209
Common stock issued under stock plans, net of shares withheld for employee taxes	45	—	—	—	—	45	—	—	—	—



Taxes paid related to net share settlement of stock awards	—	(4,082)	—	—	(4,082)	—	(4,082)	—	—	(4,082)
Dividends accrued of \$0.475 per share	—	—	(11,824)	—	(11,824)	—	—	(11,824)	—	(11,824)
Other comprehensive income	—	—	—	67	67	—	—	—	67	67
<b>Balance at March 31, 2024</b>	<b>24,541</b>	<b>\$ 109,249</b>	<b>\$ 833,820</b>	<b>\$ (49)</b>	<b>\$ 943,020</b>	<b>24,541</b>	<b>\$ 109,249</b>	<b>\$ 833,820</b>	<b>\$ (49)</b>	<b>\$ 943,020</b>
Net income	—	—	20,618	—	20,618					
Share-based compensation	—	2,347	—	—	2,347					
Common stock issued under stock plans, net of shares withheld for employee taxes	9	—	—	—	—					
Dividends accrued of \$0.475 per share	—	—	(11,763)	—	(11,763)					
Other comprehensive income	—	—	—	11	11					
<b>Balance at June 30, 2024</b>	<b>24,550</b>	<b>\$ 111,596</b>	<b>\$ 842,675</b>	<b>\$ (38)</b>	<b>\$ 954,233</b>					

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

(in thousands, except per share amounts)	Accumulated					Accumulated				
	Common Stock		Retained	Other Comprehensive	Total Shareholders'	Common Stock		Retained	Other Comprehensive	Total Shareholders'
	Shares	Amount	Earnings	Income (Loss)	Equity	Shares	Amount	Earnings	Income (Loss)	Equity
<b>Balance at December 31, 2022</b>	<b>24,388</b>	<b>\$ 110,080</b>	<b>\$ 693,943</b>	<b>\$ (78)</b>	<b>\$ 803,945</b>	<b>24,388</b>	<b>\$ 110,080</b>	<b>\$ 693,943</b>	<b>\$ (78)</b>	<b>\$ 803,945</b>

Net income	—	—	71,657	—	71,657	—	—	71,657	—	71,657
Share-based compensation	—	1,493	—	—	1,493	—	1,493	—	—	1,493
Common stock issued under stock plans, net of shares withheld for employee taxes	78	—	—	—	—	78	—	—	—	—
Taxes paid related to net share settlement of stock awards	—	(6,086)	—	—	(6,086)	—	(6,086)	—	—	(6,086)
Dividends accrued of \$0.465 per share	—	—	(11,453)	—	(11,453)	—	—	(11,453)	—	(11,453)
Other comprehensive loss	—	—	—	(18)	(18)	—	—	—	(18)	(18)
<b>Balance at March 31, 2023</b>	<b>24,466</b>	<b>\$ 105,487</b>	<b>\$ 754,147</b>	<b>\$ (96)</b>	<b>\$ 859,538</b>	<b>24,466</b>	<b>\$ 105,487</b>	<b>\$ 754,147</b>	<b>\$ (96)</b>	<b>\$ 859,538</b>
Net income	—	—	30,582	—	30,582					
Share-based compensation	—	1,889	—	—	1,889					
Common stock issued under stock plans, net of shares withheld for employee taxes	19	—	—	—	—					
Taxes paid related to net share settlement of stock awards	—	(14)	—	—	(14)					
Dividends accrued of \$0.465 per share	—	—	(11,469)	—	(11,469)					

Other comprehensive income	—	—	—	43	43
<b>Balance at June 30, 2023</b>	24,485	\$ 107,362	\$ 773,260	\$ (53)	\$ 880,569

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

**MCGRATH RENTCORP**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(UNAUDITED)**

	Three Months Ended March 31,		Six Months Ended June 30,	
	2024	2023	2024	2023
<i>(in thousands)</i>				
<b>Cash Flows from Operating Activities:</b>				
Net income	\$ 22,848	\$ 71,657	\$ 43,466	\$ 102,239
Adjustments to reconcile net income to net cash provided by operating activities:				
Depreciation and amortization	27,187	27,590	54,131	54,958
Deferred income taxes	4,709	(45,496)	11,592	(39,486)
Provision for credit losses	253	744	873	1,400
Share-based compensation	2,209	1,493	4,556	3,382
Gain on sale of property, plant and equipment	(9,281)	—	(9,281)	—
Gain on sale of discontinued operations	—	(58,883)	—	(61,513)
Gain on sale of used rental equipment	(7,355)	(3,089)	(15,537)	(14,250)
Foreign currency exchange loss (gain)	132	(226)	163	(208)
Amortization of debt issuance costs	2	2	4	4
Change in:				
Accounts receivable	15,165	16,209	9,116	(1,116)
Inventories	(9,123)	(5,313)	(12,788)	(6,594)
Prepaid expenses and other assets	5,298	(2,032)	5,817	(1,910)
Accounts payable	9,145	31,559	23,155	19,209
Accrued liabilities	(13,037)	(1,722)	166	6,046
Deferred income	11,268	3,218	23,196	9,290
Net cash provided by operating activities	59,420	35,711	138,629	71,451
<b>Cash Flows from Investing Activities:</b>				
Proceeds from sale of discontinued operations	—	262,454	—	268,012

Purchases of rental equipment	(78,641)	(77,731)	(145,345)	(128,088)
Purchases of property, plant and equipment	(25,277)	(6,857)	(30,125)	(11,229)
Cash paid for acquisition of businesses	—	(453,592)	—	(456,312)
Proceeds from sales of used rental equipment	13,554	12,197	29,334	27,410
Proceeds from sales of property, plant and equipment	12,251	—	12,251	—
Net cash used in investing activities	(78,113)	(263,529)	(133,885)	(300,207)
<b>Cash Flows from Financing Activities:</b>				
Net borrowings under bank lines of credit	35,584	245,033		
Net (payments) borrowings under bank lines of credit	(43,708)	258,885		
Borrowings under term note agreement	75,000	—		
Taxes paid related to net share settlement of stock awards	(4,082)	(6,086)	(4,082)	(6,100)
Payment of dividends	(11,774)	(11,400)	(23,435)	(22,782)
Net cash provided by financing activities	19,728	227,547	3,775	230,003
Effect of foreign currency exchange rate changes on cash	—	4	—	1
Net increase (decrease) in cash	1,035	(267)		
Net increase in cash	8,519	1,248		
Cash balance, beginning of period	877	957	877	957
Cash balance, end of period	\$ 1,912	\$ 690	\$ 9,396	\$ 2,205
<b>Supplemental Disclosure of Cash Flow Information:</b>				
Interest paid, during the period	\$ 14,184	\$ 7,817	\$ 26,394	\$ 16,802
Net income taxes paid, during the period	\$ 479	\$ 413		
Net income taxes (refunded) paid, during the period	\$ (4,599)	\$ 6,931		
Dividends accrued during the period, not yet paid	\$ 12,060	\$ 11,851	\$ 12,150	\$ 11,937
Rental equipment acquisitions, not yet paid	\$ 5,795	\$ 5,697	\$ 7,634	\$ 7,612

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

## NOTE 1. CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The condensed consolidated financial statements for the three six months ended March 31, 2024 June 30, 2024 and 2023 have not been audited, but in the opinion of management, all adjustments (consisting of normal recurring accruals, consolidating and eliminating entries) necessary for the fair presentation of the consolidated financial position, results of operations and cash flows of McGrath RentCorp (the "Company") have been made. The accompanying unaudited condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). Certain information and note disclosures normally included in annual financial statements prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") have been condensed or omitted pursuant to those rules and regulations. The consolidated results for the three and six months ended March 31, 2024 June 30, 2024, should not be considered as necessarily indicative of the consolidated results for the entire fiscal year. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's latest Annual Report on Form 10-K, filed with the SEC on February 21, 2024 for the year ended December 31, 2023 (the "2023 Annual Report").

### Agreement and Plan of Merger with WillScot Mobile Mini Holdings Corp.

On January 28, 2024, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement"), with WillScot Mobile Mini Holdings Corp., a Delaware corporation ("WillScot Mobile Mini"), Brunello Merger Sub I, Inc., a California corporation and a direct wholly owned subsidiary of WillScot Mobile Mini ("Merger Sub I"), and Brunello Merger Sub II, LLC, a Delaware limited liability company and direct wholly owned subsidiary of WillScot Mobile Mini ("Merger Sub II"). The Merger Agreement provides that, upon the terms and subject to the conditions set forth therein, Merger Sub I will merge with and into the Company (the "First-Step Merger"), with the Company surviving the First-Step Merger and, immediately thereafter, the Company will merge with and into Merger Sub II (the "Second-Step Merger" and together with the First-Step Merger, the "Transaction"), with Merger Sub II surviving the Second-Step Merger as a wholly owned subsidiary of WillScot Mobile Mini. Each of the parties to the Merger Agreement intends that the Transaction will be treated as a single integrated transaction that qualifies as a "reorganization" within the meaning of Section 368(a) of the U.S. Internal Revenue Code of 1986, as amended. Consummation of the Transaction is subject to the approval of the Company's shareholders, the receipt of required regulatory approvals, and satisfaction or waiver of other customary closing conditions. The First-Step Merger and the Second-Step Merger will be consummated on the same day.

On the terms and subject to the conditions set forth in the Merger Agreement, at the effective time of the First-Step Merger (the "Effective Time"), each share of common stock, no par value, of the Company (the "Company Common Stock") issued and outstanding immediately prior to the Effective Time, other than shares of Company Common Stock owned by WillScot Mobile Mini or any subsidiary of WillScot Mobile Mini or the Company, and shares held by shareholders who did not vote in favor of the Transaction (or consent thereto in writing) and who are entitled to demand and properly demands appraisal of such shares, will be automatically converted into the right to receive either (1) \$123 in cash (the "Per Share Cash Consideration") or (2) 2.8211 (the "Exchange Ratio") shares of validly issued, fully paid and nonassessable shares of common stock, par value \$0.0001, of WillScot Mobile Mini (the "WillScot Mobile Mini Common Stock") (the "Per Share Stock Consideration" together with the Per Share Cash Consideration, the "Merger Consideration"), as determined pursuant to the election and allocation procedures in the Merger Agreement. The Company's shareholders will have the opportunity to elect to receive either the Per Share Cash Consideration or the Per Share Stock Consideration in respect of their Company Common Stock, provided that 60% of the Company Common Stock will be converted into the cash consideration and 40% of the Company Common Stock will be converted into the stock consideration. Pursuant to the terms of the Merger Agreement, the closing of the Merger Agreement is subject to the satisfaction of customary closing conditions, including adoption of the Merger Agreement by the Company's shareholders, which was approved by the Company's shareholders on July 11, 2024, and receipt of regulatory approvals. The closing of the Transaction is not subject to any financing condition.

## NOTE 2. NEW ACCOUNTING PRONOUNCEMENTS

In December 2023, the FASB issued Accounting Standards Update ("ASU") 2023-09, *Income Taxes—Improvements to Income Tax Disclosures* (Topic 740), which will require Companies to disclose annually the specific categories in income tax rate reconciliations, provide additional information for reconciling items which meet a quantitative threshold, and disaggregate domestic and foreign income or loss from continuing operations. Additionally, this ASU will also require the disclosure of income tax expense or benefit from continuing operations disaggregated by federal, state and foreign. This ASU is effective for fiscal years beginning after December 15, 2024, and applied on a prospective basis. The Company is in the process of evaluating the financial statement impact of this ASU.

In November 2023, the FASB issued Accounting Standards Update ("ASU") 2023-07, *Segment Reporting—Improvements to Reportable Segment Disclosures* (Topic 280), which will require public companies to provide more transparency in both quarterly and

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annual reports about the expenses they incur from revenue generating reportable business segments. In addition, the ASU requires that a public entity disclose significant segment expenses that are regularly provided to the chief operating decision maker, an amount for other segment items by reportable business segment, including a description of its composition, and the primary measures of a business segment's profit or loss in assessing segment performance. This ASU is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. The Company is in the process of evaluating the financial statement impact of this ASU.

#### **NOTE 3. IMPLEMENTED ACCOUNTING PRONOUNCEMENTS**

Effective January 1, 2024, the Company adopted the Accounting Standards Update ("ASU") 2023-01, *Leases* (Topic 842): Common Control Arrangements, which requires a lessee involved in a common control lease agreement to amortize leasehold improvements over the useful life of the improvements to the common control group, regardless of the lease term, as long as the lessee controls the use of the underlying asset. If the lessor obtains the right to control the use of the underlying asset through a lease with another entity not within the same control group, the amortization period cannot exceed the period of the common control group. Furthermore, the ASU requires the accounting for a transfer between entities under common control through an adjustment to equity when the lessee no longer controls the use of the underlying asset. The adoption of this new guidance did not have a material impact on the Company's consolidated financial statements.

#### **NOTE 4. ACQUISITIONS**

On February 1, 2023, the Company completed the acquisition of Vesta Housing Solutions Holdings, Inc. ("Vesta Modular"), a portfolio company of Kinderhook Industries, for \$437.2 million cash consideration on the closing date, which included certain adjustments, including net working capital and certain qualified capital expenditures. In connection with the acquisition, the Company purchased a representation and warranty insurance policy to provide certain recourse in the event of breaches of representations and warranties of Vesta Modular and the seller of Vesta Modular under the stock purchase agreement. Vesta Modular was a leading provider of temporary and permanent modular space solutions serving customers between its modular leasing and modular construction divisions. The acquisition was accounted for as a purchase of a "business" in accordance with criteria in Accounting Standards Codification ("ASC") 805, *Business Combinations*, using the purchase method of accounting. Under the purchase method of accounting, the total purchase price is assigned to tangible and identifiable intangible assets acquired and liabilities assumed based on their fair values on the closing date. The excess of the purchase price over those fair values is recorded as goodwill. The financial results of Vesta Modular were a part of the Mobile Modular segment since February 1, 2023, including \$7.7 million of acquisition related transaction costs.

On March 1, 2023, the Company completed the acquisition of Jerald R. Brekke, Inc., DBA Brekke Storage ("Brekke Storage"), for a total purchase price of \$16.4 million. Brekke Storage was a regional provider of portable storage solutions in the Colorado market. The acquisition expanded the Portable Storage fleet by approximately 2,700 units and provided a new regional operation to serve the Colorado market. The acquisition was accounted for as a purchase of a "business" in accordance with criteria in ASC 805 using the purchase method of accounting. The financial results of Brekke Storage were a part of the Portable Storage segment since March 1, 2023, including \$0.2 million of transaction costs.

On April 1, 2023, the Company completed the acquisition of Dixie Temporary Storage, LLC ("Dixie Storage"), for a purchase price of \$4.9 million. Dixie Storage was a regional provider of portable storage solutions in the South Carolina market and is highly complementary to the Company's Portable Storage business segment. The acquisition was accounted for as a purchase of a "business" in accordance with criteria in ASC 805 using the purchase method of accounting. The financial results of Dixie Storage were a part of the Portable Storage segment since April 1, 2023, including \$0.1 million of transaction costs.

On July 1, 2023, the Company completed the purchase of assets of Inland Leasing and Storage, LLC ("Inland Leasing"), for a purchase price of \$3.8 million. Inland Leasing was a regional provider of portable storage solutions in the Colorado market and is highly complementary to the Company's Portable Storage business segment. The acquisition was accounted for as a purchase of "assets" in accordance with criteria in ASC 805 and the assessment of the fair value of the purchased assets was allocated primarily to rental equipment totaling \$3.0 million and intangible assets totaling \$0.7 million. Supplemental pro forma information has not been provided as the historical financial results of Inland Leasing were not significant. Incremental transaction costs associated with the asset purchase were not significant.

The following tables summarize the purchase price allocations reflecting estimated fair values of assets acquired and liabilities assumed in the Vesta Modular, Brekke Storage and Dixie Storage business acquisitions, with excess amounts allocated to goodwill. The estimated fair values of the assets acquired and liabilities assumed at the acquisition date are determined based on preliminary valuations and analyses. Accordingly, the Company has made provisional estimates for the assets acquired and liabilities assumed. The valuation of intangible assets acquired is based on certain valuation assumptions including cash flow projections, discount rates, contributory asset

10

charges and other valuation model inputs. The valuation of tangible long-lived assets acquired is dependent upon various analyses including an analysis of the condition and estimated remaining economic lives of the assets acquired.

#### **Vesta Modular:**

*(dollar amounts in thousands)*

Rental equipment	\$	212,639
Intangible assets:		
Goodwill		211,178
Customer relationships		29,900
Non-compete		7,100
Trade name		800
Cash		11

Accounts receivable	22,666
Property, plant and equipment	1,437
Prepaid expenses and other assets	3,550
Accounts payable and accrued liabilities	(26,202)
Deferred income	(14,273)
Deferred income taxes	(11,596)
Total purchase price	\$ 437,210

#### **Brekke Storage:**

*(dollar amounts in thousands)*

Rental equipment	\$ 10,798
Intangible assets:	
Goodwill	4,083
Customer relationships	949
Non-compete	59
Property, plant and equipment	875
Deferred income	(382)
Total purchase price	\$ 16,382

#### **Dixie Storage:**

*(dollar amounts in thousands)*

Rental equipment	\$ 2,758
Intangible assets:	
Goodwill	1,555
Customer relationships	259
Non-compete	22
Property, plant and equipment	318
Deferred income	(161)
Total purchase price	\$ 4,751

The value assigned to identifiable intangible assets was determined based on discounted estimated future cash flows associated with such assets to their present value. The combined acquired goodwill of \$216.8 million reflects the strategic fit of Vesta Modular, Brekke Storage and Dixie Storage with the Company's modular and portable storage business operations. The Company amortizes the acquired customer relationships over their expected useful lives of 11 years for Vesta Modular, 8 years for Brekke Storage and 9 years for Dixie Storage. The expected useful life for the non-compete agreements is 5 years. The trade name intangible acquired from the Vesta Modular acquisition will be amortized over ~~its~~ **its** useful life of nine months. Goodwill is expected to have an indefinite life and will be subject to future impairment testing. The goodwill is deductible for tax purposes over 15 years.

The following table reports the actual results of the Company for the ~~three~~ **six** months ended ~~March 31, 2024~~ **June 30, 2024**, and the unaudited pro forma financial information for the ~~three~~ **six** months ended ~~March 31, 2023~~ **June 30, 2023**. The pro forma financial information shows the combined results of continuing operations of the Company and Vesta Modular as if the acquisition occurred as of the beginning of the period presented. The pro forma results include the effects of the amortization of the purchased intangible assets and depreciation expense of acquired rental equipment valuation step up, interest expense on the debt incurred to finance the acquisitions. A pro forma adjustment has been



made to reflect the income taxes that would have been recorded at the combined federal and state statutory rate of 26.5% on the acquisitions' combined net income. The pro forma results for the three six months ended March 31, 2023 June 30, 2023, have been adjusted to include

11

transaction related costs. This pro forma data is presented for informational purposes only and does not purport to be indicative of the results of the future operations or the results that would have occurred had the acquisitions taken place in the periods noted below:

	(Unaudited)		(Unaudited)	
	Three months ended March 31,		Six months ended June 30,	
	2024	2023	2024	2023
(dollar amounts in thousands, except for per share amounts)	(Actual)	(Pro Forma)	(Actual)	(Pro Forma)
Pro-forma total revenues	\$ 187,827	\$ 171,361	\$ 400,438	\$ 374,391
Pro-forma net income	\$ 22,848	\$ 11,222	\$ 43,466	\$ 39,174
Pro-forma basic earnings per share	\$ 0.93	\$ 0.46	\$ 1.77	\$ 1.60
Pro-forma diluted earnings per share	\$ 0.93	\$ 0.46	\$ 1.77	\$ 1.60
<b>Vesta Modular</b>				
Actual total revenues		\$ 17,584		\$ 47,257
Actual net income		\$ 3,679		\$ 9,016
Actual basic earnings per share		\$ 0.15		\$ 0.37
Actual diluted earnings per share		\$ 0.15		\$ 0.37

## NOTE 5. DISCONTINUED OPERATIONS

On February 1, 2023, the Company completed the sale of Adler Tank Rentals, LLC to Ironclad Environmental Solutions, Inc. ("Ironclad"), a portfolio company of Kinderhook Industries, for a sale price of \$268.0 million. The total transaction costs incurred from the divestiture were \$8.8 million, with \$6.7 million and \$2.1 million incurred during the years ended December 31, 2023 and 2022, respectively. The divestiture of the Company's Adler Tanks business represents the Company's strategic shift to concentrate its operations on its core modular and storage businesses. The sale price was subject to certain adjustments, including net working capital, certain qualified capital expenditures and certain transaction expenses to be borne by the Company. In connection with the sale, the Company entered into a number of ancillary agreements, including an escrow agreement associated with net working capital adjustments, a restricted covenant agreement, a transition services agreement, and a number of leases whereby Ironclad or one of its affiliates would be a lessee to certain properties owned by the Company that the Adler Tanks business would continue to utilize after the sale. These ancillary agreements do not provide for continued involvement by the Company in Adler Tanks. In accordance with ASC 205-20, Presentation of Financial Statements - Discontinued Operations and ASC 360, Property, Plant and Equipment, the Company determined that the criteria for the presentation of discontinued operations and held-for-sale, respectively, were met during the first quarter of 2023.

The following table presents the results of Adler Tanks as reported in income from discontinued operations within the condensed consolidated statements of income for the three six months ended March 31, 2023 June 30, 2023:

12

	Three Months Ended	Six Months Ended June 30,
	March 31,	2023
	2023	2023
<i>(dollar amounts in thousands)</i>		
<b><u>Revenues</u></b>		
Rental	\$ 6,520	\$ 6,520
Rental related services	2,584	2,584
Rental operations	9,104	9,104
Sales	269	269
Other	65	65
Total revenues	9,438	9,438
<b><u>Costs and Expenses</u></b>		
Direct costs of rental operations:		
Depreciation of rental equipment	1,325	1,325
Rental related services	2,020	2,020
Other	1,270	1,270
Total direct costs of rental operations	4,614	4,614
Costs of sales	159	159
Total costs of revenues	4,773	4,773
<b><u>Gross Profit</u></b>		
Rental	3,926	3,926
Rental related services	564	564
Rental operations	4,490	4,490
Sales	110	110
Other	65	65
Total gross profit	4,665	4,665
<b>Expenses:</b>		
Selling and administrative expenses	2,582	2,583
<b>Operating income</b>	2,083	
Income from operations	2,082	
Interest expense allocation	(374)	374
Income from discontinued operations before provision for income taxes	1,709	1,709
Provision for income taxes from discontinued operations	453	453

Income from discontinued operations

\$	1,256	\$	1,256
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The following table presents the carrying value of the divested business' assets and liabilities as presented within assets and liabilities of discontinued operations on the consolidated balance sheets as of December 31, 2022, which was the most recently audited period prior to divestiture:

	December 31,
	2022
<i>(in thousands)</i>	
<b>Assets</b>	
Accounts receivable, net of allowance for credit losses of \$450	\$ 20,086
Rental equipment, net	137,738
Property, plant and equipment, net	6,632
Prepaid expenses and other assets	191
Intangible assets, net	5,700
Goodwill	25,902
Total assets of discontinued operations	\$ 196,249
<b>Liabilities</b>	
Accounts payable and accrued liabilities	\$ 9,621
Deferred income taxes, net	43,550
Total liabilities of discontinued operations	\$ 53,171

For the **three** **six** months ended **March 31, 2023** **June 30, 2023**, significant operating and investing items related to Adler Tanks were as follows:

13

	March 31,	June 30,
	2023	2023
<i>(in thousands)</i>		
Operating activities of discontinued operations:		
Depreciation and amortization	\$ 1,457	\$ 1,457
Gain on sale of used rental equipment	(111)	(111)
Investing activities of discontinued operations:		
Proceeds from sales of used rental equipment	269	269
Purchases of rental equipment	(25)	(25)
Purchases of property, plant and equipment	(40)	(40)

The following table presents the reconciliation of income from discontinued operations to Adjusted EBITDA for the **three** **six** months ended **March 31, 2023** **June 30, 2023**:

	March 31, 2023	June 30, 2023
<i>(in thousands)</i>		
Income from discontinued operations	\$ 1,256	\$ 1,256
Provision for income taxes from discontinued operations	453	453
Interest expense	374	374
Depreciation and amortization	1,457	1,457
EBITDA	3,540	3,540
Share-based compensation	118	118
Transaction costs	24	24
Adjusted EBITDA from discontinued operations	\$ 3,682	\$ 3,682

## NOTE 6. REVENUE RECOGNITION

The Company's accounting for revenues is governed by two accounting standards. The majority of the Company's revenues are considered lease or lease related and are accounted for in accordance with Accounting Standards Codification 842, *Leases* (Topic 842). Revenues determined to be non-lease related are accounted for in accordance with ASC 606, *Revenue from Contracts with Customers* (Topic 606). The Company accounts for revenues when approval and commitment from both parties have been obtained, the rights of the parties are identified, payment terms are identified, the contract has commercial substance and collectability of consideration is probable. The Company typically recognizes non-lease related revenues at a point in time because the customer does not simultaneously consume the benefits of the Company's promised goods and services, or performance obligations, and obtains control when delivery and installation are complete. For contracts that have multiple performance obligations, the transaction price is allocated to each performance obligation in the contract based on the Company's best estimate of the standalone selling prices of each distinct performance obligation in the contract. The standalone selling price is typically determined based upon the expected cost plus an estimated margin of each performance obligation.

Revenue from contracts that satisfy the criteria for over time recognition are recognized as work is performed by using the ratio of costs incurred to estimated total contract costs for each contract. The majority of revenue for these contracts is derived from long-term projects which typically span multiple quarters. The timing of revenue recognition, billings, and cash collections results in billed contract receivables and contract assets on the Company's Consolidated Balance Sheets. In the Company's contracts, amounts are billed as work progresses in accordance with agreed-upon contractual terms, either at periodic intervals or upon achievement of contractual milestones. Billings can occur subsequent to revenue recognition, resulting in contract assets, or in advance, resulting in contract liabilities. These contract assets and liabilities are reported on the Consolidated Balance Sheets on a contract-by-contract basis at the end of each reporting period. The contract liabilities included in Deferred income on the Company's Consolidated Balance Sheets totaled \$54.3 **65.8** million and \$40.7 million at **March 31, 2024** **June 30, 2024** and December 31, 2023, respectively. Sales revenues totaling \$9.7 **7.7** million and \$17.4 million were recognized during the three **and six** months ended **March 31, 2024** **June 30, 2024**, respectively, which were included in the contract liability balance at December 31, 2023. For certain modular building sales, the customer retains a small portion of the contract price until full completion of the contract, or revenue is recognizable prior to customer billing, which results in revenue earned in excess of billings. These unbilled contract assets are included in Accounts receivable on the Company's Consolidated Balance Sheets and totaled \$8.4 **9.6** million and \$8.7 million at **March 31, 2024** **June 30, 2024** and December 31, 2023, respectively. The Company did not recognize any material contract asset impairments during the periods ended **March 31, 2024** **June 30, 2024** and December 31, 2023, respectively.

The Company's uncompleted contracts with customers which meet the criteria for over-time revenue recognition have unsatisfied or partially satisfied performance obligations. As of March 31, 2024 June 30, 2024, approximately \$50.3 51.7 million of revenue is expected to be recognized for unsatisfied or partially satisfied obligations. The Company expects to recognize revenue for approximately one half of these

14

these unsatisfied or partially satisfied performance obligations over the next 12 months, with the remaining balance recognized thereafter. For the three and six months ended March 31, 2024 June 30, 2024, approximately \$40.2 61.8 million and \$102.0 million of revenue was recognized for sales and non-lease services transferred at a point in time, respectively, and approximately \$7.5 4.2 million and \$11.6 million of revenue was recognized for sales and non-lease services transferred over time. time, respectively.

The Company generally rents and sells to customers on 30 day payment terms. The Company does not typically offer variable payment terms or accept non-monetary consideration. Amounts billed and due from the Company's customers are classified as Accounts receivable on the Company's consolidated balance sheet. For certain sales of modular buildings, progress payments from the customer are received during the manufacturing of new equipment, or the preparation of used equipment. The advance payments are not considered a significant financing component because the payments are used to meet working capital needs during the contract and to protect the Company from the customer failing to adequately complete their obligations under the contract.

#### Lease Revenues

Rental revenues from operating leases are recognized on a straight-line basis over the term of the lease for all operating segments. Rental billings for periods extending beyond period end are recorded as deferred income and are recognized in the period earned. Rental related services revenues are primarily associated with relocatable modular buildings. For modular building leases, rental related services revenues for modifications, delivery, installation, dismantle and return delivery are lease related because the payments are considered minimum lease payments that are an integral part of the negotiated lease agreement with the customer. These revenues are recognized on a straight-line basis over the term of the lease. Certain leases are accounted for as finance leases. For these leases, sales revenue and the related accounts receivable are recognized upon delivery and installation of the equipment and the unearned interest is recognized over the lease term on a basis which results in a constant rate of return on the unrecovered lease investment. As of the three six months ended March 31, 2024 June 30, 2024, the Company's future minimum lease payments to be received under non-cancelable finance leases were \$3.2 2.7 million. Of the total investment in sales-type leases, non-current future minimum lease payments are expected to be \$0.8 1.9 million in 2025, \$0.4 0.6 million in 2026, and \$0.1 0.2 million in 2027. The Company's assessment of current expected losses on these receivables was not material and therefore no credit loss expense was provided as of the three six months ended March 31, 2024 June 30, 2024. Other revenues include interest income on finance leases and rental income on facility leases.

In the three and six months ended March 31, 2024 June 30, 2024, the Company's lease revenues were \$140.2 146.6 million and \$286.8 million, respectively, consisting of \$139.8 145.9 million and \$285.7 million of operating lease revenues, respectively, and \$0.4 0.7 million and \$1.1 million of finance lease revenues. revenues, respectively. The Company has entered into finance leases to finance certain equipment sales to customers. The lease agreements have a bargain purchase option at the end of the lease term. For these leases, sales revenue and the related accounts receivable are recognized upon delivery and installation of the equipment and the unearned interest is recognized over the lease term on a straight-line basis, which results in a constant rate of return on the unrecovered lease investment. The Company's finance lease revenues for the three and six months ended March 31, 2024 June 30, 2024 include \$0.3 0.6 million and \$0.9 million of sales revenues, respectively, and \$0.1 million and \$0.2 million of interest income. income, respectively.

## Non-Lease Revenues

Non-lease revenues are recognized in the period when control of the performance obligation is transferred, in an amount that reflects the consideration the Company expects to be entitled to receive in exchange for those goods or services. For portable storage containers and electronic test equipment, rental related services revenues for delivery and return delivery are considered non-lease revenues.

Sales revenues are typically recognized at a point in time, which occurs upon the completion of delivery, installation and acceptance of the equipment by the customer. Accounting for non-lease revenues requires judgment in determining the point in time the customer gains control of the equipment and the appropriate accounting period to recognize revenue.

Sales taxes charged to customers are reported on a net basis and are excluded from revenues and expenses.

15

The following table disaggregates the Company's revenues by lease (within the scope of Topic 842) and non-lease revenues (within the scope of Topic 606) and the underlying service provided for the three and six months ended **March 31, 2024**, **June 30, 2024** and 2023:

<i>(in thousands)</i>	Mobile Modular	Portable Storage	TRS- RenTelco	Enviroplex	Consolidated	Mobile Modular	Portable Storage	TRS- RenTelco	Enviroplex	Consolidated
<b>Three Months Ended March 31,</b>										
<b>Three Months Ended June 30,</b>										
<b>2024</b>										
Leasing	\$ 94,890	\$ 19,030	\$ 26,245	\$ —	\$ 140,165	\$ 101,864	\$ 18,366	\$ 26,411	\$ —	\$ 146,641
Non-lease:										
Rental related										
services	4,272	4,391	623	—	9,286	6,727	4,347	709	—	11,783
Sales	25,326	1,212	6,539	1,719	34,796	35,930	1,266	5,218	11,373	53,787
Other	3,097	127	356	—	3,580	25	43	332	—	400
Total non-lease	32,695	5,730	7,518	1,719	47,662	42,682	5,656	6,259	11,373	65,970
Total revenues	\$ 127,585	\$ 24,760	\$ 33,763	\$ 1,719	\$ 187,827	\$ 144,546	\$ 24,022	\$ 32,670	\$ 11,373	\$ 212,611
<b>2023</b>										
Leasing	\$ 82,003	\$ 17,656	\$ 30,322	\$ —	\$ 129,981	\$ 91,123	\$ 19,296	\$ 30,337	\$ —	\$ 140,756
Non-lease:										
Rental related										
services	4,550	4,424	726	—	9,700	8,919	4,989	563	—	14,471
Sales	16,967	638	4,623	941	23,169	38,247	1,109	6,581	923	46,860

Other	407	12	449	—	868	549	30	364	—	943
Total non-lease	21,924	5,074	5,798	941	33,737	47,715	6,128	7,508	923	62,274
Total revenues	\$ 103,927	\$ 22,730	\$ 36,120	\$ 941	\$ 163,718	\$ 138,838	\$ 25,424	\$ 37,845	\$ 923	\$ 203,030

#### **Six Months Ended**

#### **June 30,**

#### **2024**

Leasing \$ 196,754 \$ 37,395 \$ 52,656 \$ — \$ 286,805

#### **Non-lease:**

##### **Rental related**

services 10,999 8,738 1,332 — 21,069

Sales 61,256 2,478 11,757 13,092 88,583

Other 3,122 171 688 — 3,981

Total non-lease 75,377 11,387 13,777 13,092 113,633

Total revenues \$ 272,131 \$ 48,782 \$ 66,433 \$ 13,092 \$ 400,438

#### **2023**

Leasing \$ 173,127 \$ 36,951 \$ 60,677 \$ — \$ 270,755

#### **Non-lease:**

##### **Rental related**

services 13,469 9,413 1,289 — 24,171

Sales 55,214 1,747 11,204 1,864 70,029

Other 943 55 795 — 1,793

Total non-lease 69,626 11,215 13,288 1,864 95,993

Total revenues \$ 242,753 \$ 48,166 \$ 73,965 \$ 1,864 \$ 366,748

Customer returns of rental equipment prior to the end of the rental contract term are typically billed a cancellation fee, which is recorded as rental revenue in the period billed. Sales of new relocatable modular buildings, portable storage containers and electronic test equipment not manufactured by the Company are typically covered by warranties provided by the manufacturer of the products sold. The Company typically provides limited 90-day warranties for certain sales of used rental equipment and one-year warranties on equipment manufactured by Enviroplex. Although the Company's policy is to provide reserves for warranties when required for specific circumstances, warranty costs have not been significant to date.

The Company's incremental cost of obtaining lease contracts, which consists of salesperson commissions, are deferred and amortized over the initial lease term for modular leases. Incremental costs for obtaining a contract for all other operating segments are expensed in the period incurred because the lease term is typically less than 12 months.

#### **Other Income, net**

Other income, net consists of the net gain on sales of property, plant and equipment. These sales are generally recognized at a point in time, with contractually defined performance obligations that are typically transferred upon the closing date of the sale. These

types of sales are infrequent in occurrence and reported on the condensed consolidated statements of income within the scope of ASC 610, *Other Income*. Proceeds to be received from the sale of property, plant and equipment are included in Accounts receivable on the Company's condensed consolidated balance sheets.

16 17

## NOTE 7. EARNINGS PER SHARE

Basic earnings per share ("EPS") is computed as net income divided by the weighted-average number of shares of common stock outstanding for the period. Diluted EPS is computed assuming conversion of all potentially dilutive securities including the dilutive effect of stock options, unvested restricted stock awards and other potentially dilutive securities. The table below presents the weighted-average number of shares of common stock used to calculate basic and diluted earnings per share:

	Three Months Ended March 31,		Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023	2024	2023
<i>(in thousands)</i>						
Weighted-average number of shares of common stock for calculating basic earnings per share	24,513	24,416	24,549	24,479	24,531	24,448
Effect of potentially dilutive securities from equity-based compensation	51	126	11	33	31	79
Weighted-average number of shares of common stock for calculating diluted earnings per share	<u>24,564</u>	<u>24,542</u>	<u>24,560</u>	<u>24,512</u>	<u>24,562</u>	<u>24,527</u>

There were 73,190 and 96,241 697 anti-dilutive securities excluded from the computation of diluted earnings per share for the three six months ended March 31, 2024 June 30, 2024 and 2023, respectively.

The Company has in the past made purchases of shares of its common stock from time to time in over-the-counter market (NASDAQ) transactions, through privately negotiated, large block transactions and through a share repurchase plan, in accordance with Rule 10b5-1 of the Securities Exchange Act of 1934. In August 2015, the Company's Board of Directors authorized the Company to repurchase up to 2,000,000 shares of the Company's outstanding common stock (the "Repurchase Plan"). The amount and time of the specific repurchases are subject to prevailing market conditions, applicable legal requirements and other factors, including management's discretion. All shares repurchased by the Company are canceled and returned to the status of authorized but unissued shares of common stock. There can be no assurance that any



authorized shares will be repurchased, and the Repurchase Plan may be modified, extended or terminated by the Company's Board of Directors at any time. There were no shares repurchased during the three and six months ended **March 31, 2024** **June 30, 2024** and 2023. As of **March 31, 2024** **June 30, 2024**, 1,309,805 shares remained authorized for repurchase under the Repurchase Plan.

#### NOTE 8. INVENTORIES

Inventories consist of raw materials, supplies and work-in-process. Inventories are measured at the lower of actual cost or net realizable value for acquired units and estimated standard costs for manufactured units. The costs include expenditures incurred in acquiring the inventories, manufacturing, production costs, and other costs incurred in bringing them to their existing location and condition. The following table presents the carrying value of inventories:

(dollar amounts in thousands)	March 31,	December 31,	June 30,	December 31,
	2024	2023	2024	2023
Raw materials	\$ 4,987	\$ 3,806	\$ 4,112	\$ 3,806
Work-in-process	19,561	11,619	24,101	11,619
Inventories	<u>\$ 24,548</u>	<u>\$ 15,425</u>	<u>\$ 28,213</u>	<u>\$ 15,425</u>

17 18

#### NOTE 9. GOODWILL AND INTANGIBLE ASSETS

Intangible assets consist of the following:

(dollar amounts in thousands)	Estimated					Estimated	Average			
	useful life	Average remaining		Accumulated	Net book	useful life	remaining life in		Accumulated	Net book
	in years	life in years	Cost	amortization	value	in years	years	Cost	amortization	value
<b>March 31, 2024</b>										
<b>June 30, 2024</b>										
Customer relationships	8 to 11	7.5	\$73,217	\$(19,005)	\$54,212	8 to 11	7.3	\$73,217	\$(21,006)	\$52,211
Non-compete agreements	5	3.5	10,556	(3,669)	6,887	5	3.3	10,556	(4,197)	6,359
Trade name	0.75 to 8	5.0	2,000	(1,250)	750	0.75 to 8	4.8	2,000	(1,288)	712
Total amortizing			85,773	(23,924)	61,849			85,773	(26,491)	59,282
Trade name - non-amortizing	Indefinite		171	—	171	Indefinite		171	—	171
Total			<u>\$85,944</u>	<u>\$(23,924)</u>	<u>\$62,020</u>			<u>\$85,944</u>	<u>\$(26,491)</u>	<u>\$59,453</u>

<b>December 31, 2023</b>										
Customer relationships	8 to 11	7.8	\$73,217	\$(17,003)	\$56,214	8 to 11	7.8	\$73,217	\$(17,003)	\$56,214
Non-compete agreements	5	3.7	10,556	(3,141)	7,415	5	3.7	10,556	(3,141)	7,415
Trade name	0.75 to 8	5.3	2,000	(1,212)	788	0.75 to 8	5.3	2,000	(1,212)	788
Total amortizing			85,773	(21,356)	64,417			85,773	(21,356)	64,417
Trade name - non-amortizing	Indefinite		171	—	171	Indefinite		171	—	171
Total			<u>\$85,944</u>	<u>\$(21,356)</u>	<u>\$64,588</u>			<u>\$85,944</u>	<u>\$(21,356)</u>	<u>\$64,588</u>

The Company assesses potential impairment of its goodwill and intangible assets when there is evidence that events or circumstances have occurred that would indicate the recovery of an asset's carrying value is unlikely. The Company also assesses potential impairment of its goodwill and intangible assets with indefinite lives on an annual basis regardless of whether there is evidence of impairment. If indicators of impairment were to be present in intangible assets used in operations and future discounted cash flows were not expected to be sufficient to recover the asset's carrying amount, an impairment loss would be charged to expense in the period identified. The amount of an impairment loss that would be recognized is the excess of the asset's carrying value over its fair value. Factors the Company considers important, which may cause impairment include, among others, significant changes in the manner of use of the acquired asset, negative industry or economic trends, and significant underperformance relative to historical or projected operating results. The Company last conducted a qualitative analysis of its goodwill and intangible assets in the fourth quarter 2023, with no indicators of impairment. In addition, no impairment triggering events occurred during the **three six** months ended **March 31, 2024** **June 30, 2024**, and there were no changes to the carrying value of goodwill during this period. Determining fair value of a reporting unit is judgmental and involves the use of significant estimates and assumptions. The Company bases its fair value estimates on assumptions that it believes are reasonable but are uncertain and subject to changes in market conditions.

Intangible assets with finite useful lives are amortized over their respective useful lives. Amortization expense in the **three six** months ended **March 31, 2024** **June 30, 2024** and 2023, was **\$2.6 5.1** million and **\$2.3 5.0** million, respectively. Based on the carrying values at **March 31, 2024** **June 30, 2024** and assuming no subsequent impairment of the underlying assets, the amortization expense is expected to be **\$7.7 5.1** million for the remainder of fiscal year 2024, \$10.2 million in 2025, \$9.8 million in 2026, \$9.6 million in 2027, \$8.2 million in 2028 and \$4.7 million in 2029.

**18 19**

## NOTE 10. SEGMENT REPORTING

During the quarter ended December 31, 2023, the Company determined that its Portable Storage business segment met the criteria for separate recognition as defined in the Accounting Standards Codification ("ASC") Topic 280, Segment Reporting. The guidance under this topic requires a public business entity to evaluate both quantitative and qualitative thresholds to determine the significance of a business segment and whether the separate reporting of a business segment enhances the users' understanding of the reporting entity's performance, future net cash flows and judgments. The Company evaluated the guidance within Topic 280 and made its determination to separately report the Portable

Storage segment primarily due to the Company's continued growth in container fleet purchases and related increased revenues and improved profitability performance when compared to previously reported periods. In addition to this determination, the Company also divested its Adler Tanks business segment during the year ended December 31, 2023. Additional information regarding the divestiture of Adler Tanks can be found in Note 5 of the condensed consolidated financial statements.

At **March 31, 2024** **June 30, 2024**, the Company was comprised of four reportable segments: (1) its modular building segment ("Mobile Modular"); (2) its portable storage container segment ("Portable Storage"); (3) its electronic test equipment segment ("TRS-RenTelco"); and (4) its classroom manufacturing segment selling modular buildings used primarily as classrooms in California ("Enviroplex"). The operations of each of these segments are described in Part I – Item 1, "Business," and the accounting policies of the segments are described in "Note 1 – Summary of Significant Accounting Policies" in the Company's 2023 Annual Report. Management focuses on several key measures to evaluate and assess each segment's performance, including rental revenue growth, gross profit and gross margins, income from operations and income before provision for income taxes. Excluding interest expense, allocations of revenue and expense not directly associated with one of these segments are generally allocated to Mobile Modular, Portable Storage and TRS-RenTelco based on their pro-rata share of direct revenues. Interest expense is allocated amongst Mobile Modular, Portable Storage and TRS-RenTelco based on their pro-rata share of average rental equipment at cost, intangible assets, accounts receivable, deferred income and customer security deposits. The Company does not report total assets by business segment. Summarized financial information for the **three** **six** months ended **March 31, 2024** **June 30, 2024** and 2023 for the Company's reportable segments are shown in the following table:

**19** **20**

Total revenues	127,585	24,760	33,763	1,719	187,827	272,131	48,782	66,433	13,092	400,438
Depreciation of rental equipment	9,874	965	11,527	—	22,366	19,870	1,965	22,696	—	44,531
Gross profit	61,845	17,103	13,875	445	93,268	133,131	33,405	26,846	3,301	196,683
Selling and administrative expenses	40,087	9,010	8,918	1,803	59,818	82,354	17,885	17,433	3,517	121,188
Other income	(6,220)	(1,319)	(1,742)	—	(9,281)	(6,220)	(1,319)	(1,742)	—	(9,281)
Income (loss) from operations	27,978	9,412	6,699	(1,358)	42,731	56,999	16,840	11,155	(216)	84,776
Interest (expense) income allocation	(9,799)	(1,420)	(2,062)	577	(12,704)					
Income (loss) before provision for income taxes	18,179	7,992	4,505	(781)	29,895					
Interest expense (income) allocation	19,971	2,867	4,121	(1,218)	25,741					
Income before provision for income taxes	37,028	13,973	6,871	1,002	58,872					
Rental equipment acquisitions	59,263	5,128	3,393	—	67,784	118,300	7,403	10,623	—	136,326
Accounts receivable, net (period end)	166,382	14,117	22,637	8,814	211,950	170,966	12,231	20,333	13,849	217,379
Rental equipment, at cost (period end)	1,345,919	240,517	370,641	—	1,957,077	1,398,475	242,107	368,324	—	2,008,906
Rental equipment, net book value (period end)	1,013,965	220,811	133,766	—	1,368,542	1,058,041	221,486	127,795	—	1,407,322
Utilization (period end) <sup>2</sup>	78.5 %	68.8 %	56.8 %			78.1 %	64.5 %	55.8 %		

Average utilization 2	78.7 %	69.8 %	56.5 %			78.6 %	67.8 %	56.4 %		
<b>2023</b>										
Rental revenues	\$ 64,056	\$ 17,057	\$ 29,134	\$ —	\$ 110,247	\$ 134,826	\$ 35,544	\$ 57,717	\$ —	\$ 228,087
Rental related services revenues	21,534	4,718	880	—	27,132	49,370	10,072	1,547	—	60,989
Sales and other revenues	18,337	955	6,106	941	26,339	58,557	2,550	14,701	1,864	77,672
Total revenues	103,927	22,730	36,120	941	163,718	242,753	48,166	73,965	1,864	366,748
Depreciation of rental equipment	8,657	787	12,389	—	21,833	18,072	1,657	24,701	—	44,430
Gross profit	46,171	15,451	15,620	125	77,367	107,244	32,982	31,503	248	171,977
Selling and administrative expenses	38,456	8,058	9,451	1,533	57,498	69,548	15,262	16,577	3,137	104,524
Other income	—	—	—	—	—	—	—	—	—	—
Income (loss) from operations	7,715	7,393	6,169	(1,408)	19,869	37,696	17,720	14,926	(2,889)	67,453
Interest (expense) income allocation	(5,387)	(884)	(1,742)	549	(7,464)					
Interest expense (income) allocation	12,592	2,126	3,801	(1,110)	17,409					
Income (loss) before provision for income taxes	2,328	6,509	4,653	(859)	12,631	25,104	15,594	11,333	(1,779)	50,252
Rental equipment acquisitions	54,448	7,651	10,112	—	72,211	90,933	14,642	16,906	—	122,481
Accounts receivable, net (period end)	135,104	13,776	24,493	3,633	177,006	144,640	17,287	26,138	3,611	191,676
Rental equipment, at cost (period end)	1,200,869	211,215	401,801	—	1,813,885	1,237,221	220,763	390,832	—	1,848,816

Rental equipment, net book value (period end)	901,090	195,074	171,104	—	1,267,268	928,997	203,781	162,872	—	1,295,650
Utilization (period end) <sup>2</sup>	79.5%	79.8%	59.0%			79.2%	77.0%	58.3%		
Average utilization <sup>2</sup>	79.4%	80.8%	59.2%			79.4%	79.4%	58.7%		

1. Gross Enviroplex sales revenues were \$1,719,13,093 and \$941,1,871 for the three six months ended March 31, 2024 June 30, 2024 and 2023, respectively. There were \$no 2 and \$7 of inter-segment sales to Mobile Modular in the three six months ended March 31, 2024 June 30, 2024 and 2023, respectively, which required elimination in consolidation.
2. Utilization is calculated each month by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding accessory equipment, and new equipment inventory. The Average utilization for the period is calculated using the average costs of rental equipment.

No single customer accounted for more than 10% of total revenues for the three six months ended March 31, 2024 June 30, 2024 and 2023. Revenues from foreign country customers accounted for 2% and 3% of the Company's total revenues for the same periods, respectively.

20

#### NOTE 11. SUBSEQUENT EVENT

On April 23, 2024, the Company entered into a first incremental facility amendment with Bank of America, N.A., as Administrative Agent and the first incremental lender ("BoA") and the guarantors named therein (the "First Incremental Amendment"). The First Incremental Amendment amends the Second Amended and Restated Credit Agreement, dated as of July 15, 2022, as amended, by and among the Company, BoA, the other lenders named therein, and the guarantors named therein (the "Credit Agreement") to institute an incremental term loan "A" facility in an aggregate principal amount of \$75.0 million (the "Incremental Credit Facility"). The proceeds from the Incremental Credit Facility will be used for general corporate purposes. Concurrently with entry into the First Incremental Amendment, the Company repaid revolving loans issued under the Credit Agreement in an aggregate amount equal to \$75.0 million.

21

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

*This Form 10-Q, including the following Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), contains forward-looking statements under federal securities laws. Forward-looking statements are not guarantees of future*

performance and involve a number of risks and uncertainties. Our actual results could differ materially from those indicated by forward-looking statements as a result of various factors. These factors include, but are not limited to, those set forth under this Item, those discussed in Part II—Item 1a, “Risk Factors” and elsewhere in this Form 10-Q and those that may be identified from time to time in our reports and registration statements filed with the SEC.

This discussion should be read in conjunction with the Condensed Consolidated Financial Statements and related Notes included in Part I—Item 1 of this Form 10-Q and the Consolidated Financial Statements and related Notes and the Management’s Discussion and Analysis of Financial Condition and Results of Operations contained in our Annual Report on Form 10-K for the year ended December 31, 2023, as filed with the SEC on February 21, 2024 (the “2023 Annual Report”). In preparing the following MD&A, we presume that readers have access to and have read the MD&A in our 2023 Annual Report, pursuant to Instruction 2 to paragraph (b) of Item 303 of Regulation S-K. We undertake no duty to update any of these forward-looking statements after the date of filing of this Form 10-Q to conform such forward-looking statements to actual results or revised expectations, except as otherwise required by law.

## General

The Company, incorporated in 1979, is a leading rental provider of relocatable modular buildings for classroom and office space and electronic test equipment for general purpose and communications needs. The Company’s primary emphasis is on equipment rentals. The Company is comprised of four reportable business segments: (1) its modular building segment (“Mobile Modular”); (2) its portable storage container segment (“Portable Storage”); (3) its electronic test equipment segment (“TRS-RenTelco”); and (4) its classroom manufacturing business selling modular buildings used primarily as classrooms in California (“Enviroplex”).

In the **three six** months ended **March 31, 2024** **June 30, 2024**, Mobile Modular, Portable Storage, TRS-RenTelco and Enviroplex contributed **61%** **62%**, **27%** **24%**, **15%** **12%** and **negative 3%** **2%** of the Company’s income from continuing operations before provision for taxes (the equivalent of “pretax income”), respectively, compared to **18%** **50%**, **52%** **31%**, **37%** **23%** and negative **7%** **4%** for the same period in 2023.

The Company generates its revenues primarily from the rental of its equipment on operating leases and from sales of equipment occurring in the normal course of business. The Company requires significant capital outlay to purchase its rental inventory and recovers its investment through rental and sales revenues. Rental revenues and certain other service revenues negotiated as part of lease agreements with customers and related costs are recognized on a straight-line basis over the terms of the leases. Sales revenues and related costs are recognized upon delivery and installation of the equipment to customers. Sales revenues are less predictable and can fluctuate from quarter to quarter and year to year depending on customer demands and requirements. Generally, rental revenues less cash operating costs recover the equipment’s capitalized cost in a short period of time relative to the equipment’s potential rental life and when sold, sale proceeds are usually above its net book value.

The Company’s modular revenues (consisting of revenues from Mobile Modular, Kitchens To Go and Enviroplex) are derived from rentals and sales to commercial and education customers. Modular revenues are affected by demand for classrooms, which in turn is affected by shifting and fluctuating school populations, the levels of state funding to public schools, the need for temporary classroom space during reconstruction of older schools and changes in policies regarding class size. As a result of any reduced funding, lower expenditures by these schools may result in certain planned programs to increase the number of classrooms, such as those that the Company provides, to be postponed or terminated. However, reduced expenditures may also result in schools reducing their long-term facility construction projects in favor of using the Company’s modular classroom solutions. At this time, the Company can provide no assurances as to whether public schools will either reduce or increase their demand for the Company’s modular classrooms as a result of fluctuations in state funding of public schools. Looking forward, the Company believes that any interruption in the passage of facility bonds or contraction of class size reduction programs by public schools may have a material adverse effect on both rental and sales revenues of the Company. (For more information, see “Item 1. Business – Relocatable Modular Buildings – Classroom Rentals and Sales to Public Schools (K-12)” in the Company’s 2023 Annual Report and “Item 1a. Risk Factors – Significant reductions of, or delays in, funding to public schools have caused the demand and pricing for our modular classroom units to decline,

which has in the past caused, and may cause in the future, a reduction in our revenues and profitability” in Part II – Other Information of this Form 10-Q.)

Revenues of Portable Storage consists of the rental and sale of steel containers and ground level offices to provide a temporary storage solution that is delivered to the customer's location and addresses the need for secure temporary storage with immediate access to the unit. The portable storage container rental market in the U.S. has a large and diverse number of market segments including construction, retail, commercial and industrial, energy and petrochemical, manufacturing, education and healthcare.

22

Revenues of TRS-RenTelco are derived from the rental and sale of general purpose and communications test equipment to a broad range of companies, from Fortune 500 to middle and smaller market companies primarily in the aerospace, defense, communications, manufacturing and semiconductor industries. Electronic test equipment revenues are primarily affected by the business activity within these industries related to research and development, manufacturing, and communication infrastructure installation and maintenance.

The Company's rental operations include rental and rental related service revenues which comprised approximately 80% 75% and 84% 79% of consolidated revenues from continuing operations in the three six months ended March 31, 2024 June 30, 2024 and 2023, respectively. Of the total continuing rental operations revenues for the three six months ended March 31, 2024 June 30, 2024, Mobile Modular, Portable Storage and TRS-RenTelco comprised 67% 68%, 15% and 18% 17%, respectively, compared to 62% 63%, 16% and 22% 21%, respectively, in the same period of 2023. The Company's direct costs of rental operations include depreciation of rental equipment, rental related service costs, impairment of rental equipment (if applicable), and other direct costs of rental operations (which include direct labor, supplies, repairs, insurance, property taxes, license fees, cost of sub-rentals and amortization of certain lease costs).

The Company's Mobile Modular, Portable Storage and TRS-RenTelco business segments sell modular units, storage containers and electronic test equipment, respectively, which are either new or previously rented. In addition, Enviroplex sells new modular buildings used primarily as classrooms in California. For the three six months ended March 31, 2024 June 30, 2024 and 2023, sales and other revenues of modular, container and electronic test equipment comprised approximately 20% 25% and 16% 21% of the Company's consolidated revenues from continuing operations, respectively. Of the total sales and other revenues from continuing operations for the three six months ended March 31, 2024 June 30, 2024 and 2023, Mobile Modular and Enviroplex together comprised 74% 81% and 73% 78%, respectively, Portable Storage comprised 6% 4% and 4% 3%, respectively, and TRS-RenTelco comprised 20% 15% and 23% 19%, respectively. The Company's cost of sales includes the carrying value of the equipment sold and the direct costs associated with the equipment sold, such as delivery, installation, modifications and related site work.

Selling and administrative expenses primarily include personnel and benefit costs, which include share-based compensation, depreciation and amortization, bad debt expense, advertising costs, and professional service fees. The Company believes that sharing of common facilities, financing, senior management, and operating and accounting systems by all of the Company's operations results in an efficient use of overhead. Historically, the Company's operating margins have been impacted favorably to the extent its costs and expenses are leveraged over a large installed customer base. However, there can be no assurances as to the Company's ability to maintain a large installed customer base or ability to sustain its historical operating margins.

## Recent Developments



### Dividends

On February 21, 2024 June 5, 2024, the Company announced that the Board of Directors declared a quarterly cash dividend of \$0.475 per common share for the quarter ended March 31, 2024 June 30, 2024, an increase of 2% over the prior year's comparable quarter.

### Proposed Acquisition by WillScot Mobile Mini

On January 28, 2024, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") with WillScot Mobile Mini Holdings Corp., a Delaware corporation ("WillScot Mobile Mini"), Brunello Merger Sub I, Inc., a California corporation and a direct wholly owned subsidiary of WillScot Mobile Mini and Brunello Merger Sub II, LLC, a Delaware limited liability company and direct wholly owned subsidiary of WillScot Mobile Mini. The Merger Agreement provides that, upon the terms and subject to the conditions set forth therein, Merger Sub I will merge with and into the Company (the "First-Step Merger"), with the Company surviving the First-Step Merger and, immediately thereafter, the Company will merge with and into Merger Sub II (the "Second-Step Merger" and together with the First-Step Merger, the "Transaction"), with Merger Sub II surviving the Second-Step Merger as a wholly owned subsidiary of WillScot Mobile Mini. On the terms and subject to the conditions set forth in the Merger Agreement, at the effective time of the First-Step Merger (the "Effective Time"), each share of common stock, no par value, of the Company ("Company Common Stock") issued and outstanding immediately prior to the Effective Time, other than shares of Company Common Stock owned by WillScot Mobile Mini or any subsidiary of WillScot Mobile Mini or the Company, and shares held by shareholders who did not vote in favor of the Transaction (or consent thereto in writing) and who are entitled to demand and properly demands appraisal of such shares, will be automatically converted into the right to receive either (1) \$123 in cash or (2) 2.8211 shares of validly issued, fully paid and nonassessable shares of common stock, par value \$0.0001, of WillScot Mobile Mini ("WillScot Mobile Mini Common Stock"), as determined pursuant to the election and allocation procedures set forth in the Merger Agreement. The consummation of the Transaction is subject to certain closing conditions, including (i) the approval of the Company's shareholders, which was obtained on July 11, 2024, (ii) the expiration or termination of all waiting periods applicable to the transactions contemplated by the Merger Agreement under the Hart-Scott Rodino Antitrust Improvements Act of 1976 (the "HSR Act"), relating to which WillScot Mobile Mini and the Company have committed to the Federal Trade Commission that they would not close the Transaction prior to September 27, 2024, (iii) the absence of any order by any governmental authorities or other legal restraint or prohibition preventing the consummation of the transactions contemplated by the Merger Agreement, (iv) the effectiveness of the Merger Proxy Statement (as defined below) filed with SEC relating to the registration of shares of WillScot Mobile Mini Common Stock to be issued to the Company's shareholders pursuant

23

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to the Merger Agreement, which was granted on June 7, 2024, and (v) other customary conditions specified in the Merger Agreement. The parties have submitted their respective filings under the HSR Act with the U.S. Department of Justice and the Federal

23

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Trade Commission as contemplated by the Merger Agreement. The closing of the Transaction is not subject to any financing condition. For additional information regarding the Transaction, please refer to the Company's current report on Form 8-K and Amendment No. 1 on Form 8-

K/A, each filed with the SEC on January 29, 2024, as well as the preliminary Registration Statement on S-4/Proxy Statement special proxy statement filed by WillScot Mobile Mini the Company with the SEC on April 8, 2024 June 10, 2024 (the "Merger Proxy Statement").

Because the Transaction is not yet complete, and except as otherwise specifically stated, the descriptions and disclosures presented elsewhere in this Form 10-Q assume the continuation of the Company as a public company.

## Results of Operations

### Three Months Ended March 31, 2024 June 30, 2024 Compared to Three Months Ended March 31, 2023 June 30, 2023

#### Overview

Consolidated revenues for the three months ended March 31, 2024 June 30, 2024, increased 8% 5% to \$187.8 million \$212.6 million, from \$173.2 million \$203.0 million for the same period in 2023. Consolidated net income for the three months ended March 31, 2024 June 30, 2024, increased 79% decreased 33% to \$22.8 million \$20.6 million, from \$12.8 million \$30.6 million for the same period in 2023, excluding the gain on sale of discontinued operations from the divestiture of Adler Tanks. 2023. Earnings per diluted share for the three months ended March 31, 2024 June 30, 2024, decreased by \$1.99 \$0.41 to \$0.93, \$0.84, compared to \$2.92 \$1.25 for the same period in 2023. The reduction in earnings per diluted share during the current period was primarily attributed to \$14.3 million higher selling and administrative expenses, which included \$12.4 million in transaction costs attributed to the prior period gain on sale of pending Willscot Mobile Mini merger.

There was no revenue, income or earnings per share from discontinued operations which previously contributed \$2.40 to the earnings per diluted share in 2023. During for the three months ended March 31, 2024, the Company sold a property, resulting in a net gain of \$9.3 million, which was recorded in Other income, net, and contributed \$0.28 in earnings per diluted share. The increase in consolidated net income during the current period was primarily attributed to the property sale and higher gross profit from Mobile Modular.

June 30, 2024. There were no revenues from discontinued operations for the three months ended March 31, 2024 June 30, 2023, compared and income from discontinued operations of \$2.6 million, primarily attributed to \$9.4 million for final working capital adjustments from the same period in 2023. There was no income or earnings divestiture of Adler Tanks. Earnings per diluted share from discontinued operations for the three months ended March 31, 2024. Income from discontinued operations for the same period in 2023 June 30, 2023 was \$60.1 million, which included the \$58.9 million gain on sale of discontinued operations, and earnings per diluted share from discontinued operations for the three months ended March 31, 2023 was \$2.45, \$0.11. For additional information on discontinued operations and the divestiture of Adler Tanks, refer to Note 5 of the condensed consolidated financial statements.

For the three months ended March 31, 2024 June 30, 2024, on a consolidated basis from continuing operations:

- Gross profit increased \$15.9 million \$8.8 million, or 21% 9%, to \$93.3 million \$103.4 million in 2024. Mobile Modular's gross profit increased \$15.7 million \$10.2 million, or 34% 17%, largely due to higher gross profit on rental and sales revenues. Portable Storage's gross profit increased \$1.7 million decreased \$1.2 million, or 11%, primarily due to higher gross profit on rental revenues. TRS-RenTelco's gross profit decreased \$1.7 million, or 11% 7%, primarily due to lower gross profit on rental and rental related services revenues. TRS-RenTelco's gross profit decreased \$2.9 million, or 18%, primarily due to lower gross profit on rental and sales revenues. Enviroplex's gross profit increased \$0.3 million \$2.7 million, due to higher sales revenue and an increase in sales margins in 2024.

- Selling and administrative expenses increased \$2.3 million \$14.3 million to \$59.8 million \$61.4 million, primarily due to an increase \$ million in employees' salaries and benefit transaction costs, of \$3.8 million, partly offset by a \$2.2 million decrease which were included in marketing and administrative costs. Included in marketing and administrative costs was \$14.1 million in Vesta acquisition and divestiture related transaction costs in 2023 and \$9.4 million in transaction costs, attributed to the pending merger with WillScot Mobile and an increase in 2024, employees' salaries and benefit costs of \$2.6 million.
- Interest expense increased \$5.2 million \$3.1 million to \$12.7 million \$13.0 million, which was primarily attributed to \$215.2 million \$ million higher average debt levels of the Company and a higher effective interest rate in 2024 of 6.53% 6.57%, compared to 5.57% 5 for the same period in 2023. The 38% 18% increase in average debt when compared to 2023 was primarily the result of the fundi business acquisitions during 2023, net of proceeds from rental equipment purchases, taxes paid attributed to the gain on sa discontinued operations. operations and transaction costs regarding the pending merger with WillScot Mobile Mini.
- Pre-tax income contribution by Mobile Modular, Portable Storage and TRS-RenTelco was 61% 65%, 27% 21% and 15% 8%, respect compared to 18% 61%, 52% 24% and 37% 18%, respectively, for the comparable 2023 period. These results are discussed on a seg basis below. Enviroplex pre-tax income contribution was negative 3% 6% and negative 7% 3% in 2024 and 2023, respectively.
- The provision for income taxes resulted in an effective tax rate of 23.6% 28.8% and 23.8% 25.7%, for the quarters ended Marc 2024 June 30, 2024 and 2023, respectively.
- Adjusted EBITDA increased \$10.3 million \$6.7 million, or 17% 9%, to \$72.1 million \$83.7 million in 2024.

25

## Mobile Modular

For the three months ended March 31, 2024 June 30, 2024, Mobile Modular's total revenues increased \$23.7 million \$5.7 million, or 23% 4%, to \$127.6 million \$144.5 million compared to the same period in 2023, primarily due to higher rental sales and rental related services revenues, partly offset by lower sales revenues. The revenue increase, together with higher gross profit on rental and sales revenues, partly offset by \$11.2 million higher selling and rental related services revenues, and a \$6.2 million administrative expenses, which included \$9.0 million in allocated net gain on transaction costs attributed to the sale of a corporate property, pending merger with WillScot Mobile Mini, resulted in a \$15.9 million increase \$3.9 million decrease in pre-tax income to \$18.2 million \$18.8 million for the three months ended March 31, 2024 June 30, 2024, from \$2.3 million \$22.8 million for the same period in 2023.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

### Mobile Modular – Three Months Ended 3/31/ 6/30/24 compared to Three Months Ended 3/31/ 6/30/23 (Unaudited)

(dollar amounts in thousands)	Three Months Ended				Increase			
	March 31,		Increase		Three Months Ended		Increase	
	2024	2023	\$	%	June 30,	2023	\$	%
Revenues								
Rental	\$ 76,496	\$ 64,056	\$ 12,440	19 %	\$ 78,039	\$ 70,770	\$ 7,269	10 %

Rental related services	24,133	21,534	2,599	12 %	28,920	27,836	1,084	4 %
Rental operations	100,629	85,590	15,039	18 %	106,959	98,606	8,353	8 %
Sales	25,326	16,967	8,359	49 %	35,930	38,248	(2,318)	(6) %
Other	1,630	1,370	260	19 %	1,657	1,983	(326)	(16) %
Total revenues	127,585	103,927	23,658	23 %	144,546	138,838	5,708	4 %
<b>Costs and Expenses</b>								
Direct costs of rental operations:								
Depreciation of rental equipment	9,874	8,657	1,217	14 %	9,995	9,415	580	6 %
Rental related services	15,780	14,226	1,554	11 %	19,828	18,443	1,385	8 %
Other	22,673	24,127	(1,454)	(6) %	21,265	23,377	(2,112)	(9) %
Total direct costs of rental operations	48,327	47,009	1,318	3 %	51,088	51,236	(148)	(0) %
Costs of sales	17,413	10,747	6,666	62 %	22,172	26,517	(4,345)	(16) %
Total costs of revenues	65,740	57,756	7,984	14 %	73,260	77,753	(4,493)	(6) %
<b>Gross Profit</b>								
Rental	43,949	31,273	12,676	41 %	46,779	37,977	8,802	23 %
Rental related services	8,353	7,308	1,045	14 %	9,092	9,393	(301)	(3) %
Rental operations	52,302	38,581	13,721	36 %	55,871	47,370	8,501	18 %
Sales	7,913	6,220	1,693	27 %	13,758	11,731	2,027	17 %
Other	1,630	1,370	260	nm	1,657	1,983	(326)	(16) %
Total gross profit	61,845	46,171	15,674	34 %	71,286	61,084	10,202	17 %
Expenses:								
Selling and administrative expenses	40,087	38,456	1,631	4 %	42,267	31,092	11,175	36 %
Other income, net	(6,220)	—	6,220	nm				
Income from operations	27,978	7,715	20,263	nm	29,019	29,993	(974)	(3) %
Interest expense allocation	9,799	5,387	(4,412)	nm	10,172	7,205	2,967	41 %
Pre-tax income	\$ 18,179	\$ 2,328	\$ 15,851	nm	\$ 18,847	\$ 22,788	\$ (3,941)	(17) %
<b>Other Selected Information</b>								
Adjusted EBITDA	\$ 43,327	\$ 32,425	\$ 10,902	34 %	\$ 53,418	\$ 44,516	\$ 8,902	20 %
Average rental equipment <sup>1</sup>	\$ 1,174,327	\$ 987,526	\$ 186,801	19 %	\$ 1,203,415	\$ 1,117,141	\$ 86,274	8 %
Average rental equipment on rent	\$ 924,517	\$ 783,847	\$ 140,670	18 %	\$ 943,270	\$ 886,085	\$ 57,185	6 %
Average monthly total yield <sup>2</sup>	2.17 %	2.16 %		0 %	2.16 %	2.11 %		2 %
Average utilization <sup>3</sup>	78.7 %	79.4 %		(1) %	78.4 %	79.3 %		(1) %
Average monthly rental rate <sup>4</sup>	2.76 %	2.72 %		1 %	2.76 %	2.66 %		4 %
Period end rental equipment <sup>1</sup>	\$ 1,189,168	\$ 1,105,689	\$ 83,479	8 %	\$ 1,221,992	\$ 1,129,836	\$ 92,156	8 %
Period end utilization <sup>3</sup>	78.5 %	78.8 %		(0) %	78.1 %	79.2 %		(1) %

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new equipment inventory and accessory equipment. Average utilization for the period is calculated using the average month end costs of rental equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

Mobile Modular's gross profit for the three months ended **March 31, 2024** **June 30, 2024**, increased **\$15.7 million** **\$10.2 million**, or **34%** **17%**, to **\$61.8 million** **\$71.3 million**. For the three months ended **March 31, 2024** **June 30, 2024**, compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues increased **\$12.4 million** **\$7.3 million**, or **19%** **10%**, due to **18%** **6%** higher average rental equipment on rent and **1%** **4%** higher average monthly rental rates in 2024. As a percentage of rental revenues, depreciation was 13% and 14% in both 2024 and 2023, respectively, and other direct costs were **30%** **27%** in 2024 and **38%** **33%** in 2023, which resulted in gross margin percentages of **57%** **60%** in 2024, compared to **49%** **54%** in 2023. The higher rental revenues and higher rental margins, resulted in gross profit on rental revenues increasing **\$12.7 million** **\$8.8 million**, or **41%** **23%**, to **\$43.9 million** **\$46.8 million** in 2024.
- **Gross Profit on Rental Related Services** – Rental related services revenues increased **\$2.6 million** **\$1.1 million**, or **12%** **4%**, compared to 2023. The increase in rental related services revenues was primarily attributable to higher delivery, return delivery and dismantle revenues and higher site related services. The increase in revenues accompanied by **higher** **lower** gross margin percentage of **35%** **31%** in 2024, compared to 34% in 2023, resulted in rental related services gross profit **increasing \$1.0 million** **decreasing \$0.3 million**, or **14%** **3%**, to **\$8.4 million** **\$9.1 million** in 2024.
- **Gross Profit on Sales** – Sales revenues **increased \$8.4 million** **decreased \$2.3 million**, or **49%** **6%**, compared to 2023, due to **higher** **lower** new equipment sales. The **lower** **higher** gross margin percentage of **31%** **38%** in 2024 compared to **37%** **31%** in 2023, together with **higher** **lower** sales revenue, resulted in gross profit on sales increasing **\$1.7 million** **\$2.0 million**, or **27%** **17%**, to **\$7.9 million** **\$13.8 million**. The **lower** **higher** gross margin on sales in 2024 was primarily due to a higher mix of **new** **used** versus **used** **new** sales. Sales occur routinely as a normal part of Mobile Modular's rental business; however, these sales and related gross margins can fluctuate from quarter to quarter and year to year depending on customer requirements, the scope of work to be performed, equipment availability and funding.

For the three months ended **March 31, 2024** **June 30, 2024**, selling and administrative expenses increased **\$1.6 million** **\$11.2 million**, or **4%** **36%**, to **\$40.1 million** **\$42.3 million**. Included within selling and administrative expenses was **\$5.3 million** **\$11.3 million** higher allocated corporate costs, which included **\$6.5 million** **\$9.0 million** in allocated transaction costs from the pending merger with WillScot Mobile Mini. **In addition, 2023 included \$7.5 million in Vesta acquisition related transaction costs, which did not recur in 2024. Employee salaries and benefit costs increased \$2.0 million, or 16%, in 2024.**

## Portable Storage

For the three months ended **March 31, 2024** **June 30, 2024**, Portable Storage's total revenues **increased \$2.0 million** **decreased \$1.4 million**, or **9%** **6%**, to **\$24.8 million** **\$24.0 million** compared to the same period in 2023, primarily due to **higher** **lower** rental and **sales** **rental related services** revenues. **Higher** **Lower** gross profit on rental and **sales** **rental related services** revenues, **and a** **coupled with** \$1.7 million **allocated net gain on the sale of a corporate property, partly offset by \$1.0 million** higher selling and administrative expenses, **which included \$1.4 million of allocated transaction costs attributed to the pending merger with WillScot Mobile Mini**, resulted in **an increase** **a decrease** in pre-tax income of **\$1.5 million** **\$3.1 million**, or **23%** **34%**, to **\$8.0 million** **\$6.0 million** in 2024.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

**Portable Storage – Three Months Ended **3/31/ 6/30/24** compared to Three Months Ended **3/31/ 6/30/23** (Unaudited)**

	Three Months Ended				Three Months Ended			
	March 31,		Increase (Decrease)		June 30,		Increase (Decrease)	
	2024	2023	\$	%	2024	2023	\$	%
<i>(dollar amounts in thousands)</i>								
<b><u>Revenues</u></b>								
Rental	\$ 18,407	\$ 17,057	\$ 1,350	8%	\$ 17,823	\$ 18,487	\$ (664)	(4)%
Rental related services	4,723	4,718	5	0%	4,640	5,354	(714)	(13)%
Rental operations	23,130	21,775	1,355	6%	22,463	23,841	(1,378)	(6)%
Sales	1,212	638	574	90%	1,266	1,109	157	14%
Other	418	317	101	nm	293	475	(182)	nm
Total revenues	24,760	22,730	2,030	9%	24,022	25,424	(1,402)	(6)%
<b><u>Costs and Expenses</u></b>								
Direct costs of rental operations:								
Depreciation of rental equipment	965	787	178	23%	1,001	870	131	15%
Rental related services	4,456	4,381	75	2%	4,476	4,641	(165)	(4)%
Other	1,468	1,783	(315)	(18)%	1,527	1,705	(178)	(10)%
Total direct costs of rental operations	6,889	6,952	(63)	(1)%	7,004	7,215	(211)	(3)%
Costs of sales	768	327	441	nm	716	690	26	4%
Total costs of revenues	7,657	7,279	378	5%	7,720	7,905	(185)	(2)%
<b><u>Gross Profit</u></b>								
Rental	15,974	14,486	1,488	10%	15,295	15,913	(618)	(4)%
Rental related services	267	337	(70)	(21)%	164	713	(549)	(77)%
Rental operations	16,241	14,823	1,418	10%	15,459	16,626	(1,167)	(7)%
Sales	444	311	133	43%	550	419	131	31%
Other	418	317	101	nm	293	475	(182)	(38)%
Total gross profit	17,103	15,451	1,652	11%	16,302	17,520	(1,218)	(7)%
Expenses:								
Selling and administrative expenses	9,010	8,058	952	12%	8,874	7,204	1,670	23%
Other income, net	(1,319)	—	1,319	nm				
Income from operations	9,412	7,393	2,019	27%	7,428	10,315	(2,887)	(28)%



Interest expense allocation	1,420	884	(536)	nm	1,447	1,242	205	17%
Pre-tax income	\$ 7,992	\$ 6,509	\$ 1,483	23%	\$ 5,981	\$ 9,073	\$ (3,092)	(34)%
<b>Other Selected Information</b>								
Adjusted EBITDA	\$ 11,522	\$ 10,020	\$ 1,502	15%	\$ 11,015	\$ 12,308	\$ (1,293)	(11)%
Average rental equipment <sup>1</sup>	\$ 223,285	\$ 189,348	\$ 33,937	18%	\$ 226,754	\$ 204,627	\$ 22,127	11%
Average rental equipment on rent	\$ 155,872	\$ 153,056	\$ 2,816	2%	\$ 149,906	\$ 159,924	\$ (10,018)	(6)%
Average monthly total yield <sup>2</sup>	2.75%	3.01%		(9)%	2.62%	3.01%		(13)%
Average utilization <sup>3</sup>	69.8%	80.8%		(14)%	66.1%	78.2%		(15)%
Average monthly rental rate <sup>4</sup>	3.94%	3.71%		6%	3.96%	3.85%		3%
Period end rental equipment <sup>1</sup>	\$ 224,984	\$ 199,864	\$ 25,120	13%	\$ 228,368	\$ 208,124	\$ 20,244	10%
Period end utilization <sup>3</sup>	68.8%	79.8%		(14)%	64.5%	77.0%		(16)%

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new rental equipment inventory and accessory equipment. Average utilization for the period is calculated using the average month end costs of rental equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

Portable Storage's gross profit for the three months ended **March 31, 2024** **June 30, 2024**, **increased \$1.7 million** **decreased \$1.2 million**, or **11%** **7%**, to **\$17.1 million** **\$16.3 million**. For the three months ended **March 31, 2024** **June 30, 2024**, compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues **increased \$1.4 million** **decreased \$0.7 million**, or **8%** **4%**, due to **2%** **higher** **6%** **lower** average rental equipment on rent, and **6%** partly offset by **3%** higher average monthly rental rates in 2024. As a percentage of rental revenues, depreciation was **6%** and **5%** in 2024 and 2023, respectively, and other direct costs were **9%** in both 2024 and 2023, and other direct costs were **8%** and **10%** in 2024 and 2023, respectively, which resulted in gross margin percentage of **87%** **86%** in both 2024 compared to **85%** and in 2023. The **higher** **lower** rental revenues and **higher** **comparable** rental margins resulted in gross profit on rental revenues **increasing \$1.5 million** **decreasing \$0.6 million**, or **10%** **4%**, to **\$16.0 million** **\$15.3 million** in 2024.
- **Gross Profit on Rental Related Services** – Rental related services revenues was **\$4.7 million** **\$4.6 million**, **unchanged** **from** compared to **\$5.4 million** during the same period in 2023. The gross margin on rental related services revenues was **6%** **4%** in 2024, compared to **7%** **13%** in 2023. The **comparable** **lower** revenues coupled with lower gross margins in 2024, resulted in rental related services gross profit decreasing **\$0.1 million** **\$0.5 million**, when compared to 2023.
- **Gross Profit on Sales**– Sales revenues increased **\$0.6 million** **\$0.2 million**, primarily due to higher used equipment sales. The higher sales revenues and **lower** **increased** gross margins of **37%** **43%** in 2024, compared to **49%** **38%** in 2023, resulted in sales gross profit increasing **\$0.1 million**, or **43%** **31%**, to **\$0.4 million** **\$0.6 million** in 2024. Sales occur routinely as a normal part of Portable Storage's rental business; however, these sales can fluctuate from period to period depending on customer requirements, equipment availability and funding.

For the three months ended **March 31, 2024** **June 30, 2024**, Portable Storage's selling and administrative expenses increased **\$1.0 million** **\$1.7 million**, or **12%** **23%**, to **\$9.0 million** **\$8.9 million**, primarily due to **\$0.3 million** **\$1.3 million** higher allocated corporate costs, which

included \$1.4 million in allocated transaction costs attributed to the pending WillScot Mobile Mini merger, and \$0.3 million higher marketing employee salary and administrative benefit costs.



For the three months ended **March 31, 2024** **June 30, 2024**, TRS-RenTelco's total revenues decreased **\$2.4 million** **\$5.2 million** to **\$33.8 million** **\$32.7 million**, compared to the same period in 2023, primarily due to lower rental revenues, partly offset by higher and sales revenues. Lower gross profit on rental revenues and higher gross profit on sales revenues, coupled with higher selling and a **\$1.7 million** administrative expenses, which included **\$1.9 million** in allocated net gain on transaction costs attributed to the sale of a corporate property, pending merger with WillScot Mobile Mini, resulted in a **3%** **65%** decrease in pre-tax income to **\$4.5 million** **\$2.4 million** for the three months ended **March 31, 2024** **June 30, 2024**, from **\$4.7 million** **\$6.7 million** for the same period in 2023.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

**TRS-RenTelco – Three Months Ended 3/31/ 6/30/24 compared to Three Months Ended 3/31/ 6/30/23 (Unaudited)**

	Three Months Ended				Three Months Ended			
	March 31,		Increase (Decrease)		June 30,		Increase (Decrease)	
	2024	2023	\$	%	2024	2023	\$	%
<i>(dollar amounts in thousands)</i>								
<b>Revenues</b>								
Rental	\$ 25,429	\$ 29,134	\$ (3,705)	(13)%	\$ 25,314	\$ 28,583	\$ (3,269)	(11)%
Rental related services	724	880	(156)	(18)%	798	667	131	20%
Rental operations	26,153	30,014	(3,861)	(13)%	26,112	29,250	(3,138)	(11)%
Sales	6,812	5,114	1,698	33%	5,845	7,521	(1,676)	(22)%
Other	798	992	(194)	nm	713	1,074	(361)	(34)%
Total revenues	33,763	36,120	(2,357)	(7)%	32,670	37,845	(5,175)	(14)%
<b>Costs and Expenses</b>								
Direct costs of rental operations:								
Depreciation of rental equipment	11,527	12,389	(862)	(7)%	11,169	12,312	(1,143)	(9)%
Rental related services	550	661	(111)	(17)%	686	741	(55)	(7)%
Other	4,869	5,225	(356)	(7)%	5,128	5,478	(350)	(6)%
Total direct costs of rental operations	16,946	18,275	(1,329)	(7)%	16,983	18,531	(1,548)	(8)%
Costs of sales	2,942	2,225	717	32%	2,716	3,431	(715)	(21)%
Total costs of revenues	19,888	20,500	(612)	(3)%	19,699	21,962	(2,263)	(10)%
<b>Gross Profit</b>								
Rental	9,033	11,520	(2,487)	(22)%	9,017	10,793	(1,776)	(16)%
Rental related services	174	219	(45)	(21)%	112	(74)	186	nm
Rental operations	9,207	11,739	(2,532)	(22)%	9,129	10,719	(1,590)	(15)%
Sales	3,870	2,889	981	34%	3,129	4,090	(961)	(23)%
Other	798	992	(194)	nm	713	1,074	(361)	(34)%
Total gross profit	13,875	15,620	(1,745)	(11)%	12,971	15,883	(2,912)	(18)%
Expenses:								
Selling and administrative expenses	8,918	9,451	(533)	(6)%	8,515	7,126	1,389	19%
Other income	(1,742)	—	1,742	nm				
Income from operations	6,699	6,169	530	9%	4,456	8,757	(4,301)	(49)%
Interest expense allocation	2,062	1,742	(320)	(18)%	2,059	2,059	—	nm
Foreign currency exchange loss (gain)	132	(226)	(358)	nm				

Foreign currency exchange loss	31	18	13	nm				
Pre-tax income	\$ 4,505	\$ 4,653	\$ (148)	(3)%	\$ 2,366	\$ 6,680	\$ (4,314)	(65)%
<b>Other Selected Information</b>								
Adjusted EBITDA	\$ 18,480	\$ 20,635	\$ (2,155)	(10)%	\$ 18,001	\$ 21,538	\$ (3,537)	(16)%
Average rental equipment <sup>1</sup>	\$ 372,081	\$ 396,835	\$ (24,754)	(6)%	\$ 367,322	\$ 393,891	\$ (26,569)	(7)%
Average rental equipment on rent	\$ 210,134	\$ 234,829	\$ (24,695)	(11)%	\$ 207,342	\$ 229,304	\$ (21,962)	(10)%
Average monthly total yield <sup>2</sup>	2.18 %	2.40 %		(9)%	2.28 %	2.40 %		(5)%
Average utilization <sup>3</sup>	56.5 %	59.2 %		(5)%	56.5 %	58.2 %		(3)%
Average monthly rental rate <sup>4</sup>	4.03 %	4.14 %		(3)%	4.07 %	4.16 %		(2)%
Period end rental equipment <sup>1</sup>	\$ 369,325	\$ 397,565	\$ (28,240)	(7)%	\$ 366,642	\$ 386,828	\$ (20,186)	(5)%
Period end utilization <sup>3</sup>	56.8 %	59.0 %		(4)%	55.8 %	58.3 %		(4)%

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new rental equipment inventory and accessory equipment. Average utilization for the period is calculated using the average month end costs of rental equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

30

TRS-RenTelco's gross profit for the three months ended March 31, 2024 June 30, 2024 decreased \$1.8 million \$2.9 million, or 11% 18%, to \$13.9 million \$13.0 million. For the three months ended March 31, 2024 June 30, 2024 compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues decreased \$3.7 million \$3.3 million, or 13% 11%, depreciation expense decreased \$0.9 million \$1.1 million, or 7% 9%, and other direct costs decreased by \$0.4 million, or 7% 6%, resulting in a 22% 16% decrease in gross profit on rental revenues to \$9.0 million. As a percentage of rental revenues, depreciation was 45% 44% and 43% in 2024 and 2023, respectively, and other direct costs were 19% 20% and 18% 19%, in 2024 and 2023, respectively, which resulted in a gross margin percentage of 36% and 40% 38% in 2024 and 2023, respectively. The decrease in rental revenues was primarily due to a 11% 10% reduction in average rental equipment on rent and 3% 2% lower average monthly rental rates in 2024, as compared to 2023.
- **Gross Profit on Sales** – Sales revenues increased decreased \$1.7 million, or 33% 22%, to \$6.8 million \$5.8 million in 2024. Gross profit on sales increased decreased \$1.0 million, or 34% 23%, to \$3.9 million \$3.1 million, with a higher comparable gross margin percentage of 57% 54% in 2024 compared to 56% in and 2023. Sales occur as a normal part of TRS-RenTelco's rental business; however, these sales and related gross margins can fluctuate from quarter to quarter depending on customer requirements and related mix of equipment sold, equipment availability and funding.

For the three months ended March 31, 2024 June 30, 2024, selling and administrative expenses decreased \$0.5 million increased \$1.4 million, or 6% 19%, to \$8.9 million \$8.5 million. The decrease increase was primarily due to \$0.4 million lower \$1.5 million higher allocated corporate expenses, expenses, which includes \$1.9 million in transaction costs attributed to the pending merger with WillScot Mobile Mini.

## Six Months Ended June 30, 2024 Compared to Six Months Ended June 30, 2023

### Overview

Consolidated revenues for the six months ended June 30, 2024, increased 6% to \$400.4 million, from \$376.2 million for the same period in 2023. Consolidated net income for the six months ended June 30, 2024, increased 7% to \$43.5 million, from \$40.7 million for the same period in 2023, excluding the gain on sale of discontinued operations from the divestiture of Adler Tanks. Earnings per diluted share for the six months ended June 30, 2024, decreased by \$2.40 to \$1.77, compared to \$4.17 for the same period in 2023. The reduction in total earnings per diluted share was primarily attributed to the prior period gain on sale of discontinued operations, which contributed \$2.40 to earnings per diluted share in 2023. During the six months ended June 30, 2024, the Company sold a property, resulting in a net gain of \$9.3 million, which was recorded in Other income, net, and contributed \$0.28 in earnings per diluted share. The increase in consolidated net income during the current period, excluding the gain on sale of discontinued operations, was primarily attributed to the property sale and higher gross profit from Mobile Modular, partly offset by \$21.7 million in transaction costs attributed to the pending merger with WillScot Mobile Mini.

There were no revenues from discontinued operations for the six months ended June 30, 2024, compared to \$9.4 million for the same period in 2023. There was no income or earnings per diluted share from discontinued operations for the six months ended June 30, 2024. Income from discontinued operations for the same period in 2023 was \$62.8 million, which included the \$61.5 million net gain on sale of discontinued operations, and earnings per diluted share from discontinued operations for the six months ended June 30, 2023 was \$2.56. For additional information on discontinued operations and the divestiture of Adler Tanks, refer to Note 5 of the condensed consolidated financial statements.

For the six months ended June 30, 2024, on a consolidated basis from continuing operations:

- Gross profit increased \$24.7 million, or 14%, to \$196.7 million in 2024. Mobile Modular's gross profit increased \$25.9 million, or largely due to higher gross profit on rental and sales revenues. Portable Storage's gross profit increased \$0.4 million, or 1%, primarily to higher gross profit on rental revenues. TRS-RenTelco's gross profit decreased \$4.7 million, or 15%, primarily due to lower gross profit on rental revenues. Enviroplex's gross profit increased \$3.1 million, due to higher sales revenue and an increase in sales margins in 2024.
- Selling and administrative expenses increased \$16.7 million to \$121.2 million, primarily due to an increase in marketing and administrative costs of \$9.3 million. Included in marketing and administrative costs was \$21.7 million in transaction costs attributed to the pending merger with WillScot Mobile Mini in 2024 and \$14.3 million in business acquisition and Adler divestiture related transaction costs in 2023. In addition, salaries and benefit costs increased \$5.0 million in 2024.
- Interest expense increased \$8.3 million to \$25.7 million, which was primarily attributed to \$165.3 million higher average debt levels of the Company and a higher effective interest rate in 2024 of 6.59%, compared to 5.77% for the same period in 2023. The 27% increase in average debt when compared to 2023 was primarily the result of the funding of rental equipment purchases, taxes paid attributed to the gain on sale of discontinued operations and transaction costs regarding the pending merger with WillScot Mobile Mini.
- Pre-tax income contribution by Mobile Modular, Portable Storage and TRS-RenTelco was 62%, 24% and 12%, respectively, compared to 50%, 31% and 23%, respectively, for the comparable 2023 period. These results are discussed on a segment basis below. Enviroplex's pre-tax income contribution was 2% and negative 4% in 2024 and 2023, respectively.
- The provision for income taxes resulted in an effective tax rate of 26.2% and 21.5%, for the periods ended June 30, 2024 and 2023, respectively. The increase in effective tax rate during the current period was largely attributed to increased business activity in high tax rate states.

- Adjusted EBITDA increased \$17.0 million, or 12%, to \$155.7 million in 2024.

### Mobile Modular

For the six months ended June 30, 2024, Mobile Modular's total revenues increased \$29.4 million, or 12%, to \$272.1 million compared to the same period in 2023, primarily due to higher rental, sales and rental related services revenues. The revenue increase, together with higher gross profit on rental, sales and rental related services revenues, and a \$6.2 million allocated net gain on the sale of a corporate property, resulted in a \$11.9 million increase in pre-tax income to \$37.0 million for the six months ended June 30, 2024, from \$25.1 million for the same period in 2023.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

### Mobile Modular – Six Months Ended 6/30/24 compared to Six Months Ended 6/30/23 (Unaudited)

(dollar amounts in thousands)	Six Months Ended		Increase (Decrease)	
	June 30,			
	2024	2023	\$	%
<b>Revenues</b>				
Rental	\$ 154,535	\$ 134,826	\$ 19,709	15 %
Rental related services	53,053	49,370	3,683	7 %
Rental operations	207,589	184,196	23,393	13 %
Sales	61,256	55,215	6,041	11 %
Other	3,287	3,342	(55)	(2) %
Total revenues	272,131	242,753	29,378	12 %
<b>Costs and Expenses</b>				
Direct costs of rental operations:				
Depreciation of rental equipment	19,870	18,072	1,798	10 %
Rental related services	35,608	32,669	2,939	9 %
Other	43,938	47,504	(3,566)	(8) %
Total direct costs of rental operations	99,416	98,246	1,170	1 %
Costs of sales	39,584	37,263	2,321	6 %
Total costs of revenues	139,000	135,509	3,491	3 %
<b>Gross Profit</b>				
Rental	90,727	69,249	21,478	31 %
Rental related services	17,445	16,701	744	4 %
Rental operations	108,172	85,950	22,222	26 %
Sales	21,672	17,952	3,720	21 %
Other	3,287	3,342	(55)	(2) %

Total gross profit	133,131	107,244	25,887	24 %
Expenses:				
Selling and administrative expenses	82,354	69,548	12,806	18 %
Other income, net	(6,220)	—	(6,220)	nm
Income from operations	56,999	37,696	19,303	51 %
Interest expense allocation	19,971	12,592	(7,379)	(59)%
Pre-tax income	\$ 37,028	\$ 25,104	\$ 11,924	47 %
<b>Other Selected Information</b>				
Adjusted EBITDA	\$ 96,745	\$ 76,941	\$ 19,804	26 %
Average rental equipment <sup>1</sup>	\$ 1,188,828	\$ 1,044,711	\$ 144,117	14 %
Average rental equipment on rent	\$ 933,985	\$ 829,842	\$ 104,143	13 %
Average monthly total yield <sup>2</sup>	2.17 %	2.15 %		1 %
Average utilization <sup>3</sup>	78.6 %	79.4 %		(1)%
Average monthly rental rate <sup>4</sup>	2.76 %	2.71 %		2 %
Period end rental equipment <sup>1</sup>	\$ 1,221,992	\$ 1,129,836	\$ 92,156	8 %
Period end utilization <sup>3</sup>	78.1 %	79.2 %		(1)%

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new equipment inventory and accessory equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

Mobile Modular's gross profit for the six months ended June 30, 2024, increased \$25.9 million, or 24%, to \$133.1 million. For the six months ended June 30, 2024, compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues increased \$19.7 million, or 15%, due to 13% higher average rental equipment on rent and 2% higher average monthly rental rates in 2024. As a percentage of rental revenues, depreciation was 13% in both 2024 and 2023, and other direct costs were 28% in 2024 and 35% in 2023, which resulted in gross margin percentages of 59% in 2024, compared to 51% in 2023. The higher rental revenues and higher rental margins, resulted in gross profit on rental revenues increasing \$21.5 million, or 31%, to \$90.7 million in 2024.
- **Gross Profit on Rental Related Services** – Rental related services revenues increased \$3.7 million, or 7%, compared to 2023. The increase in rental related services revenues was primarily attributable to higher delivery, return delivery and dismantle revenues and higher site related services. The increase in revenues accompanied by lower gross margin percentage of 33% in 2024, compared to 34% in 2023, resulted in rental related services gross profit increasing \$0.7 million, or 4%, to \$17.4 million in 2024.
- **Gross Profit on Sales** – Sales revenues increased \$6.0 million, or 11%, compared to 2023, due to higher new and used equipment sales. The higher gross margin percentage of 35% in 2024 compared to 33% in 2023, together with higher sales revenue, resulted in gross profit on sales increasing \$3.7 million, or 21%, to \$21.7 million. The higher gross margin on sales in 2024 was primarily due to a higher mix of new versus used sales. Sales occur routinely as a normal part of Mobile Modular's rental business; however,

these sales and related gross margins can fluctuate from quarter to quarter and year to year depending on customer requirements, the scope of work to be performed, equipment availability and funding.

For the six months ended June 30, 2024, selling and administrative expenses increased \$12.8 million, or 18%, to \$82.4 million. Included within selling and administrative expenses was \$17.2 million higher allocated corporate costs, which included \$15.5 million in allocated transaction costs attributed to the pending merger with WillScot Mobile Mini. In addition, 2023 included \$7.6 million in Vesta acquisition related transaction costs and \$5.4 million in allocated divestiture transaction costs, which did not recur in 2024.

34

## Portable Storage

For the six months ended June 30, 2024, Portable Storage's total revenues increased \$0.6 million, or 1%, to \$48.8 million compared to the same period in 2023, primarily due to higher sales and rental revenues, partly offset by lower rental related services revenues. Higher gross profit on rental and sales revenues, coupled with a \$1.3 million allocated net gain on the sale of a corporate property, partly offset by \$2.6 million higher selling and administrative expenses, which included \$2.6 million in allocated transaction costs attributed to the pending merger with WillScot Mobile Mini, resulted in a decrease in pre-tax income of \$1.6 million, or 10%, to \$14.0 million in 2024.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

### Portable Storage – Six Months Ended 6/30/24 compared to Six Months Ended 6/30/23 (Unaudited)

(dollar amounts in thousands)	Six Months Ended		Increase (Decrease)	
	June 30,			
	2024	2023	\$	%
<b>Revenues</b>				
Rental	\$ 36,230	\$ 35,544	\$ 686	2 %
Rental related services	9,363	10,072	(709)	(7) %
Rental operations	45,593	45,616	(23)	(0) %
Sales	2,478	1,747	731	42 %
Other	711	803	(92)	(11) %
Total revenues	48,782	48,166	616	1 %
<b>Costs and Expenses</b>				
Direct costs of rental operations:				
Depreciation of rental equipment	1,965	1,657	308	19 %
Rental related services	8,932	9,022	(90)	(1) %
Other	2,995	3,487	(492)	(14) %
Total direct costs of rental operations	13,892	14,166	(274)	(2) %
Costs of sales	1,484	1,018	466	46 %
Total costs of revenues	15,377	15,184	193	1 %
<b>Gross Profit</b>				

Rental	31,270	30,400	870	3 %
Rental related services	431	1,050	(619)	(59)%
Rental operations	31,701	31,450	251	1 %
Sales	993	729	264	36 %
Other	711	803	(92)	(11)%
Total gross profit	33,405	32,982	423	1 %
Expenses:				
Selling and administrative expenses	17,885	15,262	2,623	17 %
Other income, net	(1,319)	—	(1,319)	nm
Income from operations	16,840	17,720	(880)	(5)%
Interest expense allocation	2,867	2,126	(741)	(35)%
Pre-tax income	\$ 13,973	\$ 15,594	\$ (1,621)	(10)%
<b>Other Selected Information</b>				
Adjusted EBITDA	\$ 22,538	\$ 22,328	\$ 210	1 %
Average rental equipment <sup>1</sup>	\$ 225,025	\$ 196,577	\$ 28,448	14 %
Average rental equipment on rent	\$ 152,609	\$ 156,072	\$ (3,463)	(2)%
Average monthly total yield <sup>2</sup>	2.68 %	3.01 %		(11)%
Average utilization <sup>3</sup>	67.8 %	79.4 %		(15)%
Average monthly rental rate <sup>4</sup>	3.96 %	3.80 %		4 %
Period end rental equipment <sup>1</sup>	\$ 228,368	\$ 208,124	\$ 20,244	10 %
Period end utilization <sup>3</sup>	64.5 %	77.0 %		(16)%

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new rental equipment inventory and accessory equipment. Average utilization for the period is calculated using the average month end costs of rental equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

Portable Storage's gross profit for the six months ended June 30, 2024, increased \$0.4 million, or 1%, to \$33.4 million. For the six months ended June 30, 2024, compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues increased \$0.7 million, or 2%, due to 4% higher average monthly rental rates, partly offset by 2% lower average rental equipment on rent in 2024. As a percentage of rental revenues, depreciation was 5% in both 2024 and 2023, and other direct costs were 8% and 10% in 2024 and 2023, respectively, which resulted in gross margin percentage of 86% in both 2024 and 2023. The higher rental revenues and comparable rental margins resulted in gross profit on rental revenues increasing \$0.9 million, or 3%, to \$31.3 million in 2024.
- **Gross Profit on Rental Related Services** – Rental related services revenues was \$9.4 million, a decrease of \$0.7 million compared to 2023. The gross margin on rental related services revenues was 5% in 2024, compared to 10% in 2023. The lower

revenues coupled with lower gross margins in 2024, resulted in rental related services gross profit decreasing \$0.6 million, when compared to 2023.

- **Gross Profit on Sales**— Sales revenues increased \$0.7 million, primarily due to higher used equipment sales. The higher sales revenues and lower gross margins of 40% in 2024, compared to 42% in 2023, resulted in sales gross profit increasing \$0.3 million, or 36%, to \$1.0 million in 2024. Sales occur routinely as a normal part of Portable Storage's rental business; however, these sales can fluctuate from period to period depending on customer requirements, equipment availability and funding.

For the six months ended June 30, 2024, Portable Storage's selling and administrative expenses increased \$2.6 million, or 17%, to \$17.9 million, primarily due to \$1.5 million higher allocated corporate costs, which included \$2.6 million in allocated transaction costs attributed to the pending merger with WillScot Mobile Mini.

## TRS-RenTelco

For the six months ended June 30, 2024, TRS-RenTelco's total revenues decreased \$7.5 million to \$66.4 million, compared to the same period in 2023, primarily due to lower rental revenues. Lower gross profit on rental revenues, partly offset by a \$1.7 million allocated net gain on the sale of a corporate property, resulted in a 39% decrease in pre-tax income to \$6.9 million for the six months ended June 30, 2024, from \$11.3 million for the same period in 2023.

The following table summarizes results for each revenue and gross profit category, income from operations, pre-tax income and other selected information.

### TRS-RenTelco – Six Months Ended 6/30/24 compared to Six Months Ended 6/30/23 (Unaudited)

	Six Months Ended			
	June 30,		Increase (Decrease)	
	2024	2023	\$	%
<i>(dollar amounts in thousands)</i>				
<b><u>Revenues</u></b>				
Rental	\$ 50,743	\$ 57,717	\$ (6,974)	(12)%
Rental related services	1,522	1,547	(25)	(2)%
Rental operations	52,265	59,264	(6,999)	(12)%
Sales	12,657	12,635	22	0%
Other	1,511	2,066	(555)	(27)%
Total revenues	66,433	73,965	(7,532)	(10)%
<b><u>Costs and Expenses</u></b>				
Direct costs of rental operations:				
Depreciation of rental equipment	22,696	24,701	(2,005)	(8)%
Rental related services	1,236	1,402	(166)	(12)%
Other	9,997	10,703	(706)	(7)%
Total direct costs of rental operations	33,929	36,806	(2,877)	(8)%
Costs of sales	5,658	5,656	2	0%



Total costs of revenues	39,587	42,462	(2,875)	(7)%
<b>Gross Profit</b>				
Rental	18,050	22,313	(4,263)	(19)%
Rental related services	286	145	141	97%
Rental operations	18,336	22,458	(4,122)	(18)%
Sales	6,999	6,979	20	0%
Other	1,511	2,066	(555)	(27)%
Total gross profit	26,846	31,503	(4,657)	(15)%
Expenses:				
Selling and administrative expenses	17,433	16,577	856	5%
Other income, net	(1,742)	-	(1,742)	nm
Income from operations	11,155	14,926	(3,771)	(25)%
Interest expense allocation	4,121	3,801	(320)	nm
Foreign currency exchange loss (gain)	163	(208)	371	nm
Pre-tax income	\$ 6,871	\$ 11,333	\$ (4,462)	(39)%
<b>Other Selected Information</b>				
Adjusted EBITDA	\$ 36,481	\$ 42,173	\$ (5,692)	(13)%
Average rental equipment <sup>1</sup>	\$ 369,756	\$ 395,049	\$ (25,293)	(6)%
Average rental equipment on rent	\$ 208,570	\$ 231,703	\$ (23,133)	(10)%
Average monthly total yield <sup>2</sup>	2.27%	2.42%		(6)%
Average utilization <sup>3</sup>	56.4%	58.7%		(4)%
Average monthly rental rate <sup>4</sup>	4.05%	4.15%		(2)%
Period end rental equipment <sup>1</sup>	\$ 366,642	\$ 386,828	\$ (20,186)	(5)%
Period end utilization <sup>3</sup>	55.8%	58.3%		(4)%

1. Average and Period end rental equipment represents the cost of rental equipment, excluding new equipment inventory and accessory equipment.
2. Average monthly total yield is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment, for the period.
3. Period end utilization is calculated by dividing the cost of rental equipment on rent by the total cost of rental equipment, excluding new rental equipment inventory and accessory equipment. Average utilization for the period is calculated using the average month end costs of rental equipment.
4. Average monthly rental rate is calculated by dividing the averages of monthly rental revenues by the cost of rental equipment on rent, for the period.

nm = Not meaningful

TRS-RenTelco's gross profit for the six months ended June 30, 2024 decreased \$4.7 million, or 15%, to \$26.8 million. For the six months ended June 30, 2024 compared to the same period in 2023:

- **Gross Profit on Rental Revenues** – Rental revenues decreased \$7.0 million, or 12%, depreciation expense decreased \$2.0 million, or 8%, and other direct costs decreased by \$0.7 million, or 7%, resulting in a 19% decrease in gross profit on rental revenues to \$18.1 million. As a percentage of rental revenues, depreciation was 45% and 43% in 2024 and 2023, respectively, and other direct costs were 20% and 19%, in 2024 and 2023, respectively, which resulted in a gross margin percentage of 36% and 39%

in 2024 and 2023, respectively. The decrease in rental revenues was primarily due to a 10% reduction in average rental equipment on rent and 2% lower average monthly rental rates in 2024, as compared to 2023.

- **Gross Profit on Sales** – Sales revenues were comparable at \$12.7 million in 2024. Gross profit on sales was \$7.0 million, unchanged from 2023, with a gross margin percentage of 55% in 2024, unchanged from 2023. Sales occur as a normal part of TRS-RenTelco's rental business; however, these sales and related gross margins can fluctuate from quarter to quarter depending on customer requirements and related mix of equipment sold, equipment availability and funding.

For the six months ended June 30, 2024, selling and administrative expenses increased \$0.9 million, or 5%, to \$17.4 million. The increase was primarily due to \$1.1 million higher allocated corporate expenses, which included \$3.6 million in allocated transaction costs attributed to the pending merger with WillScot Mobile Mini.

## Adjusted EBITDA

To supplement the Company's financial data presented on a basis consistent with accounting principles generally accepted in the United States of America ("GAAP"), the Company presents "Adjusted EBITDA", which is defined by the Company as net income before interest expense, provision for income taxes, depreciation, amortization, non-cash impairment costs, share-based compensation, transaction costs and gains on property sales. The Company presents Adjusted EBITDA as a financial measure as management believes it provides useful information to investors regarding the Company's liquidity and financial condition and because management, as well as the Company's lenders, use this measure in evaluating the performance of the Company.

Management uses Adjusted EBITDA as a supplement to GAAP measures to further evaluate period-to-period operating performance, compliance with financial covenants in the Company's revolving lines of credit and senior notes and the Company's ability to meet future capital expenditure and working capital requirements. Management believes the exclusion of non-cash charges and non-recurring transactions, including share-based compensation, transaction costs and gains on property sales is useful in measuring the Company's cash available for operations and performance of the Company. Because management finds Adjusted EBITDA useful, the Company believes its investors will also find Adjusted EBITDA useful in evaluating the Company's performance.

Adjusted EBITDA should not be considered in isolation or as a substitute for net income, cash flows, or other consolidated income or cash flow data prepared in accordance with GAAP or as a measure of the Company's profitability or liquidity. Adjusted EBITDA is not in accordance with or an alternative for GAAP and may be different from non-GAAP measures used by other companies. Unlike EBITDA, which may be used by other companies or investors, Adjusted EBITDA does not include share-based compensation charges, transaction costs and gains on property sales. The Company believes that Adjusted EBITDA is of limited use in that it does not reflect all of the amounts associated with the Company's results of operations as determined in accordance with GAAP and does not accurately reflect real cash flow. In addition, other companies may not use Adjusted EBITDA or may use other non-GAAP measures, limiting the usefulness of Adjusted EBITDA for purposes of comparison. The Company's presentation of Adjusted EBITDA should not be construed as an inference that the Company will not incur expenses that are the same as or similar to the adjustments in this presentation. Therefore, Adjusted EBITDA should only be used to evaluate the Company's results of operations in conjunction with the corresponding GAAP measures. The Company compensates for the limitations of Adjusted EBITDA by relying upon GAAP results to gain a complete picture of the Company's performance. Because Adjusted EBITDA is a non-GAAP financial measure, as

defined by the SEC, the Company includes in the tables below reconciliations of Adjusted EBITDA to the most directly comparable financial measures calculated and presented in accordance with GAAP.

#### Reconciliation of Income from Continuing Operations to Adjusted EBITDA

(dollar amounts in thousands)	Three Months Ended		Twelve Months Ended		Three Months Ended		Six Months Ended		Twelve Months Ended	
	March 31,		March 31,		June 30,		June 30,		June 30,	
	2024	2023	2024	2023	2024	2023	2024	2023	2024	2023
Income from continuing operations	\$ 22,848	\$ 11,518	\$ 123,182	\$ 97,169	\$ 20,618	\$ 27,952	\$ 43,466	\$ 39,470	\$ 115,848	\$ 101,577
Provision for income taxes from continuing operations	7,047	1,113	43,544	26,981	8,359	9,669	15,406	10,782	42,234	29,654
Interest expense	12,704	7,464	45,800	17,418	13,037	9,945	25,741	17,409	48,892	24,937
Depreciation and amortization	27,187	26,133	108,972	96,489	26,944	27,368	54,131	53,501	108,548	100,650
EBITDA	69,786	46,228	321,498	238,057	68,958	74,934	138,744	121,162	315,522	256,818
Share-based compensation	2,209	1,375	8,991	6,764	2,347	1,889	4,556	3,264	9,449	7,228
Transaction costs <sup>3</sup>	9,354	14,147	11,084	18,200	12,367	145	21,721	14,292	23,306	18,345
Other income, net <sup>4</sup>	(9,281)	—	(12,899)	—	—	—	(9,281)	—	(12,899)	—
Adjusted EBITDA <sup>1</sup>	\$ 72,068	\$ 61,750	\$ 328,674	\$ 263,171	\$ 83,672	\$ 76,968	\$ 155,740	\$ 138,718	\$ 335,378	\$ 282,391
Adjusted EBITDA margin <sup>2</sup>	37 %	38 %	38 %	39 %	39 %	38 %	38 %	38 %	38 %	39 %

- Adjusted EBITDA is defined as income from operations before interest expense, provision for income taxes, depreciation, amortization, share-based compensation, transaction and other income, net.
- Adjusted EBITDA margin is calculated as Adjusted EBITDA divided by total revenues for the period.
- Transaction costs include acquisition and divestiture related legal and professional fees and other costs specific to these transactions.
- Other income, net consists of net gains on property, plant and equipment sales that are infrequent in nature and excluded from Adjusted EBITDA.

As of March 31, 2024 For the six months ended June 30, 2024, total Adjusted EBITDA from both continuing and discontinued operations was \$72.1 million \$155.7 million, compared to \$65.4 million \$142.4 million for the same period in 2023, excluding the gain on sale of the divestiture of Adler Tanks. For the three six months ended March 31, 2024 June 30, 2024 and 2023, the total Adjusted EBITDA from continuing operations was \$72.1 million \$155.7 million and \$61.8 million \$138.7 million, respectively. There were no adjusted earnings from discontinued

operations during the first quarter of 2024 six months ended June 30, 2024, and total Adjusted EBITDA from discontinued operations of \$3.7 million during the comparable period in 2023.

32 39

The following table reconciles Adjusted EBITDA on a combined basis, including both continuing and discontinued operations, to the net cash provided by operating activities on the Company's condensed consolidated statement of cash flows.

#### Reconciliation of Adjusted EBITDA to Net Cash Provided by Operating Activities

(dollar amounts in thousands)	Three Months Ended		Twelve Months Ended		Three Months Ended		Six Months Ended		Twelve Months Ended	
	March 31,		March 31,		June 30,		June 30,		June 30,	
	2024	2023	2024	2023	2024	2023	2024	2023	2024	2023
Adjusted EBITDA <sup>1</sup>	\$ 72,068	\$ 65,432	\$ 328,674	\$ 297,579	\$ 83,672	\$ 76,968	\$ 155,740	\$ 142,400	\$ 335,378	\$ 308,256
Interest paid	(14,184)	(7,817)	(44,970)	(20,455)	(12,210)	(8,985)	(26,394)	(16,802)	(48,195)	(25,756)
Income taxes paid, net of refunds received	(479)	(413)	(91,631)	(27,355)	5,078	(6,518)	4,599	(6,931)	(80,035)	(17,215)
Gain on sale of used rental equipment	(7,355)	(3,089)	(35,908)	(35,704)	(8,182)	(11,161)	(15,537)	(14,250)	(32,929)	(36,136)
Foreign currency exchange loss	132	(226)	48	165	31	18	163	(208)	61	2
Amortization of debt issuance costs	2	2	8	14	2	2	4	4	8	11
Change in certain assets and liabilities:										
Accounts receivable, net	15,418	16,953	(36,678)	(21,506)	(5,429)	(16,669)	9,989	284	(25,438)	(22,410)
Prepaid expenses and other assets	5,298	(7,345)	(16,683)	(28,042)	519	(1,159)	5,817	(8,504)	(15,005)	(14,133)
Accounts payable and other liabilities	(22,748)	(31,004)	(9,570)	(7,992)	3,800	(2,828)	(18,948)	(33,832)	(2,942)	(22,935)
Deferred income	11,268	3,218	22,144	21,696	11,928	6,072	23,196	9,290	28,000	14,156
Net cash provided by operating activities	\$ 59,420	\$ 35,711	\$ 115,434	\$ 178,400	\$ 79,209	\$ 35,740	\$ 138,629	\$ 71,451	\$ 158,903	\$ 183,840

1. Adjusted EBITDA is defined as income from operations before interest expense, provision for income taxes, depreciation, amortization, share-based compensation and transaction costs.

Adjusted EBITDA is a component of two restrictive financial covenants for the Company's unsecured Credit Facility, the Note Purchase Agreement, Series D Senior Notes, Series E Senior Notes and Series F Senior Notes (as defined and more fully described under the heading "Liquidity and Capital Resources" in this MD&A). These instruments contain financial covenants requiring the Company to not:

- Permit the Consolidated Fixed Charge Coverage Ratio (as defined in the Credit Facility and the Note Purchase Agreement (as defined more fully described under the heading "Liquidity and Capital Resources" in this MD&A)) of Adjusted EBITDA (as defined in the Credit Facility and the Note Purchase Agreement) to fixed charges as of the end of any fiscal quarter to be less than 2.50 to 1. At **March 31, 2024**, the actual ratio was **3.11** to 1.
- Permit the Consolidated Leverage Ratio of funded debt (as defined in the Credit Facility and the Note Purchase Agreement) to Adjusted EBITDA at any time during any period of four consecutive quarters to be greater than 2.75 to 1. At **March 31, 2024**, the actual ratio was **2.43** to 1.

At **March 31, 2024**, the Company was in compliance with each of the aforementioned covenants. There are no anticipated trends that the Company is aware of that would indicate non-compliance with these covenants, although, significant deterioration in our financial performance could impact the Company's ability to comply with these covenants.

### Liquidity and Capital Resources

The Company's rental businesses are capital intensive and generate significant cash flows. Cash flows for the Company for the **three** months ended **March 31, 2024** compared to the same period in 2023 are summarized as follows:

*Cash Flows from Operating Activities:* The Company's operations provided net cash of **\$59.4 million** in 2024, compared to net cash provided of **\$35.7 million** in 2023. The **\$23.7 million** increase in net cash provided by operating activities was primarily attributable to a **\$50.2 million** change in deferred income taxes, a **\$13.9 million** increase in deferred income and a **\$10.2 million** decrease in accounts receivable, partly offset by a **\$22.4 million** decrease in accounts payable, primarily due to lower income taxes payable.

*Cash Flows from Investing Activities:* Net cash used in investing activities was **\$78.1 million** in 2024, compared to **\$263.5 million** in 2023. The **\$185.4 million** decrease in net cash used was primarily due to the **\$453.6 million** paid for the business acquisitions of Vesta Modular, and Brekke Storage and Dixie Storage acquisitions in the first quarter of 2023, which was partly offset by **\$262.4 million** in proceeds from the sale of discontinued operations during the same period. The net effect of these transactions in 2023 was **\$191.2 million** in net cash used by investing activities.

*Cash Flows from Financing Activities:* Net cash provided by financing activities was **\$19.7 million** in 2024, compared to **\$227.5 million** in 2023. The **\$207.8 million** change was primarily attributable to reduced borrowings under bank lines of credit and note

33 40

purchase agreements in 2024, as during 2023 the net borrowings were required for the funding of the Vesta Modular, Brekke Storage and Dixie Storage business acquisitions.

Significant capital expenditures are required to maintain and grow the Company's rental assets. During the last three years, the Company has financed its working capital and capital expenditure requirements through cash flow from operations, proceeds from the sale of rental equipment and from borrowings. Sales occur routinely as a normal part of the Company's rental business. However, these sales can fluctuate from period to period depending on customer requirements and funding. Although the net proceeds received from sales may fluctuate from period to period, the Company believes its liquidity will not be adversely impacted from lower sales in any given year because it believes it has the ability to increase its bank borrowings and conserve its cash in the future by reducing the amount of cash it uses to purchase rental equipment, pay dividends, or repurchase the Company's common stock.

### ***Unsecured Revolving Lines of Credit***

On July 15, 2022, the Company entered into an amended and restated credit agreement with Bank of America, N.A., as Administrative Agent, Swing Line Lender, L/C Issuer and lender, and other lenders named therein (the "Credit Facility"). The Credit Facility provides for a \$650.0 million unsecured revolving credit facility (which may be further increased to \$950.0 million, of which \$75.0 million was utilized through the term loan entered on April 23, 2024, by adding one or more tranches of term loans and/or increasing the aggregate revolving commitments), which includes a \$40.0 million sublimit for the issuance of standby letters of credit and a \$20.0 million sublimit for swingline loans. The proceeds of the Credit Facility are available to be used for general corporate purposes, including permitted acquisitions. The Credit Facility permits the Company's existing indebtedness to remain, which includes the Company's \$20.0 million Treasury Sweep Note due July 15, 2027, the Company's existing senior notes issued pursuant to the Note Purchase and Private Shelf Agreement with Prudential Investment Management, Inc., dated as of April 21, 2011 (as amended): (i) the \$60.0 million aggregate outstanding principal of notes issued November 5, 2015 and due November 5, 2022, (ii) the \$40.0 million aggregate outstanding principal of notes issued March 17, 2021 and due March 17, 2028, and (iii) the \$60.0 million aggregate outstanding principal of notes issued June 16, 2021 and due June 16, 2026. In addition, the Company may incur additional senior note indebtedness in an aggregate amount not to exceed \$250.0 million. The Credit Facility matures on July 15, 2027 and replaced the Company's prior \$420.0 million credit facility dated March 31, 2020 with Bank of America, N.A., as agent, as amended. All obligations outstanding under the prior credit facility as of the date of the Credit Facility were refinanced by the Credit Facility on July 15, 2022 April 23, 2022.

On August 19, 2022, the Company entered into an amended and restated Credit Facility Letter Agreement and a Credit Line Note in favor of MUFG Union Bank, N.A., which provides for a \$20.0 million line of credit facility related to its cash management services ("Sweep Service Facility"). The Sweep Service Facility matures on the earlier of July 15, 2027, or the date the Company ceases to utilize MUFG Union Bank, N.A. for its cash management services. The Sweep Service Facility replaced the Company's prior \$12.0 million sweep service facility, dated as of March 30, 2020.

On April 23, 2024, the Company entered into a first incremental facility amendment with Bank of America, N.A., as Administrative Agent and the first incremental lender ("BoA") and the guarantors named therein (the "First Incremental Amendment"). The First Incremental Amendment amends the Second Amended and Restated Credit Agreement, dated as of July 15, 2022, as amended, by and among the Company, BoA, the other lenders named therein, and the guarantors named therein (the "Credit Agreement") to institute an incremental term loan "A" facility in an aggregate principal amount of \$75.0 million (the "Incremental Credit Facility"). The proceeds from the Incremental Credit Facility were used for general corporate purposes. Concurrently with entry into the First Incremental Amendment, the Company repaid revolving loans issued under the Credit Agreement in an aggregate amount equal to approximately \$75.0 million.

At March 31, 2024 June 30, 2024, under the Credit Facility and Sweep Service Facility, the Company had unsecured lines of credit that permit it to borrow up to \$650.0 million of which \$623.6 million \$544.3 million was outstanding and had capacity to borrow up to an additional \$26.4 million \$105.7 million. The Credit Facility contains financial covenants requiring the Company to not (all defined terms used below not otherwise defined herein have the meaning assigned to such terms in the Credit Facility):

- Permit the Consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter to be less than 2.50 to 1. At March 31, 2024 30, 2024, the actual ratio was 3.11 3.08 to 1.
- Permit the Consolidated Leverage Ratio at any time during any period of four consecutive fiscal quarters to be greater than 2.75 to 1.

March 31, 2024 June 30, 2024, the actual ratio was 2.43 2.37 to 1.

At March 31, 2024 June 30, 2024, the Company was in compliance with each of the aforementioned covenants. There are no anticipated trends that the Company is aware of that would indicate non-compliance with these covenants, although significant deterioration in our financial performance could impact the Company's ability to comply with these covenants.

41

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### **Note Purchase and Private Shelf Agreement**

On June 8, 2023, the Company entered into a Second Amended and Restated Note Purchase and Private Shelf Agreement (the "Note Purchase Agreement") with PGIM, Inc. ("PGIM") and the holders of Series D and Series E Notes previously issued pursuant to the Prior Amended and Restated NPA, among the Company and the other parties to the Note Purchase Agreement. The Note Purchase Agreement amended and restated, and superseded in its entirety, the Prior NPA. Pursuant to the Prior NPA, the Company issued (i) \$40.0 million aggregate principal amount of its 2.57% Series D Senior Notes, due March 17, 2028, and (ii) \$60.0 million aggregate principal amount of its 2.35% Series E Senior Notes, due June 16, 2026, to which the terms of the Note Purchase Agreement shall apply.

34

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In addition, pursuant to the Note Purchase Agreement, the Company may authorize the issuance and sale of additional senior notes (the "Shelf Notes") in the aggregate principal amount of (x) \$300 million minus (y) the amount of other notes (such as the Series D Senior Notes, Series E Senior Notes and Series F Senior Notes, each defined below) then outstanding, to be dated the date of issuance thereof, to mature, in case of each Shelf Note so issued, no more than 15 years after the date of original issuance thereof, to have an average life, in the case of each Shelf Note so issued, of no more than 15 years after the date of original issuance thereof, to bear interest on the unpaid balance thereof from the date thereof at the rate per annum, and to have such other particular terms, as shall be set forth, in the case of each Shelf Note so issued, in accordance with the Note Purchase Agreement. Shelf Notes may be issued and sold from time to time at the discretion of the Company's Board of Directors and in such amounts as the Board of Directors may determine, subject to prospective purchasers' agreement to purchase the Shelf Notes. The Company will sell the Shelf Notes directly to such purchasers. The full net proceeds of each Shelf Note will be used in the manner described in the applicable Request for Purchase with respect to such Shelf Note.

### **6.25% Senior Notes Due in 2030**

On September 27, 2023, the Company issued and sold to the purchasers \$75.0 million aggregate principal amount of 6.25% Series F Notes (the "Series F Senior Notes") pursuant to the terms of the Second Amended and Restated Note Purchase and Private Shelf Agreement, dated June 8, 2023 (the "Note Purchase Agreement"), among the Company, PGIM, Inc. and the noteholders party thereto.

The Series F Senior Notes are an unsecured obligation of the Company and bear interest at a rate of 6.25% per annum and mature on September 27, 2030. Interest on the Series F Senior Notes is payable semi-annually beginning on March 27, 2024 and continuing thereafter on



September 27 and March 27 of each year until maturity. The principal balance is due when the notes mature on September 27, 2030. The full net proceeds from the Series F Senior Notes will primarily be used to fulfill the income tax obligations incurred from the divestiture of Adler Tanks. At **March 31, 2024** **June 30, 2024**, the principal balance outstanding under the Series F Senior Notes was \$75.0 million.

### **2.57% Senior Notes Due in 2028**

On March 17, 2021, the Company issued and sold to the purchasers \$40.0 million aggregate principal amount of 2.57% Series D Notes (the "Series D Senior Notes") pursuant to the terms of the Amended and Restated Note Purchase and Private Shelf Agreement, dated March 31, 2020 (the "Note Purchase Agreement"), among the Company, PGIM, Inc. and the noteholders party thereto.

The Series D Senior Notes are an unsecured obligation of the Company and bear interest at a rate of 2.57% per annum and mature on March 17, 2028. Interest on the Series D Senior Notes is payable semi-annually beginning on September 17, 2021 and continuing thereafter on March 17 and September 17 of each year until maturity. The principal balance is due when the notes mature on March 17, 2028. The full net proceeds from the Series D Senior Notes were used to pay off the Company's \$40 million Series B Senior Notes. At **March 31, 2024** **June 30, 2024**, the principal balance outstanding under the Series D Senior Notes was \$40.0 million.

### **2.35% Senior Notes Due in 2026**

On June 16, 2021, the Company issued and sold to the purchasers \$60.0 million aggregate principal amount of 2.35% Series E Notes (the "Series E Notes") pursuant to the terms of the Amended and Restated Note Purchase and Private Shelf Agreement, dated March 31, 2020 (the "Note Purchase Agreement"), among the Company, PGIM, Inc. and the noteholders party thereto.

The Series E Senior Notes are an unsecured obligation of the Company and bear interest at a rate of 2.35% per annum and mature on June 16, 2026. Interest on the Series E Senior Notes is payable semi-annually beginning on December 16, 2021 and continuing thereafter on June 16 and December 16 of each year until maturity. The principal balance is due when the notes mature on June 16, 2026. The full net proceeds from the Series E Senior Notes were used to pay down the Company's credit facility. At **March 31, 2024** **June 30, 2024**, the principal balance outstanding under the Series E Senior Notes was \$60.0 million.

Among other restrictions, the Note Purchase Agreement, which has superseded in its entirety the Prior NPA, under which the Series D Senior Notes, Series E Senior Notes and Series F Senior Notes were sold, contains financial covenants requiring the Company

42

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to not (all defined terms used below not otherwise defined herein have the meaning assigned to such terms in the Note Purchase Agreement):

- Permit the Consolidated Fixed Charge Coverage Ratio of EBITDA to fixed charges as of the end of any fiscal quarter to be less than to 1. At **March 31, 2024** **June 30, 2024**, the actual ratio was **3.11** **3.08** to 1.
- Permit the Consolidated Leverage Ratio of funded debt to EBITDA at any time during any period of four consecutive quarters to be gr than 2.75 to 1. At **March 31, 2024** **June 30, 2024**, the actual ratio was **2.43** **2.37** to 1.

35



At March 31, 2024 June 30, 2024, the Company was in compliance with each of the aforementioned covenants. There are no anticipated trends that the Company is aware of that would indicate non-compliance with these covenants, although significant deterioration in our financial performance could impact the Company's ability to comply with these covenants.

Although no assurance can be given, the Company believes it will continue to be able to negotiate general bank lines of credit and issue senior notes adequate to meet capital requirements not otherwise met by operational cash flows and proceeds from sales of rental equipment.

### **Common Stock Purchase**

The Company has in the past made purchases of shares of its common stock from time to time in over-the-counter market (NASDAQ) transactions, through privately negotiated, large block transactions and through a share repurchase plan, in accordance with Rule 10b5-1 of the Securities Exchange Act of 1934. In August 2015, the Company's Board of Directors authorized the Company to repurchase up to 2,000,000 shares of the Company's outstanding common stock (the "Repurchase Plan"). The amount and time of the specific repurchases are subject to prevailing market conditions, applicable legal requirements and other factors, including management's discretion. All shares repurchased by the Company are canceled and returned to the status of authorized but unissued shares of common stock. There can be no assurance that any authorized shares will be repurchased and the Repurchase Plan may be modified, extended or terminated by the Company's Board of Directors at any time. There were no shares repurchased in the three six months ended March 31, 2024 June 30, 2024 and 2023. As of March 31, 2024 June 30, 2024, 1,309,805 shares remained authorized for repurchase under the Repurchase Plan.

### **Contractual Obligations and Commitments**

We believe that our contractual obligations and commitments have not changed materially from those included in our 2023 Annual Report.

### **Critical Accounting Estimates**

There were no material changes in our judgments and assumptions associated with the development of our critical accounting estimates during the six month period ended March 31, 2024 June 30, 2024. Refer to our 2023 Annual Report for a discussion of our critical accounting policies and estimates.

### **Subsequent Events**

On April 23, 2024, the Company entered into a first incremental facility amendment with Bank of America, N.A., as Administrative Agent and the first incremental lender ("BoA") and the guarantors named therein (the "First Incremental Amendment"). The First Incremental Amendment amends the Second Amended and Restated Credit Agreement, dated as of July 15, 2022, as amended, by and among the Company, BoA, the other lenders named therein, and the guarantors named therein (the "Credit Agreement") to institute an incremental term loan "A" facility in an aggregate principal amount of \$75.0 million (the "Incremental Credit Facility"). The proceeds from the Incremental Credit Facility will be used for general corporate purposes. Concurrently with entry into the First Incremental Amendment, the Company repaid revolving loans issued under the Credit Agreement in an aggregate amount equal to approximately \$75.0 million.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

There have been no material changes in the Company's market risk exposures from those reported in our 2023 Annual Report.

### **Item 4. Controls and Procedures**

The Company's management, under the supervision and with the participation of the Company's Chief Executive Officer (the "CEO") and Chief Financial Officer (the "CFO"), the Company's principal executive officer and principal financial officer, respectively, performed an evaluation

of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of **March 31, 2024** **June 30, 2024**. Based on that evaluation, the CEO and CFO concluded that the Company's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) were effective as of **March 31, 2024** **June 30, 2024**. There were no changes in the Company's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**36** 43

## Part II -Other Information

### Item 1. Legal Proceedings

The Company is subject to various legal proceedings and claims arising in the ordinary course of business. The Company's management does not expect that the outcome in the current proceedings, individually or collectively, will have a material adverse effect on the Company's financial condition, operating results or cash flows.

On June 20 and 21, 2024, two purported shareholders of the Company commenced separate actions, captioned *Smith v. McGrath RentCorp, et al.*, Index No. 653114/2024, and *Taylor v. McGrath RentCorp, et al.*, Index No. 653148/2024, both in the Supreme Court of the State of New York, County of New York (the "June 2024 Complaints"). The June 2024 Complaints both name the Company and the members of its board of directors as defendants. The June 2024 Complaints assert claims for breach of fiduciary duty in connection with alleged misleading disclosures and misleading omissions in the special proxy statement filed by the Company with the SEC on June 10, 2024. The June 2024 Complaints seek, among other relief, an injunction preventing the parties from consummating the proposed transaction set forth in the Merger Agreement, damages in the event the transaction is consummated, and an award of attorneys' fees. To the Company's knowledge, the June 2024 Complaints have not yet been served on any defendant. The Company believes the allegations made in the June 2024 Complaints are without merit and, in the event the June 2024 Complaints are not dismissed as moot as a result of the stockholder vote that occurred on July 11, 2024, the Company will rigorously defend itself at the appropriate time.

### Item 1a. Risk Factors

You should carefully consider the following discussion of various risks and uncertainties. We believe these risk factors are the most relevant to our business and could cause our results to differ materially from the forward-looking statements made by us. Our business, financial condition, and results of operations could be seriously harmed if any of these risks or uncertainties actually occur or materialize. In that event, the market price for our common stock could decline, and you may lose all or part of your investment. The risk factors below are intended to supersede in their entirety the risk factors contained in "Item 1. A Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2023.

#### **RISKS RELATED TO THE PROPOSED ACQUISITION BY WILLSCOT MOBILE MINI:**

**There are material uncertainties and risks associated with the proposed Transaction, including the timing of the consummation of the Transaction, which may adversely affect our business and ongoing operations, financial condition and results of operations, employees, customers, shareholders, other parties and business prospects, and a failure to complete the Transaction on the terms**

reflected in the Merger Agreement, if at all, could have a material and adverse effect on our business, financial condition, results of operations, cash flows and stock price.

- The announcement and pendency of the proposed Transaction may adversely affect our business, financial condition and results of operations.
  - On January 28, 2024, we entered into the Merger Agreement with WillScot Mobile Mini. Uncertainty about the effect of the proposed Transaction on our employees, customers, shareholders and other parties may have an adverse effect on our business, financial condition and results of operation regardless of whether the proposed Transaction is completed. The risks to our business include the following, all of which could be exacerbated by a delay in the completion of the proposed Transaction:
    - the impairment of our ability to attract, retain, and motivate our employees, including key personnel;
    - the diversion of significant management time and resources towards the completion of the proposed Transaction;
    - difficulties maintaining relationships with customers, suppliers, and other business partners;
    - delays or deferments of certain business decisions by our customers, suppliers, and other business partners;
    - the inability to pursue alternative business opportunities or make appropriate changes to our business because the Merger Agreement requires us to use reasonable best efforts to conduct our business in the ordinary course of business and to engage in certain kinds of transactions prior to the completion of the proposed Transaction;
    - litigation relating to the proposed Transaction and the costs related thereto; and
    - the incurrence of significant costs, expenses, and fees for professional services and other transaction costs in connection with the proposed Transaction.

44

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Additionally, in approving the Merger Agreement, our Board of Directors considered a number of factors and potential benefits, including the fact that the Transaction consideration to be received by holders of our common stock represented an approximate 10% premium over the Company's closing stock price of \$111.75 on January 26, 2024, the last full trading day prior to the announcement of the proposed Transaction. If the Transaction is not completed, neither we nor the holders of our common stock may realize this benefit of the Transaction.

Failure to consummate the proposed Transaction within the expected timeframe or at all could have a material adverse impact on our business, financial condition and results of operations, as well as the trading prices of our common stock.

37

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There can be no assurance that the proposed Transaction will be consummated. The consummation of the proposed Transaction is subject to certain regulatory approvals and customary closing conditions. The obligation of each party to consummate the Transaction is also conditioned upon the other party's representations and warranties being true and correct to the extent specified in the Merger Agreement and the other party having performed in all material respects its obligations under the Merger Agreement. There

can be no assurance that these and other conditions to closing will be satisfied in a timely manner or at all. The Merger Agreement also includes customary termination provisions for both the Company and WillScot Mobile Mini, and we may be required to pay WillScot Mobile Mini a termination fee equal to \$120 million in certain specified circumstances, including, among other circumstances, if WillScot Mobile Mini terminates the Merger Agreement following a Company Adverse Recommendation Change prior to receipt of Company Shareholder Approval (each as defined in the Merger Agreement) or (ii) the Company terminates the Merger Agreement to enter into an alternative acquisition agreement in respect of a Superior Proposal (as defined in the Merger Agreement). Mini. If we are required to make this a termination payment, doing so may materially adversely affect our business, financial condition and results of operations. In addition, McGrath could be subject to litigation related to any failure to complete the Transaction or related to any proceeding to specifically enforce McGrath's obligation to perform McGrath's obligations under the Merger Agreement.

There can be no assurance that a remedy will be available to us in the event of a breach of the Merger Agreement by WillScot Mobile Mini or its affiliates or that we will wholly or partially recover for any damages incurred by us in connection with the proposed Transaction. A failed transaction may result in negative publicity and a negative impression of us among our customers or in the investment community or business community generally. Furthermore, any disruptions to our business resulting from the announcement and pendency of the proposed Transaction, including any adverse changes in our relationships with our customers, partners, suppliers and employees, could continue or accelerate in the event of a failed transaction. In addition, if the proposed Transaction is not completed, and there are no other parties willing and able to acquire the Company at a price of \$123.00 per share or higher, on terms acceptable to us, the share price of our common stock will likely decline to the extent that the current market price of our common stock reflects an assumption that the proposed Transaction will be completed. Also, we have incurred, and will continue to incur, significant costs, expenses and fees for professional services and other transaction costs in connection with the proposed Transaction, for which we will have received little or no benefit if the proposed Transaction is not completed. Many of these fees and costs will be payable by us even if the proposed Transaction is not completed and may relate to activities that we would not have undertaken other than to complete the proposed Transaction.

- **The Transaction is subject to the expiration or termination of applicable waiting periods and the DOJ or FTC may impose conditions that could have an adverse effect on WillScot Mobile Mini, McGrath or the combined company or, if not obtained, could prevent completion of the Transaction.**

Before the Transaction may be completed, any applicable waiting periods (and any extensions thereof) under the HSR Act relating to the completion of the Transaction must have expired or been terminated.

Under the Merger Agreement, WillScot Mobile Mini and McGrath have agreed to use their respective reasonable best efforts to obtain all consents required to be obtained from any governmental authority that are necessary, proper or advisable to consummate the Transaction. On February 21, 2024, each of McGrath and WillScot Mobile Mini received a second request from the FTC in connection with the FTC's review of the Transaction, which extends the waiting period until 30 days after both parties have substantially complied with the second request, unless the FTC early terminates the additional waiting period or the parties otherwise agree not to consummate the Transaction for a period of time after substantial compliance. On July 24, 2024, the parties committed to the FTC that they would not close the Transaction prior to September 27, 2024. However, the timeline is not binding on the FTC, which has the option to take alternative actions, including initiating legal proceedings against the parties in relation to the Transaction. McGrath and WillScot Mobile Mini are working with the FTC to complete its investigation as soon as practicable. In addition, McGrath has received civil investigative demands from three state attorneys general inquiring into the transaction. Similarly, McGrath and WillScot Mobile Mini are working with those states to complete their investigations as soon as practicable. However, neither WillScot Mobile Mini nor McGrath is required to agree to or commit to any actions that individually or in the aggregate would, or would reasonably be expected to have, a material adverse effect on WillScot Mobile Mini and its subsidiaries when taken as a whole, or McGrath and its subsidiaries when taken as a whole.

In addition, at any time before or after the completion of the Transaction, and notwithstanding the expiration or termination of applicable waiting periods, the DOJ or FTC or any state attorney general could take such action under the antitrust laws as such party deems necessary or desirable in the public interest. Such action could include, among

45

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other things, seeking to enjoin the completion of the Transaction, to rescind the Transaction or to conditionally permit the completion of the Transaction subject to regulatory conditions or other remedies. In addition, in some circumstances, a third party could initiate a private action challenging, seeking to enjoin, or seeking to impose conditions on the Transaction. WillScot Mobile Mini and McGrath may not prevail and may incur significant costs in defending or settling any such action.

There can be no assurance that the conditions to the completion of the Transaction set forth in the Merger Agreement relating to applicable antitrust laws will be satisfied.

38

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- **Prior to the completion of the Transaction or the termination of the Merger Agreement in accordance with its terms, we prohibited from entering into certain transactions and taking certain actions that might otherwise be beneficial to us and shareholders.**

After the date of the Merger Agreement and prior to the Effective Time, the Merger Agreement restricts us from taking specified actions without the consent of WillScot Mobile Mini (which consent may not be unreasonably withheld, conditioned or delayed) and requires that our business be conducted in all material respects in the ordinary course of business. These restrictions may prevent us from making appropriate changes to our businesses or organizational structures or from pursuing attractive business opportunities that may arise prior to the completion of the Transaction and could have the effect of delaying or preventing other strategic transactions. Adverse effects arising from the pendency of the Transaction could be exacerbated by any delays in consummation of the Transaction or termination of the Merger Agreement.

- **The Transaction, including uncertainty regarding the Transaction, may cause customers, suppliers, distributors or strategic partners to delay or defer decisions, which could negatively affect our business and adversely affect our ability to effectively manage our business.**

The Transaction will be consummated only if certain conditions are met. Many of the conditions are outside of our control, and both we and WillScot Mobile Mini also have the right to terminate the Merger Agreement in certain circumstances. Accordingly, there may be uncertainty regarding the completion of the Transaction. This uncertainty may cause customers, suppliers, distributors, strategic partners or others that deal with us to delay or defer entering into contracts with us or making other decisions concerning us or seek to change or cancel existing business relationships, which could negatively affect our business. Any delay or deferral of those decisions or changes in existing agreements could have a material adverse effect on our business, regardless of whether the Transaction is ultimately completed.

- **The Transaction may cause difficulty in attracting, motivating and retaining employees.**

Our current and prospective employees may experience uncertainty about their future role with the Company until strategies with regard to these employees are announced or executed, which may impair our ability to attract, retain and motivate key management, operational and customer-facing employees and other personnel prior to the Transaction. If we are unable to retain and replace personnel, we could face disruptions in our operations, loss of existing customers, loss of key information, expertise or know-how, and unanticipated additional recruitment and training costs.

- **The Merger Agreement limits our ability to pursue alternatives to the Transaction and may discourage other companies trying to acquire us for greater consideration than what WillScot Mobile Mini has agreed to pay.**

The Merger Agreement contains provisions that make it more difficult for us to sell our business to a company other than WillScot Mobile Mini. These provisions include a general prohibition on us soliciting any acquisition proposal or offer for a competing transaction. To date, no party has made an acquisition proposal following the execution of the Merger Agreement. If we terminate the Merger Agreement in connection with our Board of Directors' authorization for us to enter into a definitive agreement to consummate an alternative transaction contemplated by a Superior Proposal, we will be required to pay a termination fee of \$120 million. We may also be required to pay the \$120 million termination fee if we or WillScot Mobile Mini terminate the Merger Agreement under certain other circumstances specified in the Merger Agreement. These provisions might discourage a third party that has an interest in acquiring all or a significant part of the Company from considering or proposing an acquisition, even if the party were prepared to pay consideration with a higher per share cash or market value than the Merger Consideration, or might result in a potential competing acquirer proposing to pay a lower price than it might otherwise have proposed to pay because of the added expense of the termination fee that may become payable in certain circumstances.

- **Stockholder litigation could result in substantial costs and may delay or prevent the Transaction from being completed.**

In connection with the announcement of the Transaction, as is common in the context of mergers and acquisitions of publicly-traded companies, we (along with our directors and officers) may attract lawsuits seeking to enjoin us from proceeding with or consummating the Transaction, or seeking to have the Transaction rescinded after its consummation. We may also receive demands from stockholders shareholders seeking more information or other board action. Defending against such claims, even those without merit, could result in substantial costs and divert management's time and resources, which may negatively impact our financial condition and adversely affect our business and results of operations. Such claims could prevent or delay the consummation of the Transaction, including through an injunction, and result in additional costs to us. The ultimate resolution of any such lawsuit cannot be predicted, and an

39

adverse ruling in any such lawsuit may cause the Transaction to be delayed or not to be completed, which could cause us not to realize some or all of the anticipated benefits of the Transaction. For a discussion of the lawsuits that are currently pending, see Part II, Item 1, "Legal Proceedings" of this Form 10-Q, which is hereby incorporated by reference.

46

## **RISKS RELATED TO OUR STRATEGY AND OPERATION:**

**Our future operating results may fluctuate, fail to match past performance or fail to meet expectations, which may result in a decrease in our stock price.**

Our operating results may fluctuate in the future, may fail to match our past performance or fail to meet the expectations of analysts and investors. Our results and related ratios, such as gross margin, operating income percentage and effective tax rate may fluctuate as a result of a number of factors, some of which are beyond our control including but not limited to:

- general economic conditions in the geographies and industries where we rent and sell our products;
- legislative and educational policies where we rent and sell our products;
- the budgetary constraints of our customers;
- seasonality of our rental businesses and our end-markets;
- success of our strategic growth initiatives;
- costs associated with the launching or integration of new or acquired businesses;
- the timing and type of equipment purchases, rentals and sales;
- the nature and duration of the equipment needs of our customers;
- the timing of new product introductions by us, our suppliers and our competitors;
- the volume, timing and mix of maintenance and repair work on our rental equipment;
- supply chain delays or disruptions;
- our equipment mix, availability, utilization and pricing;
- inflation in the cost of materials, labor and new rental equipment;
- the mix, by state and country, of our revenues, personnel and assets;
- rental equipment impairment from excess, obsolete or damaged equipment;
- movements in interest rates or tax rates;
- changes in, and application of, accounting rules;
- changes in the regulations applicable to our business operations; and
- claims and litigation matters.

As a result of these factors, our historical financial results are not necessarily indicative of our future results or stock price.

**Our stock price has fluctuated and may continue to fluctuate in the future, which may result in a decline in the value of your investment in our common stock.**

The market price of our common stock fluctuates on the NASDAQ Global Select Market and is likely to be affected by a number of factors including but not limited to:

- uncertainty regarding the timing of the consummation of the proposed Transaction or failure to consummate the Transaction;
- the price per share of WillScot Mobile Mini Common Stock;
- our operating performance and the performance of our competitors, and in particular any variations in our operating results or dividend from our stated guidance or from investors' expectations;
- any changes in general conditions in the global economy, the industries in which we operate or the global financial markets;
- investors' reaction to our press releases, public announcements or filings with the SEC;
- the stock price performance of our competitors or other comparable companies;

- any changes in research analysts' coverage, recommendations or earnings estimates for us or for the stocks of other companies in our industry;

- any sales of common stock by our directors, executive officers and our other large shareholders, particularly in light of the limited trading volume of our stock;
- any merger and acquisition activity that involves us or our competitors; and
- other announcements or developments affecting us, our industry, customers, suppliers or competitors.

In addition, in recent years the U.S. stock market has experienced significant price and volume fluctuations. These fluctuations are often unrelated to the operating performance of particular companies. Additionally, the most recent global credit crisis adversely affected the prices of most publicly traded stocks as many stockholders became more willing to divest their stock holdings at lower values to increase their cash flow and reduce exposure to such fluctuations. These broad market fluctuations and any other negative economic trends may cause declines in the market price of our common stock and may be based upon factors that have little or nothing to do with our Company or its performance, and these fluctuations and trends could materially reduce our stock price.

**Our ability to retain our executive management and to recruit, retain and motivate key qualified employees is critical to the success of our business.**

If we cannot successfully recruit and retain qualified personnel, our operating results and stock price may suffer. We believe that our success is directly linked to the competent people in our organization, including our executive officers, senior managers and other key personnel, and in particular, Joe Hanna, our Chief Executive Officer. Personnel turnover can be costly and could materially and adversely impact our operating results and can potentially jeopardize the success of our current strategic initiatives. We need to attract and retain highly qualified personnel to replace personnel when turnover occurs, as well as add to our staff levels as growth occurs. Our business and stock price likely will suffer if we are unable to fill, or experience delays in filling open positions, or fail to retain key personnel.

**Failure by third parties to manufacture and deliver our products to our specifications or on a timely basis may harm our reputation and financial condition.**

We depend on third parties to manufacture our products even though we are able to purchase products from a variety of third-party suppliers. In the future, we may be limited as to the number of third-party suppliers for some of our products. Although in general, we make advance purchases of some products to help ensure an adequate supply, currently we do not have any long-term purchase contracts with any third-party supplier. We may experience supply problems as a result of financial or operating difficulties or failure of our suppliers, or shortages and discontinuations resulting from product obsolescence or other shortages or allocations by our suppliers. Unfavorable economic conditions may also adversely affect our suppliers or the terms on which we purchase products. In the future, we may not be able to negotiate arrangements with third parties to secure products that we require in sufficient quantities or on reasonable terms. If we cannot negotiate arrangements with third parties to produce our products or if the third parties fail to produce our products to our specifications or in a timely manner, our reputation and financial condition could be harmed.



**We are subject to information technology system failures, network disruptions and breaches in data security which could subject us to liability, reputational damage or interrupt the operation of our business.**

We rely upon our information technology systems and infrastructure for our business. We sustained an immaterial cybersecurity attack in 2021 involving ransomware that impacted certain of our systems but was unsuccessful in its ability to disrupt our network. Our investigation revealed that an unauthorized third party copied some personal information relating to certain current and former employees, directors, contractor workers and their dependents and certain other persons. Upon detection, we promptly undertook steps to address the incident, restored network systems and resumed normal operations. The attack did not result in any material disruption to our operations or ability to service our customers and did not affect our financial performance.

In the future, we could experience additional breaches of our security measures resulting in the theft of confidential information or reputational damage from industrial espionage attacks, malware or other cyber-attacks, which may compromise our system infrastructure or lead to data leakage, either internally or at our third-party providers. Similarly, additional data privacy breaches by those who access our systems may pose a risk that sensitive data, including intellectual property, trade secrets or personal information belonging to us, our employees, customers or other business partners, may be exposed to unauthorized persons or to the public.

The immaterial breach of our information technology system that we suffered in 2021 and any future breaches could subject us to reputational damage. Cyber-attacks are increasing in their frequency, sophistication and intensity, and have become increasingly difficult to detect. We expend significant resources to minimize the risk of security breaches, including deploying additional personnel and protection technologies, training employees annually, and engaging third-party experts and contractors. Significant and increasing

41

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investments of time and resources by management and Board have been, and will continue to be, required to anticipate and address cybersecurity risks and incidents. However, given that the techniques used to obtain unauthorized access or to sabotage systems change

48

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frequently, and often are not identified until they are launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures in time to stop a cyber incident. Thus, there can be no assurance that our efforts to protect our data and information technology systems will prevent future breaches in our systems (or that of our third-party providers). Such breaches could adversely affect our business and result in financial and reputational harm to us, theft of trade secrets and other proprietary information, legal claims or proceedings, liability under laws that protect the privacy of personal information, and regulatory penalties.

**Disruptions in our information technology systems or failure to protect these systems against security breaches could adversely affect our business and results of operations. Additionally, if these systems fail, become unavailable for any period of time or are not upgraded, this could limit our ability to effectively monitor and control our operations and adversely affect our operations.**

Our information technology systems facilitate our ability to transact business, monitor and control our operations and adjust to changing market conditions. We sustained an immaterial cybersecurity attack in 2021 involving ransomware that impacted certain of our systems, but was

unsuccessful in its ability to disrupt our network. Upon detection, we promptly undertook steps to address the incident, restored network systems and resumed normal operations. Any future cybersecurity attack causing disruption in our information technology systems or the failure of these systems to operate as expected could, depending on the magnitude of the problem, adversely affect our operating results by limiting our capacity to effectively transact business, monitor and control our operations and adjust to changing market conditions in a timely manner.

As part of our business, we develop, receive and retain confidential data about our company and our customers. In addition, because of recent advances in technology and well-known efforts on the part of computer hackers and cyber-terrorists to breach data security of companies, we face risks associated with failure to adequately protect critical corporate, customer and employee data, which could adversely impact our customer relationships, our reputation, and even violate privacy laws.

Further, the delay or failure to implement information system upgrades and new systems effectively could disrupt our business, distract management's focus and attention from our business operations and growth initiatives, and increase our implementation and operating costs, any of which could negatively impact our operations and operating results.

**We continually assess the strategic fit of our existing businesses and may divest or otherwise dispose of businesses that are deemed not to fit with our strategic plan or are not achieving the desired return on investment, and we cannot be certain that our business, operating results and financial condition will not be materially and adversely affected.**

A successful divestiture depends on various factors, including reaching an agreement with potential buyers on terms we deem attractive, as well as our ability to effectively transfer liabilities, contracts, facilities, and employees to any purchaser, identify and separate the assets to be divested from the assets that we wish to retain, reduce fixed costs previously associated with the divested assets or business, and collect the proceeds from any divestitures. These efforts require varying levels of management resources, which may divert our attention from other business operations. If we do not realize the expected benefits of any divestiture transaction, our consolidated financial position, results of operations and cash flows could be negatively impacted. In addition, divestitures of businesses involve a number of risks, including significant costs and expenses, the loss of customer relationships and a decrease in revenues and earnings associated with the divested business. Furthermore, divestitures potentially involve significant post-closing separation activities, which could involve the expenditure of material financial resources and significant employee resources. Any divestiture may result in a dilutive impact to our future earnings if we are unable to offset the dilutive impact from the loss of revenue associated with the divestiture, as well as significant write-offs, including those related to goodwill and other intangible assets, which could have a material adverse effect on our results of operations and financial condition.

**If we determine that our goodwill and intangible assets have become impaired, we may incur impairment charges, which would negatively impact our operating results.**

At **March 31, 2024** **June 30, 2024**, we had **\$385.2 million** **\$382.7 million** of goodwill and intangible assets, net, on our Consolidated Balance Sheets. Goodwill represents the excess of cost over the fair value of net assets acquired in business combinations. Under accounting principles generally accepted in the United States of America, we assess potential impairment of our goodwill and intangible assets at least annually, as well as on an interim basis to the extent that factors or indicators become apparent that could reduce the fair value of any of our businesses below book value. Impairment may result from significant changes in the manner of use of the acquired asset, negative industry or economic trends and significant underperformance relative to historic or projected operating results.

**42** 49

**Our rental equipment is subject to residual value risk upon disposition and may not sell at the prices or in the quantities we expect.**

The market value of any given piece of rental equipment could be less than its depreciated value at the time it is sold. The market value of used rental equipment depends on several factors, including:

- the market price for new equipment of a like kind;
- the age of the equipment at the time it is sold, as well as wear and tear on the equipment relative to its age;
- the supply of used equipment on the market;
- technological advances relating to the equipment;
- worldwide and domestic demand for used equipment; and
- general economic conditions.

We include in income from operations the difference between the sales price and the depreciated value of an item of equipment sold. Changes in our assumptions regarding depreciation could change our depreciation expense, as well as the gain or loss realized upon disposal of equipment. Sales of our used rental equipment at prices that fall significantly below our projections or in lesser quantities than we anticipate will have a negative impact on our results of operations and cash flows.

**If we do not effectively manage our credit risk, collect on our accounts receivable or recover our rental equipment from our customers' sites, it could have a material adverse effect on our operating results.**

We generally rent and sell to customers on 30 day payment terms, individually perform credit evaluation procedures on our customers for each transaction and require security deposits or other forms of security from our customers when a significant credit risk is identified. Historically, accounts receivable write-offs and write-offs related to equipment not returned by customers have not been significant and have averaged less than 1% of total revenues over the last five years. If economic conditions deteriorate, we may see an increase in credit losses relative to historical levels, which may materially and adversely affect our operations. Business segments that experience significant market disruptions or declines may experience increased customer credit risk and higher credit losses. Failure to manage our credit risk and receive timely payments on our customer accounts receivable may result in write-offs and/or loss of equipment, particularly electronic test equipment. If we are not able to effectively manage credit risk issues, or if a large number of our customers should have financial difficulties at the same time, our receivables and equipment losses could increase above historical levels. If this should occur, our results of operations may be materially and adversely affected.

**Effective management of our rental assets is vital to our business. If we are not successful in these efforts, it could have a material adverse impact on our results of operations.**

Our modular, containers and electronics rental products have long useful lives and managing those assets is a critical element to each of our rental businesses. Generally, we design units and find manufacturers to build them to our specifications for our modulars and containers. Modular asset management requires designing and building the product for a long life that anticipates the needs of our customers, including anticipating potential changes in legislation, regulations, building codes and local permitting in the various markets in which the Company operates. Electronic test equipment asset management requires understanding, selecting and investing in equipment technologies that support market demand, including anticipating technological advances and changes in manufacturers' selling prices. Container asset management requires obtaining high quality, well-constructed products and repairing and maintaining the products to ensure its long life. For each of our modular, container and electronic test equipment assets, we must successfully maintain and repair this equipment cost-effectively to maximize the useful life of the products and the level of proceeds from the sale of such products. To the extent that we are unable to do so, our result of operations could be materially adversely affected.

**The nature of our businesses, including the ownership of industrial property, exposes us to the risk of litigation and liability under environmental, health and safety and products liability laws. Violations of environmental or health and safety related laws or associated liability could have a material adverse effect on our business, financial condition and results of operations.**

We are subject to national, state, provincial and local environmental laws and regulations concerning, among other things, hazardous substance handling, storage and disposal and employee health and safety. These laws and regulations are complex and frequently change. We could incur unexpected costs, penalties and other civil and criminal liability if we fail to comply with applicable environmental or health and safety laws. We also could incur costs or liabilities related to waste disposal or remediating soil or groundwater contamination at our properties, at our customers' properties or at third party landfill and disposal sites. These liabilities

43 50

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can be imposed on the parties generating, transporting or disposing of such substances or on the owner or operator of any affected property, often without regard to whether the owner or operator knew of, or was responsible for, the presence of hazardous substances.

Several aspects of our businesses involve risks of environmental and health and safety liability. For example, our operations involve the use of petroleum products, solvents and other hazardous substances in the construction and maintaining of modular buildings and for fueling and maintaining our delivery trucks and vehicles. The historical operations at some of our previously or currently owned or leased and newly acquired or leased properties may have resulted in undiscovered soil or groundwater contamination or historical non-compliance by third parties for which we could be held liable. Future events, such as changes in existing laws or policies or their enforcement, or the discovery of currently unknown contamination or non-compliance, may also give rise to liabilities or other claims based on these operations that may be material. In addition, compliance with future environmental or health and safety laws and regulations may require significant capital or operational expenditures or changes to our operations.

Accordingly, in addition to potential penalties for non-compliance, we may become liable, either contractually or by operation of law, for investigation, remediation and monitoring costs even if the contaminated property is not presently owned or operated by us, or if the contamination was caused by third parties during or prior to our ownership or operation of the property. In addition, certain parties may be held liable for more than their "fair" share of environmental investigation and cleanup costs. Contamination and exposure to hazardous substances or other contaminants such as mold can also result in claims for remediation or damages, including personal injury, property damage, and natural resources damage claims. Although expenses related to environmental compliance, health and safety issues, and related matters have not been material to date, we cannot assure that we will not have to make significant expenditures in the future in order to comply with applicable laws and regulations. Violations of environmental or health and safety related laws or associated liability could have a material adverse effect on our business, financial condition and results of operations.

In general, litigation in the industries in which we operate, including class actions that seek substantial damages, arises with increasing frequency. Enforcement of environmental and health and safety requirements is also frequent. Such proceedings are invariably expensive, regardless of the merit of the plaintiffs' or prosecutors' claims. We may be named as a defendant in the future, and there can be no assurance, irrespective of the merit of such future actions, that we will not be required to make substantial settlement payments in the future. Further, a significant portion of our business is conducted in California which is one of the most highly regulated and litigious states in the country. Therefore, our potential exposure to losses and expenses due to new laws, regulations or litigation may be greater than companies with a less significant California presence.

The nature of our business also subjects us to property damage and product liability claims, especially in connection with our modular buildings and tank and box rental businesses. Although we maintain liability coverage that we believe is commercially reasonable, an unusually large property damage or product liability claim or a series of claims could exceed our insurance coverage or result in damage to our reputation.

**Our routine business activities expose us to risk of litigation from employees, vendors and other third parties, which could have a material adverse effect on our results of operations.**

We may be subject to claims arising from disputes with employees, vendors and other third parties in the normal course of our business; these risks may be difficult to assess or quantify and their existence and magnitude may remain unknown for substantial periods of time. If the plaintiffs in any suits against us were to successfully prosecute their claims, or if we were to settle any such suits by making significant payments to the plaintiffs, our operating results and financial condition would be harmed. Even if the outcome of a claim proves favorable to us, litigation can be time consuming and costly and may divert management resources. In addition, our organizational documents require us to indemnify our senior executives to the maximum extent permitted by California law. We maintain directors' and officers' liability insurance that we believe is commercially reasonable in connection with such obligations, but if our senior executives were named in any lawsuit, our indemnification obligations could magnify the costs of these suits and/or exceed the coverage of such policies.

**If we suffer loss to our facilities, equipment or distribution system due to catastrophe, our insurance policies could be inadequate or depleted, our operations could be seriously harmed, which could negatively affect our operating results.**

Our facilities, rental equipment and distribution systems may be subject to catastrophic loss due to fire, flood, hurricane, earthquake, terrorism or other natural or man-made disasters. In particular, our headquarters, three operating facilities, and certain of our rental equipment are located in areas of California, with above average seismic activity and could be subject to catastrophic loss caused by an earthquake. Our rental equipment and facilities in Texas, Louisiana, Florida, North Carolina and Georgia are located in areas subject to hurricanes and other tropical storms. In addition to customers' insurance on rented equipment, we carry property insurance on our rental equipment in inventory and operating facilities as well as business interruption insurance. We believe our insurance policies have adequate limits and deductibles to mitigate the potential loss exposure of our business. We do not maintain financial reserves for policy deductibles and our insurance policies contain exclusions that are customary for our industry, including exclusions for earthquakes, flood and terrorism. If any of our facilities or a significant amount of our rental equipment were to experience a catastrophic loss, it could disrupt our operations, delay orders, shipments and revenue recognition and result in expenses to repair or

44 51

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replace the damaged rental equipment and facility not covered by insurance, which could have a material adverse effect on our results of operations.

#### **INTEREST RATE AND INDEBTEDNESS RISKS:**

**Our debt instruments contain covenants that restrict or prohibit our ability to enter into a variety of transactions and may limit our ability to finance future operations or capital needs. If we have an event of default under these instruments, our indebtedness could be accelerated, and we may not be able to refinance such indebtedness or make the required accelerated payments.**

The agreements governing our Series D, E and F Senior Notes (as defined and more fully described under the heading "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources") and our Credit Facility contain various covenants that limit our discretion in operating our business. In particular, we are limited in our ability to merge, consolidate, reorganize or transfer substantially all of our assets, make investments, pay dividends or distributions, redeem or repurchase stock, change the nature of our business, enter into transactions with affiliates, incur indebtedness and create liens on our assets to secure debt. In addition, we are required to meet certain financial covenants under these instruments. These restrictions could limit our ability to obtain future

financing, make strategic acquisitions or needed capital expenditures, withstand economic downturns in our business or the economy in general, conduct operations or otherwise take advantage of business opportunities that may arise.

A failure to comply with the restrictions contained in these agreements could lead to an event of default, which could result in an acceleration of our indebtedness. In the event of an acceleration, we may not have or be able to obtain sufficient funds to refinance our indebtedness or make any required accelerated payments. If we default on our indebtedness, our business financial condition and results of operations could be materially and adversely affected.

**The majority of our indebtedness is subject to variable interest rates, which makes us vulnerable to increases in interest rates, which could negatively affect our net income.**

Our indebtedness exposes us to interest rate increases because the majority of our indebtedness is subject to variable rates. At present, we do not have any derivative financial instruments such as interest rate swaps or hedges to mitigate interest rate variability. The interest rates under our credit facilities are reset at varying periods. These interest rate adjustments could cause periodic fluctuations in our operating results and cash flows. Our annual debt service obligations increase by approximately **\$6.2 million** **\$5.4 million** per year for each 1% increase in the average interest rate we pay based on the **\$623.6 million** **\$544.3 million** balance of variable rate debt outstanding at **March 31, 2024** **June 30, 2024**. If interest rates rise in the future, and, particularly if they rise significantly, interest expense will increase and our net income will be negatively affected.

#### **SPECIFIC RISKS RELATED TO OUR RELOCATABLE MODULAR BUILDINGS AND PORTABLE STORAGE BUSINESS SEGMENTS:**

**Significant reductions of, or delays in, funding to public schools have caused the demand and pricing for our modular classroom units to decline, which has in the past caused, and may cause in the future, a reduction in our revenues and profitability.**

Rentals and sales of modular buildings to public school districts for use as classrooms, restroom buildings, and administrative offices for K-12 represent a significant portion of Mobile Modular's rental and sales revenues. Funding for public school facilities is derived from a variety of sources including the passage of both statewide and local facility bond measures, developer fees and various taxes levied to support school operating budgets. Many of these funding sources are subject to financial and political considerations, which vary from district to district and are not tied to demand. Historically, we have benefited from the passage of statewide and local facility bond measures and believe these are essential to our business.

The state of California is our largest market for classroom rentals. The strength of this market depends heavily on public funding from voter passage of both state and local facility bond measures, and the ability of the state to sell such bonds in the public market. A lack of passage of state and local facility bond measures, or the inability to sell bonds in the public markets in the future could reduce our revenues and operating income, and consequently have a material adverse effect on the Company's financial condition. Furthermore, even if voters have approved facility bond measures and the state has raised bond funds, there is no guarantee that individual school projects will be funded in a timely manner.

To the extent public school districts' funding is reduced for the rental and purchase of modular buildings, our business could be harmed and our results of operations negatively impacted. We believe that interruptions or delays in the passage of facility bond measures or completion of state budgets, an insufficient amount of state funding, a significant reduction of funding to public schools, or changes negatively impacting enrollment may reduce the rental and sale demand for our educational products. Any reductions in funding available to the school districts from the states in which we do business may cause school districts to experience budget shortfalls and to reduce their demand for our products despite growing student populations, class size reduction initiatives and modernization and

reconstruction project needs, which could reduce our revenues and operating income and consequently have a material adverse effect on the Company's financial condition.

**Public policies that create demand for our products and services may change, resulting in decreased demand for or the pricing of our products and services, which could negatively affect our revenues and operating income.**

Various states that we operate enacted laws and constitutional amendments to provide funding for school districts to limit the number of students that may be grouped in a single classroom. School districts with class sizes in excess of state limits have been and continue to be a significant source of our demand for modular classrooms. In California, efforts to address aging infrastructure and deferred maintenance have resulted in modernization and reconstruction projects by public school districts including seismic retrofitting, asbestos abatement and various building repairs and upgrades, which has been another source of demand for our modular classrooms. The most recent economic recession caused state and local budget shortfalls, which reduced school districts' funding and their ability to comply with state class size reduction requirements. If educational priorities and policies shift away from class-size reduction or modernization and reconstruction projects, demand and pricing for our products and services may decline, not grow as quickly as, or not reach the levels that we anticipate. Significant equipment returns may result in lower utilization until equipment can be redeployed or sold, which may cause rental rates to decline and negatively affect our revenues and operating income.

**Failure to comply with applicable regulations could harm our business and financial condition, resulting in lower operating results and cash flows.**

Similar to conventionally constructed buildings, the modular building industry, including the manufacturers and lessors of portable classrooms, are subject to regulations by multiple governmental agencies at the federal, state and local level relating to environmental, zoning, health, safety, energy efficiency, labor and transportation matters, among other matters. Failure to comply with these laws or regulations could impact our business or harm our reputation and result in higher capital or operating expenditures or the imposition of penalties or restrictions on our operations.

As with conventional construction, typically new codes and regulations are not retroactively applied. Nonetheless, new governmental regulations in these or other areas may increase our acquisition cost of new rental equipment, limit the use of or make obsolete some of our existing equipment, or increase our costs of rental operations.

Building codes are generally reviewed every three years. All aspects of a given code are subject to change including, but not limited to, such items as structural specifications for earthquake safety, energy efficiency and environmental standards, fire and life safety, transportation, lighting and noise limits.

Compliance with building codes and regulations entails a certain amount of risk as state and local government authorities do not necessarily interpret building codes and regulations in a consistent manner, particularly where applicable regulations may be unclear and subject to interpretation. These regulations often provide broad discretion to governmental authorities that oversee these matters, which can result in unanticipated delays or increases in the cost of compliance in particular markets. The construction and modular industries have developed many "best practices" which are constantly evolving. Some of our peers and competitors may adopt practices that are more or less stringent than the Company's. When, and if, regulatory standards are clarified, the effect of the clarification may be to impose rules on our business and practices retroactively, at which time, we may not be in compliance with such regulations and we may be required to incur costly remediation. If we are unable to pass these increased costs on to our customers, our profitability, operating cash flows and financial condition could be negatively impacted.

**Expansions of our modular and portable storage operations into new markets may negatively affect our operating results.**



In the past we have expanded our modular and portable storage operations into new geographies and states. There are risks inherent in the undertaking of such expansion, including the risk of revenue from the business in any new markets not meeting our expectations, higher than expected costs in entering these new markets, risk associated with compliance with applicable state and local laws and regulations, response by competitors and unanticipated consequences of expansion. In addition, expansion into new markets may be affected by local economic and market conditions. Expansion of our operations into new markets will require a significant amount of attention from our management, a commitment of financial resources and will require us to add qualified management in these markets, which may negatively impact our operating results.

46 53

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**We are subject to laws and regulations governing government contracts. These laws and regulations expose us to business volatility and risks, including government budgeting cycles and appropriations, potential early termination of contracts, procurement regulations, governmental policy shifts, audits, investigations, sanctions and penalties. Furthermore, these laws and regulations make these government contracts more favorable to government entities than other third parties and any changes in these laws and regulations, or our failure to comply with these laws and regulations could harm our business.**

Mobile Modular and Portable Storage derive a portion of its revenues from contracts with U.S. federal government entities, government prime contractors, state entities and local entities, including school districts. Contracts with government entities are subject to budgetary constraints, and our continued performance under our contracts with these agencies and their prime contractors, or award of additional contracts from these agencies or their prime contractors, could be jeopardized by spending reductions or budget cutbacks at these agencies. Such contracts are also subject to unique laws and regulations, and the adoption of new laws or regulations relating to government contracting or changes to existing laws or regulations. New laws, regulations or procurement requirements, or changes to current ones, can significantly increase our costs and risks and reduce our profitability. In addition, any failure on the part of the company to comply with applicable government contract laws and regulations might result in administrative penalties or even in the termination or suspension of these contracts and as a result, the loss of the related revenues, which would harm our business.

Furthermore, the laws governing government contracts differ from the laws governing private contracts. For example, many government contracts contain pricing terms and conditions that are not applicable to private contracts such as clauses that allow government entities not to perform on contractual obligations in the case of a lack of fiscal funding. Also, in the educational markets we serve, we are able to utilize “piggyback” contracts in marketing our products and services and ultimately to book business. The term “piggyback” contract refers to contracts for portable classrooms or other products entered into by public school districts following a formal bid process that allows for the use of the same contract terms and conditions with the successful vendor by other public school districts. As a result, “piggyback” contracts allow us to more readily book orders from our government customers, primarily public school districts, and to reduce the administrative expense associated with booking these orders. The governmental statutes and regulations that allow for use of “piggyback” contracts are subject to change or elimination in their entirety. A change in the manner of use or the elimination of “piggyback” contracts would likely negatively impact our ability to book new business from these government customers and could cause our administrative expenses related to processing these orders to increase significantly. In addition, any failure to comply with these laws and regulations might result in administrative penalties or even in the suspension of these contracts and as a result, the loss of the related revenues which would harm our business and results from operations.

**Seasonality of our educational business may have adverse consequences for our business.**



A significant portion of the modular sale and rental revenues is derived from the educational market. Typically, during each calendar year, our highest numbers of classrooms are shipped for rental and sale orders during the second and third quarters for delivery and installation prior to the start of the upcoming school year. The majority of classrooms shipped in the second and third quarters have rental start dates during the third quarter, thereby making the fourth quarter the first full quarter of rental revenues recognized for these transactions. Although this is the historical seasonality of our business, it is subject to change or may not meet our expectations, which may have adverse consequences for our business.

**We face strong competition in our modular building and portable storage markets and we may not be able to effectively compete.**

The modular building leasing industry is highly competitive in our states of operation and we expect it to remain so. The competitive market in which we operate may prevent us from raising rental fees or sales prices to pass any increased costs on to our customers. We compete on the basis of a number of factors, including equipment availability, quality, price, service, reliability, appearance, functionality and delivery terms. We may experience pricing pressures in our areas of operation in the future as some of our competitors seek to obtain market share by reducing prices.

Some of our competitors in the modular building leasing industry have greater range of products and services, greater financial and marketing resources, larger customer bases, and greater name recognition than we have. These competitors may be better able to respond to changes in the relocatable modular building and portable storage container markets, to finance acquisitions, to fund internal growth and to compete for market share, any of which could harm our business.

**We may not be able to quickly redeploy modular and container units returning from leases, which could negatively affect our financial performance and our ability to expand, or utilize, our rental fleet.**

As of **March 31, 2024** **June 30, 2024**, 60% of our modular and **57%** **55%** of our container portfolios had equipment on rent for periods exceeding the original committed term. Generally, when a customer continues to rent the units beyond the contractual term, the equipment rents on a month-to-month basis. If a significant number of our rented units were returned during a short period of time, particularly those units that are rented on a month-to-month basis, a large supply of units would need to be remarketed. Our failure to effectively remarket a large influx of units returning from leases could negatively affect our financial performance and our ability to continue expanding our

**47** **54**

rental fleet. In addition, if returned units stay off rent for an extended period of time, we may incur additional costs to securely store and maintain them.

**Significant increases in raw material and labor costs could increase our acquisition cost of new modular rental units and repair and maintenance costs of our fleet, which would increase our operating costs and harm our profitability.**

We incur labor costs and purchase raw materials, including lumber, siding and roofing and other products to perform periodic repairs, modifications and refurbishments to maintain physical conditions of our modular units. The volume, timing and mix of maintenance and repair work on our rental equipment may vary quarter-to-quarter and year-to-year. Generally, increases in labor and raw material costs will also increase the acquisition cost of new modular units and increase the repair and maintenance costs of our fleet. We also maintain a fleet of service trucks and use subcontractor companies for the delivery, set-up, return delivery and dismantle of modulars for our customers. We rely on our drivers and subcontractor service companies to meet customer demands for timely shipment and return, and the loss or inadequate number of driver and

subcontractor service companies may cause prices to increase, while negatively impacting our reputation and operating performance. During periods of rising prices for labor, raw materials or fuel, and in particular, when the prices increase rapidly or to levels significantly higher than normal, we may incur significant increases in our acquisition costs for new modular units and incur higher operating costs that we may not be able to recoup from our customers, which would reduce our profitability.

**Failure by third parties to manufacture our products timely or properly may harm our reputation and financial condition.**

We are dependent on third parties to manufacture our products even though we are able to purchase products from a variety of third-party suppliers. Mobile Modular purchases new modulars from various manufacturers who build to Mobile Modular's design specifications. With the exception of Enviroplex, none of the principal suppliers are affiliated with the Company. During 2023, Mobile Modular purchased 30% of its modular product from one manufacturer. The Company believes that the loss of any of its primary manufacturers of modulars could have an adverse effect on its operations since Mobile Modular could experience higher prices and longer delivery lead times for modular product until other manufacturers were able to increase their production capacity.

**Failure to properly design, manufacture, repair and maintain the modular product may result in impairment charges, potential litigation and reduction of our operating results and cash flows.**

We estimate the useful life of the modular product to be 18 years with a residual value of 50% and containers to be 25 years with a residual value of 62.5%. However, proper design, manufacture, repairs and maintenance of the products during our ownership is required for the product to reach their useful lives and residual values. If we do not appropriately manage the design, manufacture, repair and maintenance of our modular product, or otherwise delay or defer such repair or maintenance, we may be required to incur impairment charges for equipment that is beyond economic repair costs or incur significant capital expenditures to acquire new modular product to serve demand. In addition, such failures may result in personal injury or property damage claims, including claims based on presence of mold, and termination of leases or contracts by customers. Costs of contract performance, potential litigation, and profits lost from termination could accordingly reduce our future operating results and cash flows.

**Our warranty costs may increase and warranty claims could damage our reputation and negatively impact our revenues and operating income.**

Sales of new relocatable modular buildings not manufactured by us are typically covered by warranties provided by the manufacturer of the products sold. We provide ninety-day warranties on certain modular sales of used rental units and one-year warranties on equipment manufactured by our Enviroplex subsidiary. Historically, our warranty costs have not been significant, and we monitor the quality of our products closely. If a defect were to arise in the installation of our equipment at the customer's facilities or in the equipment acquired from our suppliers or by our Enviroplex subsidiary, we may experience increased warranty claims. Such claims could disrupt our sales operations, damage our reputation and require costly repairs or other remedies, negatively impacting revenues and operating income.

**SPECIFIC RISKS RELATED TO OUR ELECTRONIC TEST EQUIPMENT BUSINESS SEGMENT:**

**Market risk and cyclical downturns in the industries using test equipment may result in periods of low demand for our product resulting in excess inventory, impairment charges and reduction of our operating results and cash flows.**

TRS-RenTelco's revenues are derived from the rental and sale of general purpose and communications test equipment to a broad range of companies, from Fortune 500 to middle and smaller market companies, in the aerospace, defense, communications, manufacturing and semiconductor industries. Electronic test equipment rental and sales revenues are primarily affected by the business activity within these industries related to research and development, manufacturing, and communication infrastructure installation and

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maintenance. Historically, these industries have been cyclical and have experienced periodic downturns, which can have a material adverse impact on the industry's demand for equipment, including our rental electronic test equipment. In addition, the severity and length of any downturn in an industry may also affect overall access to capital, which could adversely affect our customers and result in excess inventory and impairment charges. During periods of reduced and declining demand for test equipment, we are exposed to additional receivable risk from non-payment and may need to rapidly align our cost structure with prevailing market conditions, which may negatively impact our operating results and cash flows.

**Seasonality of our electronic test equipment business may impact quarterly results.**

Generally, rental activity declines in the fourth quarter month of December and the first quarter months of January and February. These months may have lower rental activity due to holiday closures, particularly by larger companies, inclement weather and its impact on various field related communications equipment rentals, and companies' operational recovery from holiday closures which may impact the start-up of new projects coming online in the first quarter. These seasonal factors historically have impacted quarterly results in each year's first and fourth quarter, but we are unable to predict how such factors may impact future periods.

**Our rental test equipment may become obsolete or may no longer be supported by a manufacturer, which could result in an impairment charge.**

Electronic test equipment is characterized by changing technology and evolving industry standards that may render our existing equipment obsolete through new product introductions, or enhancements, before the end of its anticipated useful life, causing us to incur impairment charges. We must anticipate and keep pace with the introduction of new hardware, software and networking technologies and acquire equipment that will be marketable to our current and prospective customers.

Additionally, some manufacturers of our equipment may be acquired or cease to exist, resulting in a future lack of support for equipment purchased from those manufacturers. This could result in the remaining useful life becoming shorter, causing us to incur an impairment charge. We monitor our manufacturers' capacity to support their products and the introduction of new technologies, and we acquire equipment that will be marketable to our current and prospective customers. However, any prolonged economic downturn could result in unexpected bankruptcies or reduced support from our manufacturers. Failure to properly select, manage and respond to the technological needs of our customers and changes to our products through their technology life cycle may cause certain electronic test equipment to become obsolete, resulting in impairment charges, which may negatively impact operating results and cash flows.

**If we do not effectively compete in the rental equipment market, our operating results will be materially and adversely affected.**

The electronic test equipment rental business is characterized by intense competition from several competitors some of which may have access to greater financial and other resources than we do. Although no single competitor holds a dominant market share, we face competition from these established entities and new entrants in the market. We believe that we anticipate and keep pace with the introduction of new products and acquire equipment that will be marketable to our current and prospective customers. We compete on the basis of a number of factors, including product availability, price, service and reliability. Some of our competitors may offer similar equipment for lease, rental or sale at lower prices and may offer more extensive servicing, or financing options. Failure to adequately forecast the adoption of, and demand for, new or existing products may cause us not to meet our customers' equipment requirements and may materially and adversely affect our operating results.

**If we are not able to obtain equipment at favorable rates, there could be a material adverse effect on our operating results and reputation.**

The majority of our rental equipment portfolio is comprised of general purpose test and measurement instruments purchased from leading manufacturers. We depend on purchasing equipment from these manufacturers and suppliers for use as our rental equipment. If, in the future, we are not able to purchase necessary equipment from one or more of these suppliers on favorable terms, we may not be able to meet our customers' demands in a timely manner or for a rental rate that generates a profit. If this should occur, we may not be able to secure necessary equipment from an alternative source on acceptable terms and our business and reputation may be materially and adversely affected.

**If we are not able to anticipate and mitigate the risks associated with operating internationally, there could be a material adverse effect on our operating results.**

Currently, total foreign country customers and operations account for less than 10% of the Company's revenues. In recent years some of our customers have expanded their international operations faster than domestic operations, and this trend may continue. Over

49 56

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time, the amount of our international business may increase if we focus on international market opportunities. Operating in foreign countries subjects the Company to additional risks, any of which may adversely impact our future operating results, including:

- international political, economic and legal conditions including tariffs and trade barriers;
- our ability to comply with customs, anti-corruption, import/export and other trade compliance regulations, together with any unexpected changes in such regulations;
- greater difficulty in our ability to recover rental equipment and obtain payment of the related trade receivables;
- additional costs to establish and maintain international subsidiaries and related operations;
- difficulties in attracting and retaining staff and business partners to operate internationally;
- language and cultural barriers;
- seasonal reductions in business activities in the countries where our international customers are located;
- difficulty with the integration of foreign operations;
- longer payment cycles;
- currency fluctuations; and
- potential adverse tax consequences.

**Unfavorable currency exchange rates may negatively impact our financial results in U.S. dollar terms.**

We receive revenues in Canadian dollars from our business activities in Canada. Conducting business in currencies other than U.S. dollars subjects us to fluctuations in currency exchange rates. If the currency exchange rates change unfavorably, the value of net receivables we receive in foreign currencies and later convert to U.S. dollars after the unfavorable change would be diminished. This could have a negative impact on our reported operating results. We currently do not engage in hedging strategies to mitigate this risk.

#### **GENERAL RISKS:**

**Our effective tax rate may change and become less predictable as our business expands, or as a result of federal and state tax law changes, making our future earnings less predictable.**

We continue to consider expansion opportunities domestically and internationally for our rental businesses. Since the Company's effective tax rate depends on business levels, personnel and assets located in various jurisdictions, further expansion into new markets or acquisitions may change the effective tax rate in the future and may make it, and consequently our earnings, less predictable going forward. Further, the enactment of future tax law changes by federal and state taxing authorities may impact the Company's current period tax provision and its deferred tax liabilities. In addition, the amount and timing of stock-based compensation may also impact the Company's current tax provision.

**Changes in financial accounting standards may cause lower than expected operating results and affect our reported results of operations.**

Changes in accounting standards and their application may have a significant effect on our reported results on a going-forward basis and may also affect the recording and disclosure of previously reported transactions. New accounting pronouncements and varying interpretations of accounting pronouncements have occurred in the past and may occur in the future. Changes to existing rules or the questioning of current practices may adversely affect our reported financial results or the way we conduct our business.

**Adverse economic conditions in the United States and globally, as well as geopolitical tensions, could have a negative effect on our business, results of operations, financial condition and liquidity.**

Adverse macroeconomic conditions in the United States and globally, including inflation, slower than expected growth or recession, changes to fiscal and monetary policy, tightening of the credit markets, higher interest rates and currency fluctuations, could negatively impact our business, financial condition, results of operations and liquidity. These factors could negatively affect demand for our business.

Adverse economic conditions in the United States and globally have from time to time caused or exacerbated significant slowdowns in our industry and in the markets in which we operate, which have adversely affected our business and results of operations.

5057

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Macroeconomic weakness and uncertainty also make it more difficult for us to accurately forecast revenue, gross margin and expenses, and may make it more difficult to refinance debt.

Furthermore, sustained uncertainty about, or worsening of, geopolitical tensions, including further escalation of war between Russia and Ukraine, further escalation of trade tensions between the U.S. and China, escalation of tensions between China and Taiwan, further escalation in the conflict between the State of Israel and Hamas, as well as further escalation of tensions between the State of Israel and various countries in the Middle East and North Africa, could result in a global economic slowdown and long-term changes to global trade. Any or all of these factors could negatively affect our revenue and could materially adversely affect our business, results of operations, financial condition and growth.

**Environmental, social and governance (ESG) matters may impact our business and reputation.**

Governmental authorities, non-governmental organizations, customers, investors, external stakeholders and employees are increasingly sensitive to ESG concerns. This focus on ESG concerns may lead to new requirements that could result in increased costs for our business. Our ability to compete could also be affected by changing customer preferences and requirements, such as growing demand for more environmentally friendly products, supplier practices, or by failure to meet such customer expectations or demand. We risk negative shareholder reaction, including from proxy advisory services, as well as damage to our reputation, if we do not act responsibly, or if we are perceived to not be

acting responsibly in key ESG areas. If we do not meet the ESG expectations of our investors, customers and other stakeholders, we could experience reduced demand for our products, loss of customers, and other negative impacts on our business and results of operations.

**We have begun to report our prior modular building and portable storage segment in two separate segments of modular building and portable storage container. This segment reporting structure has been in effect for a limited period of time, and there are no assurances that we will be able to successfully operate the prior segment in two distinct segments, and the change could be confusing to investors and may not have the desired effects.**

During the quarter ended December 31, 2023, we began reporting our prior modular building and portable storage segment as two distinct segments of modular buildings and portable storage containers. Managing these changes has required, and may continue to require, significant expenditures and allocation of valuable management resources. We have provided disclosures about this new segment reporting structure, but there is no guarantee that investors or the market will understand this change to our financial reporting. There is also no guarantee that this change will have the desired effect. Failure of investors or analysts to understand our revised segment reporting structure may negatively affect their ability to understand our business and operating results which could adversely affect our stock price. In addition, we test for goodwill impairment at the reporting segment level and consider the difference between the fair value of a reporting segment and its' carrying value, when determining whether any impairment exists. There can be no assurance that the change to our segment reporting structure will not result in impairment charges in future periods.

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

None.

## **Item 3. Defaults Upon Senior Securities**

None.

## **Item 4. Mine Safety Disclosures**

None.

## **Item 5. Other Information**

None.

51 58

## **Item 6. Exhibits**

- 2.3 [Agreement and Plan of Merger, dated as of January 28, 2024, by and among WillScot Mobile Mini Holdings Corp., Brunello Merger Sub I, Inc., Brunello Merger Sub II, LLC, and McGrath RentCorp \(incorporated by reference to Exhibit 2.1 of the Company's Current Report on Form 8-K/A filed January 29, 2024\).](#)
- 10.1 [First Incremental Facility Amendment, dated as of April 23, 2024, to Second Amended and Restated Credit Agreement, dated as of July 15, 2022, among the Company, Bank of America, N.A. as Administrative Agent and first incremental lender, and the guarantors named therein \(filed herewith\).](#)
- 15.1 [Awareness Letter From Grant Thornton LLP.](#)
- 31.1 [Certification of Chief Executive Officer required by Rule 13a-14\(a\) or Rule 15d-14\(a\) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 31.2 [Certification of Chief Financial Officer required by Rule 13a-14\(a\) or Rule 15d-14\(a\) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 32.1 [Certification of Chief Executive Officer pursuant to Title 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- 32.2 [Certification of Chief Financial Officer pursuant to Title 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- 101 The following materials from McGrath RentCorp's Quarterly report on Form 10-Q for the quarter ended **March 31, 2024** **June 30, 2024**, formatted in iXBRL (Inline eXtensible Business Reporting Language): (i) the Condensed Consolidated Statement of Income, (ii) the Condensed Consolidated Balance Sheet, (iii) the Condensed Consolidated Statement of Cash Flows, and (iv) Notes to Condensed Consolidated Financial Statements.
- 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).

## Signatures

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

Date: April 25, 2024 July 25, 2024

McGrath RentCorp

By: /s/ Keith E. Pratt

Keith E. Pratt

Executive Vice President and Chief Financial Officer

By: /s/ David M. Whitney

David M. Whitney

Vice President, Controller and Principal Accounting Officer

53 60

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## Exhibit 10.1

### FIRST INCREMENTAL FACILITY AMENDMENT

dated as of April 23, 2024

to

### SECOND AMENDED AND RESTATED CREDIT AGREEMENT

dated as of July 15, 2022

among

MCGRATH RENTCORP,

as the Borrower,

the Subsidiaries of the Borrower identified herein,

as the Guarantors,

the Lenders Party Hereto,

and

BANK OF AMERICA, N.A.,

as Administrative Agent

BANK OF AMERICA, N.A.,

as Sole Lead Arranger and Sole Bookrunner



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#### FIRST INCREMENTAL FACILITY AMENDMENT

THIS FIRST INCREMENTAL FACILITY AMENDMENT (this "Amendment") dated as of April 23, 2024 to the Credit Agreement (defined below) is by and among MCGRATH RENTCORP, a California corporation (the "Borrower"), the Guarantors identified on the signature pages hereto, the First Incremental Lender (defined below) and Bank of America, N.A., in its capacity as Administrative Agent (in such capacity, the "Administrative Agent").

#### WITNESSETH

WHEREAS, a revolving credit facility has been extended to the Borrower pursuant to the Second Amended and Restated Credit Agreement (as amended, modified, supplemented, increased and extended from time to time, the "Credit Agreement") dated as of July 15, 2022 among the Borrower, the Lenders identified therein and the Administrative Agent; and

WHEREAS, the Borrower has notified the Administrative Agent that pursuant to Section 2.14 of the Credit Agreement the financial institution identified on the signature pages hereto as the "First Incremental Lender" (the "First Incremental Lender") has agreed to provide an Incremental Term Facility in the aggregate principal amount of \$75million on the terms set forth herein.

NOW, THEREFORE, IN CONSIDERATION of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto

1. Defined Terms. Capitalized terms used herein but not otherwise defined herein shall have the meanings provided to such terms in the Credit Agreement.

2. Incremental Term Facility.

2.1 This Amendment is an Incremental Facility Amendment entered into pursuant to Section 2.14 of the Credit Agreement and the First Incremental Term Loan (as defined in the Amended Credit Agreement) is an Incremental Term Facility incurred pursuant to Section 2.14 of the Credit Agreement.

2.2 Schedule 1 hereto is added to the Credit Agreement as a new Schedule 2.14-1 to the Credit Agreement.

2.3 Schedule 2 hereto is added to the Credit Agreement as a new Exhibit H to the Credit Agreement.

2.4 The Credit Agreement, other than the schedules and exhibits thereto, is amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth on Schedule 3 hereto (the Credit Agreement as so amended, the “Amended Credit Agreement”).

3. Conditions Precedent. This Amendment shall become effective as of the date hereof upon satisfaction of each of the following conditions precedent:

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(a) Amendment Documents. Receipt by the Administrative Agent of (i) counterparts of this Amendment executed by the Borrower, the Guarantors, the First Incremental Lender and the Administrative Agent and (ii) counterparts of a fee letter (which shall be in form and substance satisfactory to the First Incremental Lender and set forth the upfront fee payable by the Borrower in connection with the First Incremental Term Loan) executed by the Borrower and the First Incremental Lender (the “First Incremental Fee Letter”).

(b) Officer’s Certificate. The Borrower shall have delivered to the Administrative Agent (i) a certificate of each Loan Party dated as of the date hereof signed by a Responsible Officer of such Loan Party certifying and attaching resolutions adopted by the board of directors or equivalent governing body of such Loan Party approving the First Incremental Term Loan and (ii) a certificate of the Borrower dated as of the date hereof signed by a Responsible Officer of the Borrower certifying that the conditions set forth in Sections 2.14(c) and (d) of the Credit Agreement are true and correct as of such date.

(c) Legal Opinions. The Borrower shall have delivered to the Administrative Agent customary opinions of legal counsel to the Loan Parties dated as of the date hereof and addressed to the Administrative Agent and the Incremental Lender.

(d) Compliance Certificate. The Borrower shall have delivered to the Administrative Agent a Compliance Certificate demonstrating that after giving effect to the incurrence of the First Incremental Term Loan the Loan Parties would be in compliance with the financial covenants set forth in Section 7.10 of the Credit Agreement on a Pro Forma Basis.

(e) First Incremental Term Loan Notice. Receipt by the Administrative Agent of a First Incremental Term Loan Notice appropriately completed and signed by a Responsible Officer of the Borrower in accordance with Section 2.02(a).

(f) Notice of Prepayment. Receipt by the Administrative Agent of a Notice of Prepayment (with respect to the Committed Loans to be prepaid on the date hereof with the proceeds of the First Incremental Term Loan) appropriately completed and signed by a Responsible Officer of the Borrower in accordance with Section 2.05(a).

(g) Fees. All fees required to be paid to the First Incremental Lender on the date hereof pursuant to the First Incremental Fee Letter shall, upon the advance of the First Incremental Term Loan, have been paid (which amounts may be offset against the proceeds of the First Incremental Term Loan).

For purposes of determining whether the conditions set forth in this Section 4 have been satisfied, by releasing its signature page hereto, the First Incremental Lender shall be deemed to have consented to, approved, accepted or be satisfied with each document or other matter required hereunder to be consented to or approved by, or acceptable or satisfactory to, the First Incremental Lender.

4. Amendment is a "Loan Document". This Amendment is a Loan Document and all references to a "Loan Document" in the Amended Credit Agreement and the other Loan Documents (including, without

2

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limitation, all such references in the representations and warranties in the Amended Credit Agreement and the other Loan Documents) shall be deemed to include this Amendment.

5. Reaffirmation of Obligations. Each Loan Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Loan Documents and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge such Loan Party's obligations under the Loan Documents.

6. No Other Changes. Except as modified hereby, all of the terms and provisions of the Loan Documents shall remain in full force and effect.

7. Counterparts; Delivery. This Amendment may, if agreed by the Administrative Agent, be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Amendment may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Amendment. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature, the Administrative Agent shall be entitled to rely on any such Electronic Signature without further verification and (b) upon the request of the Administrative Agent, any Electronic Signature shall be promptly followed by a manually executed, original counterpart.

8. Governing Law. This Amendment shall be deemed to be a contract made under, and for all purposes shall be construed in accordance with, the laws of the State of New York.

[SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this First Incremental Facility Amendment to be duly executed and delivered as of the date first above written.

BORROWER: MCGRATH RENTCORP, a California corporation

By:

Name: Keith Pratt

Title: Chief Financial Officer

GUARANTORS: MOBILE MODULAR MANAGEMENT CORPORATION,

ENVIROPLEX, INC., a California corporation

By:

Name: Keith Pratt

Title: Chief Financial Officer

VESTA HOUSING SOLUTIONS HOLDINGS, LLC,

a Delaware limited liability company

By:

Name: Keith Pratt

Title: Vice President and Treasurer

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ADMINISTRATIVE AGENT: BANK OF AMERICA, N.A., as Administrative Agent

By:

Name:

Title:

FIRST INCREMENTAL LENDER: BANK OF AMERICA, N.A.

By:

Name:

Title:

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Schedule 1  
to  
First Incremental Facility Amendment  
Schedule 2.14-1  
First Incremental Term Commitment

	First Incremental Term	Applicable Percentage - First Incremental Term
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Lender	Commitment	First Incremental Term Loan
Bank of America, N.A.	\$75,000,000.00	100.0000000000%
Total	\$75,000,000.00	100.0000000000%

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Schedule 2  
to  
First Incremental Facility Amendment  
[see attached]

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Schedule 3  
to  
First Incremental Facility Amendment  
Amended Credit Agreement  
Exhibit H  
First Incremental Term Loan Notice  
EXHIBIT H



FORM OF FIRST INCREMENTAL TERM LOAN NOTICE

Date: \_\_\_\_\_, \_\_\_\_\_

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Second Amended and Restated Credit Agreement, dated as of July 15, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among McGrath RentCorp, a California corporation (the "Borrower"), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests (select one):

☐ A Borrowing of the First Incremental Term Loan

☐ A conversion or continuation of the First Incremental Term Loan

1. On (the "Credit Extension Date", which is a Business Day).

2. In the amount of \$.

3. Comprised of . [Type of Committed Loan requested]

4. For Term SOFR Loans: with an Interest Period of \_\_\_\_\_ months.

The Borrower hereby represents and warrants that the conditions specified in Section 4.02 of the Credit Agreement shall be satisfied on and as of the date of the Credit Extension Date.

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the undersigned has executed this First Incremental Term Loan Notice as of the date set forth above.

MCGRATH RENTCORP, a California corporation

By:

Name:

Title:

Schedule 3

to

First Incremental Facility Amendment

Amended Credit Agreement

Published CUSIP Numbers:

Deal: 58059CAG6

Revolver: 58059CAH4

First Incremental Term Loan: [●]

**SECOND AMENDED AND RESTATED CREDIT AGREEMENT**

Dated as of July 15, 2022

among

MCGRATH RENTCORP,

as the Borrower,

BANK OF AMERICA, N.A.,

as Administrative Agent, Swing Line Lender and L/C Issuer,

and

The Other Lenders Party Hereto

BOFA SECURITIES, INC.,

as

Joint Lead Arranger and Sole Bookrunner

U.S. BANK NATIONAL ASSOCIATION,

MUFG UNION BANK, N.A.,

and

WELLS FARGO BANK, N.A.,

as

Joint Lead Arrangers and Co-Syndication Agents

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS AND ACCOUNTING TERMS	1
1.01 Defined Terms	1
1.02 Other Interpretive Provisions	2425
1.03 Accounting Terms	2526
1.04 Rounding	2526
1.05 Times of Day; Rates	2526
1.06 Letter of Credit Amounts	2627
1.07 Financial Determinations	2627
ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS	27
2.01 Committed Loans	27
2.02 Borrowings, Conversions and Continuations of Committed Loans	2728
2.03 Letters of Credit	2930
2.04 Swing Line Loans	3738
2.05 Prepayments	4041
2.06 Termination or Reduction of Commitments	41
2.07 Repayment of Loans	4142
2.08 Interest	4142
2.09 Fees	4243
2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate	4244
2.11 Evidence of Debt	4344
2.12 Payments Generally; Administrative Agent's Clawback	4445
2.13 Sharing of Payments by Lenders	4647
2.14 Incremental Facilities	4647
2.15 Cash Collateral	4849

[2.16Defaulting Lenders](#)<sup>49</sup>[50](#)

[2.17ESG Adjustments](#)<sup>52</sup>[53](#)

[ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY](#) 53

[3.01Taxes](#) 53

[3.02Illegality](#)<sup>57</sup>[58](#)

[3.03Inability to Determine Rates](#)<sup>57</sup>[58](#)

[3.04Increased Costs](#) 60

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i

~~13569129v1~~ DOCPROPERTY DOCXDOCID DMS=iManageWork10.Format=<<NUM>>v<<VER>> PRESERVELOCATION \\*

MERGEFORMAT 13569129v4

[3.05Compensation for Losses](#) 61

[3.06Mitigation Obligations; Replacement of Lenders](#)<sup>61</sup>[62](#)

[3.07Survival](#) 62

[ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS](#)<sup>62</sup>[63](#)

[4.01Conditions of Initial Credit Extension](#)<sup>62</sup>[63](#)

[4.02Conditions to all Credit Extensions](#)<sup>63</sup>[64](#)

[ARTICLE V REPRESENTATIONS AND WARRANTIES](#) 64

[5.01Existence, Qualification and Power](#) 64

[5.02Authorization; No Contravention](#)<sup>64</sup>[65](#)

[5.03Governmental Authorization; Other Consents](#)<sup>64</sup>[65](#)

[5.04Binding Effect](#)<sup>64</sup>[65](#)

[5.05Financial Statements; No Material Adverse Effect](#)<sup>64</sup>[65](#)

[5.06Litigation](#)<sup>65</sup>[66](#)

[5.07No Default](#)<sup>65</sup>[66](#)

[5.08Ownership of Property; Liens](#)<sup>65</sup>[66](#)

[5.09Environmental Compliance](#)<sup>65</sup>[66](#)

[5.10Insurance](#) 66

[5.11Taxes](#) 66

<a href="#">5.12ERISA Compliance</a>	<a href="#">66</a>	<a href="#">67</a>
<a href="#">5.13Subsidiaries; Equity Interests</a>	<a href="#">67</a>	<a href="#">68</a>
<a href="#">5.14Margin Regulations; Investment Company Act</a>	<a href="#">67</a>	<a href="#">68</a>
<a href="#">5.15Disclosure</a>	<a href="#">67</a>	<a href="#">68</a>
<a href="#">5.16Compliance with Laws</a>	<a href="#">68</a>	
<a href="#">5.17Taxpayer Identification Number</a>	<a href="#">68</a>	<a href="#">69</a>
<a href="#">5.18Intellectual Property; Licenses, Etc</a>	<a href="#">68</a>	<a href="#">69</a>
<a href="#">5.19Burdensome Agreements</a>	<a href="#">68</a>	<a href="#">69</a>
<a href="#">5.20Sanctions</a>	<a href="#">68</a>	<a href="#">69</a>
<a href="#">5.21Anti-Corruption Laws</a>	<a href="#">69</a>	
<a href="#">5.22No Affected Financial Institution</a>	<a href="#">69</a>	<a href="#">70</a>
<a href="#">5.23Covered Entities</a>	<a href="#">69</a>	<a href="#">70</a>

## [ARTICLE VI AFFIRMATIVE COVENANTS](#)

<a href="#">6.01Financial Statements</a>	<a href="#">69</a>	<a href="#">70</a>
<a href="#">6.02Certificates; Other Information</a>	<a href="#">70</a>	<a href="#">71</a>
<a href="#">6.03Notices</a>	<a href="#">71</a>	<a href="#">72</a>

[Link-to-previous setting changed from off in original to on in modified.]



~~13569129v4~~ DOCPROPERTY DOCXDOCID DMS=iManageWork10 Format=<<NUM>>v<<VER>> PRESERVELOCATION \\*  
MERGEFORMAT 13569129v4

<a href="#">6.04Payment of Obligations</a>	<a href="#">72</a>	<a href="#">73</a>
<a href="#">6.05Preservation of Existence, Etc</a>	<a href="#">72</a>	<a href="#">73</a>
<a href="#">6.06Maintenance of Properties</a>	<a href="#">72</a>	<a href="#">73</a>
<a href="#">6.07Maintenance of Insurance</a>	<a href="#">73</a>	
<a href="#">6.08Compliance with Laws</a>	<a href="#">73</a>	<a href="#">74</a>
<a href="#">6.09Books and Records</a>	<a href="#">73</a>	<a href="#">74</a>
<a href="#">6.10Inspection Rights</a>	<a href="#">73</a>	<a href="#">74</a>
<a href="#">6.11Use of Proceeds</a>	<a href="#">73</a>	<a href="#">74</a>
<a href="#">6.12Additional Guarantors</a>	<a href="#">74</a>	

[6.13Anti-Corruption Laws7475](#)

[ARTICLE VII NEGATIVE COVENANTS7475](#)

[7.01Liens7475](#)

[7.02Investments7576](#)

[7.03Indebtedness7677](#)

[7.04Fundamental Changes7778](#)

[7.05Dispositions7879](#)

[7.06Restricted Payments7879](#)

[7.07Change in Nature of Business7980](#)

[7.08Transactions with Affiliates7980](#)

[7.09Use of Proceeds7980](#)

[7.10Financial Covenants7980](#)

[7.11Sanctions7980](#)

[7.12Anti-Corruption Laws8081](#)

[7.13Prepayments, etc. of Unsecured Indebtedness8081](#)

[ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES8081](#)

[8.01Events of Default8081](#)

[8.02Remedies Upon Event of Default8283](#)

[8.03Application of Funds8283](#)

[ARTICLE IX ADMINISTRATIVE AGENT8485](#)

[9.01Appointment and Authority8485](#)

[9.02Rights as a Lender8485](#)

[9.03Exculpatory Provisions8485](#)

[9.04Reliance by Administrative Agent8586](#)

[9.05Delegation of Duties8687](#)

*[Link-to-previous setting changed from off in original to on in modified.]*

iii

[13569129v4.DOC](#)PROPERTY DOCXDOCID DMS=iManageWork10 Format=<<NUM>>v<<VER>> PRESERVELOCATION \\*

[MERGEFORMAT 13569129v4](#)

[9.06Resignation of Administrative Agent~~86~~87](#)

[9.07Non-Reliance on Administrative Agent, the Arrangers and the Other  
Lenders ~~88~~](#)

[9.08No Other Duties, Etc~~88~~89](#)

[9.09Administrative Agent May File Proofs of Claim~~88~~89](#)

[9.10Guaranty Matters~~89~~90](#)

[9.11Certain ERISA Matters~~89~~90](#)

[9.12Recovery of Erroneous Payments~~90~~91](#)

## [ARTICLE X MISCELLANEOUS~~91~~92](#)

[10.01Amendments, Etc~~91~~92](#)

[10.02Notices; Effectiveness; Electronic Communication~~92~~93](#)

[10.03No Waiver; Cumulative Remedies; Enforcement~~94~~95](#)

[10.04Expenses; Indemnity; Damage Waiver~~95~~96](#)

[10.05Payments Set Aside~~97~~98](#)

[10.06Successors and Assigns~~97~~98](#)

[10.07Treatment of Certain Information; Confidentiality~~101~~102](#)

[10.08Right of Setoff ~~103~~](#)

[10.09Interest Rate Limitation~~103~~104](#)

[10.10Integration; Effectiveness~~103~~104](#)

[10.11Survival of Representations and Warranties~~103~~104](#)

[10.12Severability ~~104~~](#)

[10.13Replacement of Lenders~~104~~105](#)

[10.14Governing Law; Jurisdiction; Etc ~~105~~](#)

[10.15Waiver of Jury Trial ~~106~~](#)

[10.16No Advisory or Fiduciary Responsibility~~106~~107](#)

[10.17Electronic Execution; Electronic Records; Counterparts ~~107~~](#)

[10.18USA PATRIOT Act~~107~~108](#)

[10.19California Judicial Reference ~~108~~](#)

[10.20Acknowledgement and Consent to Bail-In of Affected Financial  
Institutions~~108~~109](#)

[10.21Acknowledgement Regarding Any Supported QFCs ~~109~~](#)

[10.22Amendment and Restatement~~109~~110](#)

[10.23ENTIRE AGREEMENT~~110~~111](#)

*[Link-to-previous setting changed from off in original to on in modified.]*

## SCHEDULES

- 2.01 Commitments and Applicable Percentages
- 2.03 Existing Letters of Credit
- [2.14-1First Incremental Term Commitment](#)
- 5.13 Subsidiaries; Other Equity Investments
- 7.01 Existing Liens
- 7.03 Existing Indebtedness
- 10.02 Administrative Agent's Office; Certain Addresses for Notices

## EXHIBITS

### *Form of*

- A Committed Loan Notice
- B Swing Line Loan Notice
- C Notice of Prepayment
- D Note
- E Compliance Certificate
- F Assignment and Assumption
- G U.S. Tax Compliance Certificates
- [HFirst Incremental Term Loan Notice](#)

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V

## SECOND AMENDED AND RESTATED CREDIT AGREEMENT



This SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this “Agreement”) is entered into as of July 15, 2022, among MCGRATH RENTCORP, a California corporation (the “Borrower”), the Lenders (defined herein), and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer.

The Borrower has requested that the Lenders provide a revolving credit facility, and the Lenders are willing to do so on the terms and conditions set forth herein.

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

## ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

### 1.01 Defined Terms TC "1.01 Defined Terms." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

As used in this Agreement, the following terms shall have the meanings set forth below:

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in a form approved by the Administrative Agent.

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

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

“Aggregate Commitments” means the Commitments of all the Lenders. The initial amount of the Aggregate Commitments in effect on the Closing Date is \$650,000,000.

“Agreement” has the meaning specified in the introductory paragraph hereto.

“Applicable Percentage” means (a) in respect of the First Incremental Term Loan, with respect to any Lender at any time, the percentage (carried out to the ninth (9th) decimal place) of the First Incremental Term Loan represented by (i) on or prior to the effective date of the First Incremental Term Loan, such Lender’s First Incremental Term Commitment at such time and (ii) thereafter, the outstanding principal amount of the First Incremental Term Loan held by such Lender at such time, and (b) in respect of the Commitments (and Committed Loans, Letters of Credit and Swing Line Loans), with respect to any Lender at any time, the percentage (carried out to the ninth (9th) decimal place) of the Aggregate Commitments represented by such Lender’s Commitment at such time, subject to adjustment as provided in Section 2.16. If the commitment of each Lender to make Committed Loans and the obligation of the

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L/C Issuer to make L/C Credit Extensions have been terminated pursuant to [Section 8.02](#) or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender [in respect of the Commitments](#) shall be determined based on the Applicable Percentage of such Lender [in respect of the Commitments](#) most recently in effect, giving effect to any subsequent assignments, and to any Lender's status as a Defaulting Lender at the time of determination. The Applicable Percentage of each Lender is set forth opposite the name of such Lender on [Schedule 2.01, in the case of the Commitments, or Schedule 2.14-1, in the case of the First Incremental Term Loan](#), or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto or in any documentation executed by such Lender pursuant to [Section 2.14](#), as applicable.

"Applicable Rate" means the following percentages per annum, determined by reference to the Consolidated Leverage Ratio in effect from time to time as set forth below: [it being understood that the Applicable Rate for \(a\) Committed Loans that are Term SOFR Loans shall be the percentage set forth under the column "Committed Loans" and "Term SOFR Loans and Letter of Credit Fees", \(b\) Committed Loans that are Base Rate Loans shall be the percentage set forth under the column "Committed Loans" and "Base Rate Loans", \(c\) that portion of the First Incremental Term Loan comprised of Term SOFR Loans shall be the percentage set forth under the column "First Incremental Term Loan" and "Term SOFR Loans", \(d\) that portion of the First Incremental Term Loan comprised of Base Rate Loans shall be the percentage set forth under the column "First Incremental Term Loan" and "Base Rate Loans Fee", \(e\) the Letter of Credit Fee shall be the percentage set forth under the column "Committed Loans" and "Term SOFR Loans and Letter of Credit Fees" and \(f\) the Unused Fee shall be the percentage set forth under the column "Unused Fee":](#)

Applicable Rate						
Pricing Level	Consolidated Leverage Ratio	Unused Fee	<a href="#">Committed Loans</a>		<a href="#">First Incremental Term Loan</a>	
			Term SOFR Loans and Letter of Credit Fees	Base Rate Loans	Term SOFR Loans	Base Rate Loans
4	≥ 2.50:1	0.30%	1.75%	0.75%	<a href="#">2.00%</a>	<a href="#">1.00%</a>
3	< 2.50:1 but ≥ 2.00:1	0.25%	1.50%	0.50%	<a href="#">1.75%</a>	<a href="#">0.75%</a>
2	< 2.00:1 but ≥ 1.50:1	0.20%	1.25%	0.25%	<a href="#">1.75%</a>	<a href="#">0.75%</a>
1	< 1.50:1	0.15%	1.00%	0.00%	<a href="#">1.75%</a>	<a href="#">0.75%</a>

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately

following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 4 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day after the date on which such Compliance Certificate is delivered. For the period from the Closing Date through the date on which the Compliance Certificate is delivered pursuant to Section 6.02(a) for the fiscal year of the Borrower ending December 31, 2022, the Applicable Rate shall be determined in accordance with Pricing Level 2 (or, if Pricing Level 3 or 4 would otherwise be applicable during such period as a result of a change in the Consolidated Leverage Ratio calculated in a Compliance Certificate delivered pursuant to Section 6.02(a), Pricing Level 3 or 4, as the case may be).

Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

2

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

**“Arrangers”** means BofA Securities in its capacity as a joint lead arranger and the sole bookrunner and U.S. Bank National Association, MUFG Union Bank, N.A. and Wells Fargo Bank, N.A., each in its capacity as a joint lead arranger.

**“Assignment and Assumption”** means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)(iii)), and accepted by the Administrative Agent, in substantially the form of Exhibit F or any other form (including an electronic documentation form generated by use of an electronic platform) approved by the Administrative Agent.

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

**“Audited Financial Statements”** means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal year ended December 31, 2021, and the related

consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the Borrower and its Subsidiaries, including the notes thereto.

**"Availability Period"** means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Committed Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

**"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, rule, regulation 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).

**"Bank of America"** means Bank of America, N.A. and its successors.

**"Base Rate"** means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate" and (c) the Term SOFR plus 1.00%, subject to the interest rate floors set forth therein; provided that if the Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and

### 3

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other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

**"Base Rate Committed Loan"** means a Committed Loan that is a Base Rate Loan.

**"Base Rate Loan"** means a Loan that bears interest based on the Base Rate.

**"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".

**"BHC Act Affiliate"** of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

**"BofA Securities"** means BofA Securities Inc.

**"Borrower"** has the meaning specified in the introductory paragraph hereto.

**"Borrower Materials"** has the meaning specified in [Section 6.02](#).

**"Borrowing"** means a Committed Borrowing ~~or~~, a Swing Line Borrowing [or the borrowing of the First Incremental Term Loan](#), as the context may require.

**"Business Day"** means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located.

**"Cash Collateralize"** means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuer or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer.

**"Cash Collateral"** shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

**"Change in Law"** means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty, (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of Law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the

implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

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

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”), directly or indirectly, of 25% or more of the equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; provided that, for purposes of determining the total size of the board from which a calculation of the majority shall be made under this clause (b), there shall not be counted (x) any former member who has voluntarily resigned or retired, or has died; or (y) any new member who has been appointed to fill a vacancy occurring as a result of an increase in the number of members of the board of directors.

“Closing Date” means the date hereof.

“CME” means CME Group Benchmark Administration Limited.

“Code” means the Internal Revenue Code of 1986.

“Commitment” means, as to each Lender, its obligation to (a) make Committed Loans to the Borrower pursuant to Section 2.01(a), (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto,

as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Committed Borrowing” means a borrowing consisting of simultaneous Committed Loans of the same Type and, in the case of [Committed Loans that are](#) Term SOFR Loans, having the same Interest Period made by each of the Lenders pursuant to [Section 2.01\(a\)](#).

5

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“Committed Loan” has the meaning specified in [Section 2.01](#).

“Committed Loan Facility” means the [Commitments and Committed Loans, Letters of Credit and Swing Line Loans](#).

“Committed Loan Notice” means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to the other, or (c) a continuation of [Committed Loans that are](#) Term SOFR Loans, pursuant to [Section 2.02\(a\)](#), which shall be substantially in the form of [Exhibit A](#) or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

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

“Communication” means this Agreement, any Loan Document and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Loan Document.

“Compliance Certificate” means a certificate substantially in the form of [Exhibit E](#).

“Conforming Changes” means, with respect to the use, administration of or any conventions associated with SOFR or any proposed Successor Rate or Term SOFR, as applicable, any conforming changes to the definitions of “Base Rate”, “SOFR”, “Term SOFR” and “Interest Period”, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definitions of “Business Day” and “U.S. Government Securities Business Day”, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate exists, in



such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

**"Consolidated EBITDA"** means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) the following, to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for Federal, state, local and foreign income taxes payable (net of income tax credits for such period) by the Borrower and its Subsidiaries for such period, (iii) depreciation and amortization expense, (iv) non-cash stock-based compensation expenses and (v) other non-recurring expenses of the Borrower and its Subsidiaries reducing such Consolidated Net Income which do not represent a cash item in such period or any future period and minus (b) to the extent included in calculating such Consolidated Net Income, all non-cash items increasing Consolidated Net Income for such period.

**"Consolidated Fixed Charge Coverage Ratio"** means, as of any date of determination, the ratio of (a) Consolidated EBITDA minus the provision for income taxes of the Borrower and its Subsidiaries on a consolidated basis for such period to (b) Consolidated Interest Charges plus dividends paid in cash by the Borrower and its Subsidiaries on a consolidated basis, in each case for the period of the four fiscal quarters most recently ended.

6

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**"Consolidated Funded Indebtedness"** means, as of any date of determination, for the Borrower and its Subsidiaries on a consolidated basis, the sum of all Indebtedness described in clauses (a), (b), (d), (e), (f) and (h) of the definition thereof, and all of the foregoing of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Borrower or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to the Borrower or such Subsidiary.

**"Consolidated Interest Charges"** means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Borrower and its Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Borrower and its Subsidiaries with respect to such period under capital leases that is treated as interest in accordance with GAAP.

**"Consolidated Leverage Ratio"** means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period



of the four fiscal quarters most recently ended.

**"Consolidated Net Income"** means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, the net income of the Borrower and its Subsidiaries (excluding extraordinary gains and extraordinary losses) for that period; provided that Consolidated Net Income shall exclude (a) the net income of any Subsidiary during such period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Subsidiary during such period and (b) any income (or loss) for such period of any Person if such Person is not a Subsidiary, except that the Borrower's equity in the net income of any such Person for such period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Borrower or a Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary, such Subsidiary is not precluded from further distributing such amount to the Borrower as described in clause (a) of this proviso).

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

**"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.

**"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).

**"Credit Extension"** means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

**"Daily Simple SOFR"** with respect to any applicable determination date means the SOFR published on such date on the Federal Reserve Bank of New York's website (or any successor source).

7

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**"Debtor Relief Laws"** means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate ~~Loans~~ Committed Loans (or, in the case of Obligations in respect of the First Incremental Term Loan, applicable to Base Rate Loans that comprise the First Incremental Term Loan) plus (iii) 2% per annum; provided that with respect to a Term SOFR Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

“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.

“Defaulting Lender” means, subject to Section 2.16(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or

disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a

8

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Defaulting Lender (subject to Section 2.16(b)), as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower, the L/C Issuer, the Swing Line Lender and each other Lender promptly following such determination.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property (other than margin stock (within the meaning of Regulation U issued by the FRB)) by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Dollar" and "\$" mean lawful money of the United States.

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

"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.

"Electronic Copy" shall have the meaning specified in Section 10.17.

"Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

"Eligible Subsidiary" means (a) any Subsidiary of the Borrower that is both a Material Subsidiary and a Domestic Subsidiary or (b) any other Subsidiary that becomes a Guarantor pursuant to Section 6.12(b).

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, Laws, regulations, ordinances, rules, judgments, orders, decrees, permits, guidance, licenses, agreements or governmental restrictions as amended from time to time relating to pollution and the protection of the

9

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environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) 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.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974.

**"ERISA Affiliate"** means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Sections 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

**"ERISA Event"** means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan or Multiemployer Plan; (f) any 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; (g) the receipt by the Borrower or an ERISA Affiliate of a notice concerning a determination that any Pension Plan or Multiemployer Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (h) 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 the Borrower or any ERISA Affiliate; or (i) a failure by the Borrower or any ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or the failure by the Borrower or any ERISA Affiliate to make any required contribution to a Multiemployer Plan.

**"ESG"** has the meaning specified in Section 2.17(a).

**"ESG Amendment"** has the meaning specified in Section 2.17(a).

10

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**"ESG Applicable Rate Adjustments"** has the meaning specified in Section 2.17(a).

**"ESG Pricing Provisions"** has the meaning specified in Section 2.17(a).

**"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 specified in Section 8.01.

**"Excluded Swap Obligation"** means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor, or the grant by

such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 2.8 of the Guaranty and any other "keepwell", support or other agreement for the benefit of such Guarantor and any and all guarantees of such Guarantor's Swap Obligations by other Loan Parties) at the time the Guaranty of such Guarantor, or grant by such Guarantor of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one Swap Contract, such exclusion shall apply to only the portion of such Swap Obligation that is attributable to Swap Contracts for which such Guaranty or security interest is or becomes excluded in accordance with the first sentence of this definition.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a ~~Loan or~~ Commitment or First Incremental Term Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in ~~the such~~ Loan or Commitment or First Incremental Term Commitment (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii) or (c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" means that certain Amended and Restated Credit Agreement, dated as of March 31, 2020, as amended to date, among the Borrower, Bank of America, N.A., as administrative agent, swing line lender and L/C issuer, and the lenders from time to time party thereto.

"Existing Letters of Credit" means those certain letters of credit set forth on Schedule 2.03.

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

"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

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comply with) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, as of the date of this Agreement (or any amended or successor version described above) and any applicable intergovernmental agreements (and related fiscal or regulatory legislation, or related official rules or practices) implementing the foregoing.

**"Federal Funds Rate"** means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

**"Fee Letter"** means the letter agreement, dated June 9, 2022, among the Borrower, the Administrative Agent and BofA Securities.

**"First Incremental Effective Date"** means April 23, 2024.

**"First Incremental Term Commitment"** means, as to each Lender, its obligation to make a portion of the First Incremental Term Loan to the Borrower pursuant to Section 2.01(b) in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 2.14-1 under the caption "First Incremental Term Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The First Incremental Term Commitment of all of the Lenders on the First Incremental Effective Date shall be \$75,000,000.

**"First Incremental Term Loan"** has the meaning specified in Section 2.01(b).

**"First Incremental Term Loan Notice"** means a notice of (a) the borrowing of the First Incremental Term Loan, (b) a conversion of all or a portion of the First Incremental Term Loan from one Type to the other, or (c) a continuation of all or a portion of the First Incremental Term Loan that is a Term SOFR Loan, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit H or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

**"Foreign Lender"** means any Lender that is organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes (including such a Lender when acting in the capacity of the L/C Issuer). For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.



**"FRB"** means the Board of Governors of the Federal Reserve System of the United States.

**"Fronting Exposure"** means, at any time there is a Defaulting Lender, (a) with respect to the L/C Issuer, such Defaulting Lender's Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender's Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

12

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**"Fund"** means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

**"GAAP"** means generally accepted accounting principles in the United States set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession) including, without limitation, the FASB Accounting Standards Codification, that are applicable to the circumstances as of the date of determination, consistently applied and subject to Section 1.03.

**"Governmental Authority"** means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

**"Guarantee"** means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or



cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). 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. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means, collectively, (a) each Person identified as a "Guarantor" on the signature pages to the Guaranty; and (b) each Eligible Subsidiary that becomes a Guarantor pursuant to Section 6.12.

"Guaranty," means the Second Amended and Restated Guaranty dated as of the Closing Date made by the Guarantors in favor of the Administrative Agent and the Lenders.

"Guaranty Supplement" means a supplement to the Guaranty in the form of Annex I thereto executed by a Subsidiary pursuant to Section 6.12.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates,

13

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asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Honor Date" has the meaning specified in Section 2.03(c)(i).

"Incremental Facility" has the meaning specified in Section 2.14.

"Incremental Facility Amendment" has the meaning specified in Section 2.14.

"Incremental Revolving Increase" has the meaning specified in Section 2.14.

"Incremental Term Facility" has the meaning specified in Section 2.14.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(c) all obligations of such Person for borrowed money and all obligations (including purchase money obligations) of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(d) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(e) net obligations of such Person under any Swap Contract;

(f) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days after the date on which such trade account payable was created);

(g) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(h) capital leases and Synthetic Lease Obligations;

(i) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(j) all Guarantees of such Person in respect of any of the foregoing; and

(k) all of the foregoing of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease

Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

"Indemnified Taxes" means 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.

"Indemnatee" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Interest Payment Date" means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided that if any Interest Period for a Term SOFR Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the Maturity Date.

"Interest Period" means, as to each Term SOFR Loan, the period commencing on the date such Term SOFR Loan is disbursed or converted to or continued as a Term SOFR Loan and ending on the date one or three months thereafter, as selected by the Borrower in ~~its Committed~~the applicable Loan Notice (in the case of each requested Interest Period, subject to availability); provided that:

(l) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(m) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(n) no Interest Period shall extend beyond the Maturity Date.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute all or substantially all of the assets of such Person or a business line or unit or a division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment. For the avoidance of doubt, the entry into a purchase agreement to purchase or acquire Equity Interests of a Person shall not constitute an Investment in such Person unless and until such time as the purchase or acquisition of such Equity Interests is consummated.

"IP Rights" has the meaning specified in Section 5.18.

"IRS" means the United States Internal Revenue Service.

15

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"ISP" means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

"Issuer Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower (or any Subsidiary) or in favor of the L/C Issuer and relating to such Letter of Credit.

"KPIs" has the meaning specified in [Section 2.17\(a\)](#).

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to each Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Committed Borrowing.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuer" means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with [Section 1.06](#). For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn

thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lender” means each of the Persons identified as a “Lender” on the signature pages hereto, each other Person that becomes a “Lender” in accordance with this Agreement and, their successors and assigns and, unless the context requires otherwise, includes the Swing Line Lender.

“Lender Parties” and “Lender Recipient Parties” mean, collectively, the Lenders, the Swing Line Lender and the L/C Issuer.

“Lending Office” means, as to the Administrative Agent, the L/C Issuer or any Lender, the office or offices of such Person described as such in such Person’s Administrative Questionnaire, or such other office or offices as such Person may from time to time notify the Borrower and the Administrative Agent; which office may include any Affiliate of such Person or any domestic or foreign branch of such Person or such Affiliate.

16

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“Letter of Credit” means any standby letter of credit issued hereunder and shall include the Existing Letters of Credit.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.03(h).

“Letter of Credit Sublimit” means an amount equal to \$40,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

“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 in the nature of a security interest 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 financing lease having substantially the same economic effect as any of the foregoing); provided that customary rights of any lessor, lessee or sublessee with respect to leased property arising under any lease entered into in the ordinary course of business shall in no event be deemed a “Lien”.

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan ~~or~~, a Swing Line Loan or the First Incremental Term Loan.

"Loan Documents" means this Agreement, each Note, each Issuer Document, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.15, the Fee Letter, the Guaranty and each Guaranty Supplement (but specifically excluding Swap Contracts).

"Loan Notice" means a Committed Loan Notice or a First Incremental Term Loan Notice, as the context may require.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

"Master Agreement" has the meaning set forth in the definition of "Swap Contract".

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the Borrower and its Subsidiaries, taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document, or of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Material Subsidiary" means, as of any date of determination, any Subsidiary of the Borrower that has on such date, (a) total revenues constituting 5% or more of the total revenues of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed period of four consecutive fiscal quarters for which the Borrower has delivered financial statements pursuant to Section 6.01, or (b) total assets constituting 5% or more of the total assets of the Borrower and its Subsidiaries on

17

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a consolidated basis as of the end of the most recently completed period of four consecutive fiscal quarters for which the Borrower has delivered financial statements pursuant to Section 6.01.

"Material Transaction" means a Permitted Acquisition with aggregate purchase consideration equal to at least the lesser of (a) \$150,000,000 or (b) 100% of Consolidated EBITDA (without giving effect to such Permitted Acquisition) for the prior fiscal year.

"Maturity Date" means July 15, 2027; provided that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

**“Minimum Collateral Amount”** means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 100% of the Fronting Exposure of the L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.15(a)(i), (a)(ii) or (a)(iii), an amount equal to 100% of the Outstanding Amount of all L/C Obligations, and (c) otherwise, an amount determined by the Administrative Agent and the L/C Issuer in their sole discretion.

**“Multiemployer Plan”** means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions and with respect to which the Borrower or any ERISA Affiliate may have any liability.

**“Multiple Employer Plan”** means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

**“Non-Consenting Lender”** means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (b) has been approved by the Required Lenders.

**“Non-Defaulting Lender”** means, at any time, each Lender that is not a Defaulting Lender at such time.

**“Non-Eligible Subsidiary”** means any Subsidiary of the Borrower that is not an Eligible Subsidiary.

**“Note”** means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit D.

**“Notice of Prepayment”** means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit C or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer.

**“Obligations”** means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit or Swap Contract of the Borrower to which a Lender or its Affiliate is a party, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now

existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided, however, that the “Obligations” of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means (a) with respect to any corporation, the charter or certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all entities, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

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

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Outstanding Amount” means (a) with respect to Committed Loans ~~and~~, Swing Line Loans and the First Incremental Term Loan on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Committed Loans ~~and~~, Swing Line Loans and the First Incremental Term Loan, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Participant” has the meaning specified in Section 10.06(d).

“Participant Register” has the meaning specified in Section 10.06(d).



"Patriot Act" has the meaning set forth in Section 10.18.

"PBGC" means the Pension Benefit Guaranty Corporation.

19

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"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum funding standards with respect to Pension Plans and set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan other than a Multiemployer Plan) that is maintained or is contributed to by the Borrower and any ERISA Affiliate or with respect to which the Borrower or any ERISA Affiliate has any liability and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

"Permitted Acquisition" means any acquisition by the Borrower or any of its wholly-owned Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person; provided that:

(o) immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(p) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable Laws and in conformity with all applicable approvals, consents, exemptions, authorizations, or other actions by, or notices to, or filings with, any Governmental Authority;

(q) in the case of the acquisition of all of the Equity Interests of such Person, all of the Equity Interests (except for any such securities in the nature of directors' qualifying shares required pursuant to applicable Law) acquired, or otherwise issued by such Person or any newly formed Subsidiary of the Borrower in connection with such acquisition shall be owned 100% by the Borrower, a Guarantor or any other Subsidiary, and the Borrower shall have taken, or caused to be taken, as of the date such Person becomes a Subsidiary of the Borrower, each of the actions set forth in Section 6.12, if applicable; and

(r) if such acquisition constitutes a Material Transaction, the Borrower and its Subsidiaries shall be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis, after giving effect to such acquisition and the Borrower shall, prior to the consummation of such acquisition, deliver to the Administrative Agent a duly

completed Compliance Certificate, signed by a Responsible Officer of the Borrower, demonstrating such compliance.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any ERISA Affiliate or any such Plan to which the Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 6.02.

“Pro Forma Basis” has the meaning specified in Section 1.07.

20

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“Prudential Note Documents” means that certain Note Purchase and Private Shelf Agreement between the Borrower and Prudential Investment Management, Inc., as placement agent, dated April 21, 2011.

“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 Lender” has the meaning specified in Section 6.02.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“QFC Credit Support” has the meaning specified in Section 10.21.

“Qualified ECP Guarantor” means, at any time, each Loan Party with total assets exceeding \$10,000,000 or that qualifies at such time as an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” at such time under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Recipient” means the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“Register” has the meaning specified in Section 10.06(c).

**“Related Parties”** means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

**“Reportable Event”** means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

**“Request for Credit Extension”** means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, ~~and~~ (c) with respect to a Swing Line Loan, a Swing Line Loan Notice and (d) with respect to a Borrowing, conversion or continuation of the First Incremental Term Loan, a First Incremental Term Loan Notice.

**“Required Lenders”** means, as of any date of determination, Lenders having more than 50% of the sum of (a) the Aggregate Commitments or, if the commitment of each Lender to make Committed Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, Lenders holding in the aggregate more than 50% of the Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Lender for purposes of this definition) and (b) the Outstanding Amount of the First Incremental Term Loan. The Commitment and the First Incremental Term Commitment of, and the portion of the Total Outstandings and the Outstanding Amount of the First Incremental Term Loan held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or L/C Issuer, as the case may be, in making such determination.

21

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**“Rescindable Amount”** has the meaning as specified in Section 2.12(b)(ii).

**“Resignation Effective Date”** has the meaning set forth in Section 9.06(a).

**“Resolution Authority”** means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

**“Responsible Officer”** means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice

to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a 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. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and to the extent requested by the Administrative Agent, appropriate authorization documentation, in form and substance reasonably satisfactory to the Administrative Agent.

**"Restricted Payment"** means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Borrower's stockholders, partners or members (or the equivalent Person thereof).

~~"Restricted Debt Prepayments" has the meaning specified in Section 7.13.~~

**"Revolving Credit Exposure"** means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Committed Loans and such Lender's participation in L/C Obligations and Swing Line Loans at such time.

**"Sanctioned Person"** has the meaning specified in Section 5.20.

**"Sanction(s)"** means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, HerHis Majesty's Treasury or other relevant sanctions authority.

**"SEC"** means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

**"SOFR"** means the Secured Overnight Financing Rate as administered by the Federal Reserve Bank of New York (or a successor administrator).

**"SOFR Adjustment"** with respect to Daily Simple SOFR means 0.10% (10 basis points); and with respect to Term SOFR means 0.10% (10 basis points) for an Interest Period of one-month's duration and 0.15% (15 basis points) for an Interest Period of three-month's duration.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of Equity Interests having ordinary voting power for the election of directors or other governing body (other than Equity Interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Supported QFC” has the meaning specified in Section 10.21.

“Sustainability Coordinator” means one or more sustainability coordinators to be determined, satisfactory to the Administrative Agent (it being understood and agreed that each such sustainability coordinator shall be a Lender or an Affiliate of a Lender).

“Sustainability Linked Loan Principles” means the Sustainability Linked Loan Principles (as published in March 2022 by the Loan Market Association, Asia Pacific Loan Market Association and Loan Syndications & Trading Association).

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“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.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

"Swing Line Lender" means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

23

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"Swing Line Loan" has the meaning specified in Section 2.04(a).

"Swing Line Loan Notice" means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which shall be substantially in the form of Exhibit B or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

"Swing Line Sublimit" means an amount equal to the lesser of (a) \$20,000,000 and (b) the Aggregate Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges (including any stamp, court or documentary, intangible, recording, filing or similar taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term SOFR" means:

(s) for any Interest Period with respect to a Term SOFR Loan, the rate per annum equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to the commencement of such Interest Period with a term equivalent to such Interest Period; provided that if the rate is not published prior to 11:00 a.m. on such determination date then Term SOFR means the Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case, plus the SOFR Adjustment for such Interest Period; and

(t) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the Term SOFR Screen Rate with a term of one month commencing that day;

provided that if the Term SOFR determined in accordance with either of the foregoing clause (a) or (b) of this definition would otherwise be less than zero, the Term SOFR shall be deemed zero for purposes of this Agreement.

“Term SOFR Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of Term SOFR.

“Term SOFR Screen Rate” means the forward-looking SOFR term rate administered by CME (or any successor administrator satisfactory to the Administrative Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

“Threshold Amount” means \$10,000,000.

24

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“Total Outstandings” means the aggregate Outstanding Amount of all [Committed Loans](#) and all L/C Obligations.

“Treasury Sweep Note” means the \$12,000,000 Amended and Restated Credit Line Note, dated March 30, 2020, by the Borrower in favor of Union Bank, N.A.

“Type” means, with respect to a Committed Loan [or the First Incremental Term Loan \(or a portion thereof\)](#), its character as a Base Rate Loan or a Term SOFR Loan.

“UCC” means the Uniform Commercial Code as the same may be, from time to time, in effect in the State of New York.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the applicable time).

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in [Section 2.03\(c\)\(i\)](#).

“Unused Fee” has the meaning specified in [Section 2.09\(a\)](#).

**"U.S. Government Securities Business Day"** means any Business Day, except any Business Day on which any of the Securities Industry and Financial Markets Association, the New York Stock Exchange or the Federal Reserve Bank of New York is not open for business because such day is a legal holiday under the federal laws of the United States or the laws of the State of New York, as applicable.

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

**"U.S. Special Resolution Regimes"** has the meaning specified in Section 10.21.

**"U.S. Tax Compliance Certificate"** has the meaning specified in Section 3.01(e)(ii)(B)(III).

**"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 subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

**"UK Resolution Authority"** means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

**"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

25

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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.

**1.02 Other Interpretive Provisions TC "1.02Other Interpretive Provisions." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:**



(d) 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, (i) any definition of or reference to any agreement, instrument or other document (including any Loan Document or Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto", "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 thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Law and any reference to any Law or regulation shall, unless otherwise specified, refer to such Law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(e) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(f) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(g) Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

**1.03 Accounting Terms TC "1.03Accounting Terms." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d)Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, (i) Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded, and (ii) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under FASB ASC Topic 825 "Financial Instruments" (or any other financial accounting standard having a similar result or effect) to value any Indebtedness of the Borrower or any Subsidiary at "fair value", as defined therein. For purposes of determining the amount of any outstanding Indebtedness, no effect shall be given to any election by the Borrower to measure an item of Indebtedness using fair value (as permitted by Financial Accounting Standards Board Accounting Standards Codification 825–10–25 (formerly known as FASB 159) or any similar accounting standard).

(e)Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

**1.04 Rounding TC "1.04Rounding." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

**1.05 Times of Day; Rates** TC "1.05**Times of Day; Rates.**" \f c \l "2" \\* MERGEFORMAT  
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Unless otherwise specified, all references herein to times of day shall be references to Pacific time (daylight or standard, as applicable). The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to any reference rate referred to herein, the selection of rates, any related spread or adjustment or with respect to any rate that is an alternative or replacement for or successor to any of such rates (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or the

27

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effect of any of the foregoing, or of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), 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 other action or omission related to or affecting the selection, determination, or calculation of any rate (or component thereof) provided by any such information source or service.

**1.06 Letter of Credit Amounts** TC "1.06**Letter of Credit Amounts.**" \f c \l "2" \\* MERGEFORMAT  
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Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.07 Financial Determinations TC "1.07Financial Determinations." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

As of any date of determination, for purposes of determining the Consolidated Fixed Charge Coverage Ratio and the Consolidated Leverage Ratio (and any financial calculations required to be made or included within such ratios), or required for purposes of preparing any Compliance Certificate to be delivered pursuant to Section 6.02(a), the calculation of such ratios and other financial calculations shall be made on a Pro Forma Basis. "Pro Forma Basis" means (a) any such calculation shall include or exclude, as the case may be, the effect of any assets or businesses that have been acquired or Disposed of by the Borrower or any of its Subsidiaries pursuant to the terms hereof (including through mergers or consolidations) as of such date of determination, as determined by the Borrower on a pro forma basis in accordance with GAAP, which determination may include one-time adjustments or reductions in costs, if any, directly attributable to any such permitted Disposition or Permitted Acquisition, as the case may be, in each case (i) calculated in accordance with applicable United States Federal and state securities Laws for the period of four fiscal quarters ended on or immediately prior to the date of determination of any such ratios (without giving effect to any cost-savings or adjustments relating to synergies resulting from any such Permitted Acquisition, except as the Administrative Agent shall otherwise agree) and (ii) giving effect to any such permitted Disposition or Permitted Acquisition, as the case may be, as if it had occurred on the first day of such four fiscal quarter period and (b) with respect to any specified transaction, any such calculation shall be made giving effect to such specified transaction as if it had occurred on the first day of the most recently completed period of four consecutive fiscal quarters for which the Borrower has delivered financial statements pursuant to Section 6.01.

## ARTICLE II

### THE COMMITMENTS AND CREDIT EXTENSIONS

28

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2.01 Committed Loans TC "2.01Committed Loans." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Committed Loans. Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Committed Loan") to the Borrower, in Dollars from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Commitment; provided that after giving effect to any Committed Borrowing, (a) the Total Outstandings shall not exceed the Aggregate Commitments,

and (b) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment. Within the limits of each Lender's Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(a), prepay under Section 2.05, and reborrow under this Section 2.01(a). Committed Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.

First Incremental Term Loan. Subject to the terms and conditions set forth herein, each Lender severally agrees to make a single loan (the "First Incremental Term Loan") to the Borrower, in Dollars, on the First Incremental Effective Date in an amount not to exceed such Lender's First Incremental Term Commitment. The First Incremental Term Loan shall be advanced by the Lenders in accordance with their respective Applicable Percentage of the First Incremental Term Loan. The principal amount of the First Incremental Term Loan repaid or prepaid may not be reborrowed. First Incremental Term Loans may be Base Rate Loans or Term SOFR Loans or a combination thereof, as further provided herein.

**2.02 Borrowings, Conversions and Continuations of ~~Committed~~ Loans TC "2.02Borrowings, Conversions and Continuations of Committed Loans." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) Each ~~Committed~~ Borrowing, each conversion of ~~Committed~~ Loans from one Type to the other, and each continuation of Term SOFR Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a ~~Committed~~ Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a ~~Committed~~ Loan Notice. Each ~~Committed~~ Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) two Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Term SOFR Loans or of any conversion of Term SOFR Loans to Base Rate ~~Committed~~ Loans, and (ii) on the requested date of any Borrowing of Base Rate ~~Committed~~ Loans. Each Borrowing of, conversion to or continuation of Term SOFR Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$25,000 in excess thereof (or, in connection with any conversion or continuation in respect of the First Incremental Term Loan, if less, the entire principal thereof then outstanding). Except as provided in Sections 2.03(c) and 2.04(c), and, except in the case of a Committed Loan used to repay the then-outstanding principal amount of a Swing Line Loan, each Borrowing of or conversion to Base Rate ~~Committed~~ Loans shall be in a principal amount of \$500,000 or a whole multiple of \$25,000 in excess thereof (or, in connection with any conversion or continuation in respect of the First Incremental Term Loan, if less, the entire principal thereof then outstanding). Each ~~Committed~~ Loan Notice and each telephonic notice shall specify (i) whether the Borrower is requesting a ~~Committed~~ Borrowing, a conversion of ~~Committed~~ Loans from one Type to the other, or a continuation of Term SOFR

Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of ~~Committed~~ Loans to be borrowed, converted or continued, (iv) the Type of ~~Committed~~ Loans to be borrowed or to which existing ~~Committed~~ Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of ~~Committed~~ Loan in a ~~Committed~~ Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable ~~Committed~~ Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term SOFR Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Term SOFR Loans in any such ~~Committed~~ Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swing Line Loan may not be converted to a Term SOFR Loan.

(e) Following receipt of a ~~Committed~~ Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable ~~Committed~~ Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a ~~Committed~~ Borrowing, each Lender shall make the amount of its ~~Committed~~ Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable ~~Committed~~ Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date ~~the Committed~~ a Loan Notice with respect to ~~such a Committed Borrowing or Swing Line~~ Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(f) Except as otherwise provided herein, a Term SOFR Loan may be continued or converted only on the last day of an Interest Period for such Term SOFR Loan. During the existence of a Default, no Loans may be requested as,

converted to or continued as Term SOFR Loans without the consent of the Required Lenders.

(g) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Term SOFR Loans upon determination of such interest rate.

(h) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than ten Interest Periods in effect with respect to ~~Term SOFR Loans~~. Committed Loans. After giving effect to the Borrowing of the First Incremental Term Loan, all conversions of the First Incremental Term Loan from one Type to the other, and all

30

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continuations of the First Incremental Term Loan as the same Type, there shall not be more than 5 Interest Periods in effect with respect to the First Incremental Term Loan.

(i) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent, and such Lender.

(j) With respect to SOFR or Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

**2.03** Letters of Credit TC "2.03 Letters of Credit." \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC.

(d) The Letter of Credit Commitment.



(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the Aggregate Commitments, (y) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The L/C Issuer shall not issue any Letter of Credit, if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

31

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(B) the expiry date of such requested Letter of Credit would occur after the date 12 months after the Maturity Date, unless all the Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:



(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of Law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$500,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars; or

(E) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion), with the Borrower or such Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either such Letter of Credit then proposed to be issued or such Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in

Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) additionally provided herein with respect to the L/C Issuer.

(e) Procedures for Issuance and Amendment of Letters of Credit; Auto Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the L/C Issuer, by personal delivery or by any other means acceptable to the L/C Issuer. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each

33

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Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the date 12 months after the Maturity Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be

by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that permits the automatic reinstatement of all or a portion of the stated amount thereof after any drawing thereunder (each, an “Auto-Reinstatement Letter of Credit”). Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer to permit such reinstatement. Once an Auto-Reinstatement Letter of Credit has been issued, except as provided in the following sentence, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to reinstate all or a portion of the stated amount thereof in accordance with the provisions of such Letter of Credit. Notwithstanding the foregoing, each Auto-Reinstatement Letter of Credit shall permit the L/C Issuer to decline to reinstate all or any portion of the stated amount thereof after a drawing thereunder by giving notice of such non-reinstatement within a specified number of days after such drawing (the “Non-Reinstatement Deadline”) and the L/C Issuer shall not permit such reinstatement if it has received a notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Reinstatement Deadline (A) from the Administrative Agent that the Required Lenders have elected not to permit such reinstatement or (B) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied (treating such reinstatement as an L/C Credit Extension for purposes of this clause) and, in each case, directing the L/C Issuer not to permit such reinstatement.

34

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(v) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(f) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 11:00 a.m. on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Committed Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Committed Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Lender funds its Committed Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter

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of Credit, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender's obligation to make Committed Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Lender's obligation to make Committed Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

**(g) Repayment of Participations.**

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in

respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Percentage thereof on demand of the

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Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(h) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;



or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of the Borrower or any waiver by the L/C Issuer which does not in fact materially prejudice the Borrower;

(vi) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vii) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

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The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(i) **Role of L/C Issuer.** Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy



of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at Law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.03(e); provided that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication "SWIFT" message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(j)Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the L/C Issuer and the Borrower (including any such agreement applicable to an Existing Letter of Credit) when a Letter of Credit is issued (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to the Borrower for, and the L/C Issuer's rights and remedies against the Borrower shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any Law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions,

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opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such Law or practice.

(k) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance, subject to Section 2.16, with its Applicable Percentage a Letter of Credit fee (the “Letter of Credit Fee”) for each Letter of Credit equal to the Applicable Rate applicable to the Committed Loan Facility times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate applicable to the Committed Loan Facility during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate applicable to the Committed Loan Facility separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(l) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(m) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(n) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

39

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**2.04** Swing Line Loans TC "2.04Swing Line Loans." \f c \l "2" \\* MERGEFORMAT AUTONE  
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(d) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, may in its sole discretion make loans (each such loan, a "Swing Line Loan") to the Borrower, in Dollars, from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Committed Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Commitment; provided that (x) after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Committed Loans of any Lender (other than the Swing Line Lender), plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, (y) the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan and (z) the Swing Line Lender shall not be under any obligation to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall be a Base Rate Loan. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Swing Line Loan.

(e) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by (A) telephone or (B) by a Swing Line Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a Swing Line Loan Notice. Each Swing Line Loan Notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$500,000, and (ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by the Swing Line Lender of any Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at its office by crediting the account of the Borrower on the books of the Swing Line Lender in immediately available funds.

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(f) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Committed Loan in an amount equal to such Lender's Applicable Percentage of the amount of such Swing Line Loan then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent.

Each Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Lender that so makes funds available shall be deemed to have made a Base Rate Committed Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Committed Borrowing in accordance with Section 2.04(c)(i) (including, without limitation, the failure to satisfy the conditions set forth in Section 4.02), the request for Base Rate Committed Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

41

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(iv) Each Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Lender's obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

**(g) Repayment of Participations.**

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Applicable Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(h) **Interest for Account of Swing Line Lender.** The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Lender funds its Base Rate Committed Loan or risk participation pursuant to this Section 2.04 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(i) **Payments Directly to Swing Line Lender.** The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

**2.05 Prepayments TC "2.05Prepayments." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) The Borrower may, upon delivery to the Administrative Agent of a Notice of Prepayment, at any time or from time to time voluntarily prepay ~~Committed~~ Loans in whole or in part without premium or penalty subject to Section 3.05; provided that, unless otherwise agreed by the Administrative Agent, (i) such notice must be

received by the Administrative Agent not later than 11:00 a.m. (A) two Business Days prior to any date of prepayment of Term SOFR Loans and (B) on the date of prepayment of Base Rate ~~Committed~~ Loans; (ii) any prepayment of Term SOFR Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$25,000 in excess thereof; and (iii) any prepayment of Base Rate ~~Committed~~ Loans

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shall be in a principal amount of \$500,000 or a whole multiple of \$25,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of ~~Committed~~ Loans to be prepaid and, if Term SOFR Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of any Term SOFR Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.16, each such prepayment shall be applied to the ~~Committed~~ Loans of the Lenders in accordance with their respective Applicable Percentages.

(e) The Borrower may, upon delivery to the Swing Line Lender of a Notice of Prepayment (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty (including, without limitation, with the proceeds of a Committed Loan); provided that, unless otherwise agreed by the Swing Line Lender, (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$500,000 (or, if less, the then-outstanding principal amount of any Swing Line Loan). Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(f) If for any reason the Total Outstandings at any time exceed the Aggregate Commitments then in effect, the Borrower shall immediately prepay Committed Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(c) unless, after the



prepayment in full of the Committed Loans, the Total Outstandings exceed the Aggregate Commitments then in effect.

**2.06 Termination or Reduction of Commitments TC "2.06Termination or Reduction of Commitments." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Aggregate Commitments. The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments, or from time to time permanently reduce the Aggregate Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiples of \$1,000,000 in excess thereof, (iii) the Borrower shall not terminate or reduce the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Aggregate Commitments, and (iv) if, after giving effect to any reduction of the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Commitments, such sublimit shall be automatically reduced by the amount of such excess. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Commitments. Any reduction of the Aggregate Commitments shall be applied to the Aggregate Commitment of each Committed Lender according to its

43

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Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

First Incremental Term Commitment. The First Incremental Term Commitment shall be automatically and permanently reduced to zero on the date of the Borrowing of the First Incremental Term Loan.

**2.07 Repayment of Loans TC "2.07Repayment of Loans." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d)The Borrower shall repay to the Lenders, in the manner set forth in Section 2.12(a), on the Maturity Date the aggregate principal amount of Committed Loans outstanding on such date.



The Borrower shall repay to the Lenders, in the manner set forth in Section 2.12(a), on the Maturity Date the aggregate principal amount of the First Incremental Term Loan outstanding on such date.

~~(b)~~ The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Loan is made and (ii) the Maturity Date.

**2.08** Interest TC "2.08Interest." \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC.

(d) Subject to the provisions of subsection (b) below, (i) each Committed Loan that is a Term SOFR Loan shall bear interest on the outstanding principal amount thereof for each Interest Period from the applicable Borrowing date at a rate per annum equal to the Term SOFR for such Interest Period plus the Applicable Rate applicable to Committed Loans that are Term SOFR Loans; (ii) each Committed Loan that is a Base Rate ~~Committed~~-Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; ~~and (iii) applicable to Committed Loans that are Base Rate Loans~~; (iii) each portion of the First Incremental Term Loan that is a Term SOFR Loan shall bear interest on the outstanding principal amount thereof for each Interest Period from the applicable Borrowing date at a rate per annum equal to the Term SOFR for such Interest Period plus the Applicable Rate applicable to Term SOFR Loans that comprise the First Incremental Term Loan; (iv) each portion of the First Incremental Term Loan that is a Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate applicable to Base Rate Loans that comprise the First Incremental Term Loan; and (v) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate applicable to the Committed Loan Facility. To the extent that any calculation of interest or any fee required to be paid under this Agreement shall be based on (or result in) a calculation that is less than zero, such calculation shall be deemed zero for purposes of this Agreement.

(e)(i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Upon the request of the Required Lenders (except as set forth in clauses (b)(i) and (b)(ii) above for which the request of the Required Lenders is not required), while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(f) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

**2.09 Fees TC "2.09 Fees." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. In addition to certain fees described in subsections (h) and (i) of Section 2.03:**

(d) Unused Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage, an unused fee equal to the Applicable Rate [applicable to the Committed Loan Facility](#) times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Committed Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in [Section 2.16](#) (the "Unused Fee"). For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Commitments for purposes of determining the Unused Fee. The Unused Fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in [Article IV](#) is not met, and shall be due and payable (i) quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and (ii) on the last day of the Availability Period. The Unused Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate [applicable to the Committed Loan Facility](#) during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate [applicable to the Committed Loan Facility](#) separately for each period during such quarter that such Applicable Rate was in effect.

(e) Other Fees. (i) The Borrower shall pay to BofA Securities and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

45

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**2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate TC**  
**"2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate." \f c**  
**\l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to Term SOFR) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). 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, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(e) If, as a result of any restatement of or other adjustment to the financial statements of the Borrower or for any other reason, the Borrower or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the L/C Issuer, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or the L/C Issuer, as the case may be, under Section 2.03(c)(iii), 2.03(h) or 2.08(b) or under Article VIII. The Borrower's obligations under this paragraph shall survive the termination of the Aggregate

Commitments and the [Incremental Term Commitments and the](#) repayment of all other Obligations hereunder.

**2.11 Evidence of Debt TC "2.11Evidence of Debt." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d)The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender in the ordinary course of business. The Administrative Agent shall maintain the Register in accordance with [Section 10.06\(c\)](#). The accounts or records maintained by each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

46

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(e) In addition to the accounts and records referred to in [subsection \(a\)](#), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

**2.12 Payments Generally; Administrative Agent's Clawback TC "2.12Payments Generally; Administrative Agent's Clawback." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d)General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the

Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein (provided that any repayment by the Borrower of any Swing Line Loan with the proceeds of a Committed Borrowing shall be disbursed by the Lenders and the Administrative Agent as described in Section 2.04(c)(i)). The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Except as otherwise specifically provided for in this Agreement, if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(e)(i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any ~~Committed~~ Borrowing of Term SOFR Loans (or, in the case of any ~~Committed~~ Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such ~~Committed~~ Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such ~~Committed~~ Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a ~~Committed~~ Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable ~~Committed~~ Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans comprising such Borrowing. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall

promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable ~~Committed~~-Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's ~~Committed~~-Loan included in such ~~Committed~~-Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent.

Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. With respect to any payment that the Administrative Agent makes for the account of the Lenders or the L/C Issuer hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrower has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by such Borrower (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand (and, in any case, within two Business Days of the date of such demand) the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b), shall be conclusive, absent manifest error.

(f)Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(g)Obligations of Lenders Several. The obligations of the Lenders hereunder to make ~~Committed~~-Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint.

The failure of any Lender to make any ~~Committed~~ Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its ~~Committed~~ Loan, to purchase its participation or to make its payment under Section 10.04(c).

48

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(h) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

**2.13** Sharing of Payments by Lenders TC "2.13**Sharing of Payments by Lenders.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the ~~Committed~~ Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such ~~Committed~~ Loans or participations and accrued interest thereon greater than its prorata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the ~~Committed~~ Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective ~~Committed~~ Loans and other amounts owing them; provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender



as consideration for the assignment of or sale of a participation in any of its ~~Committed~~ Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

**2.14 Incremental Facilities TC "2.14Incremental Facilities." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

This Agreement and the other Loan Documents may be amended at any time after the Closing Date to add one or more tranches of term loans (each an "Incremental Term Facility") and/or increase the Aggregate Commitments (each such increase, an "Incremental Revolving Increase"; each Incremental Term Facility and each Incremental Revolving Increase is an "Incremental Facility"), at the option of the Borrower by an agreement in writing entered into by the Borrower, the Guarantors, the Administrative Agent and each Person (including any existing

49

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Lender) that agrees to provide a portion of such Incremental Facility (each, an "Incremental Facility Amendment"); provided that:

(d)the aggregate principal amount of all Incremental Facilities shall not exceed \$300,000,000 (minus, for the avoidance of doubt, the initial principal amount of the First Incremental Term Loan);

(e)(i) such Incremental Facility shall be in a minimum principal amount of at least \$15 million and integral multiples of \$1 million in excess thereof and (ii) there shall be no more than five (5) Incremental ~~Facilities~~ Facilities during the term of this Agreement;

(f)no Default shall exist on the effective date of such Incremental Facility or would exist after giving effect to such Incremental Facility;

(g)the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects as of the effective date of such Incremental Facility, except to the extent that such representations and



warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date (unless such representations and warranties are qualified as to “materiality” or “Material Adverse Effect”, in which case, they are true and correct in all respects), and except that for purposes of this Section 2.14, the representations and warranties contained in subsection (a) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsection (a) of Section 6.01;

(h) no existing Lender shall be under any obligation to participate in such Incremental Facility and any such decision whether to participate in such Incremental Facility shall be in such Lender's sole and absolute discretion;

(i) each Person participating in such Incremental Facility shall qualify as an Eligible Assignee;

(j) the Borrower shall deliver to the Administrative Agent:

(i) a certificate of each Loan Party dated as of the date of such Incremental Facility signed by a Responsible Officer of such Loan Party (A) certifying and attaching resolutions adopted by the board of directors or equivalent governing body of such Loan Party approving such Incremental Facility and (B) certifying that the conditions set forth in Sections 2.14(c) and (d) are true and correct as of such date;

(ii) customary opinions of legal counsel to the Loan Parties, addressed to the Administrative Agent and each Lender (including each Person providing a commitment with respect to an Incremental Facility), dated as of the effective date of such Incremental Facility;

(k) the Borrower shall have delivered to the Administrative Agent a Compliance Certificate demonstrating that after giving effect to the incurrence of such Incremental Facility

50

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the Loan Parties would be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis;

(l) in the case of an Incremental Term Facility:

(i) the final maturity date for such Incremental Term Facility shall not be earlier than the later of the Maturity Date or the final maturity date

of any other Incremental Facility;

(ii) the weighted average life for such Incremental Term Facility shall not be shorter than the then remaining weighted average life of any other Incremental Term Facility; and

(iii) subject to the foregoing clauses, the other terms of such Incremental Term Facility (including interest rate, interest rate margins, interest rate floors, fees, original issue discount, call protection or prepayment penalty, amortization and final maturity date) shall be as agreed by the Borrower and the Persons providing such Incremental Term Facility and approved by the Administrative Agent.

(m) in the case of any Incremental Revolving Increase, if any Committed Loans are outstanding on the date of such increase, (x) each Lender providing such Incremental Revolving Increase shall make Committed Loans, the proceeds of which shall be applied by the Administrative Agent to prepay Committed Loans of the existing Lenders, in an amount necessary such that after giving effect thereto the outstanding Committed Loans are held ratably among all of the Lenders with a Commitment and (y) the Borrower shall pay an amount required pursuant to Section 3.05 as a result of any such prepayment of Committed Loans of existing Lenders.

The commitments to an Incremental Facility and credit extensions thereunder shall constitute Commitments and Credit Extensions under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents.

The Lenders hereby authorize the Administrative Agent to enter into, and the Lenders agree that this Agreement and the other Loan Documents shall be amended by, each Incremental Facility Amendment to the extent the Administrative Agent deems necessary in order to establish the applicable Incremental Facility and to effect such other changes agreed by the Borrower and the Persons providing such Incremental Facility and approved by the Administrative Agent; provided, however, that the Incremental Facility Amendment shall not effect any change described in Section 10.01(a) through (g), without the consent of each Person required to consent to such change under such clause (it being agreed, however, that any Incremental Revolving Increase or establishment of any Incremental Term Facility will not, of itself, be deemed to effect any of the changes described in Section 10.01(a) through (g) and that modifications to the definitions of “Commitments”, “Loans”, “Required Lenders” or other provisions relating to voting provisions to provide the Persons providing the applicable Incremental Facility with the benefit of such provisions will not, by themselves, be deemed to effect any of the changes described in Section 10.01(a) through (g).

51

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The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Facility Amendment.

This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

**2.15 Cash Collateral TC "2.15Cash Collateral." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d)Certain Credit Support Events. If (i) the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Maturity Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrower shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iv) there shall exist a Defaulting Lender, the Borrower shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(e)Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(f)Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.15 or Sections 2.03, 2.04, 2.05, 2.16 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(g) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the

52

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determination by the Administrative Agent and the L/C Issuer that there exists excess Cash Collateral; provided that the Person providing Cash Collateral and the L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

**2.16 Defaulting Lenders TC "2.16Defaulting Lenders."** \f c \l "2" \\* MERGEFORMAT AUTONF  
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(d) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 10.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuer or Swing Line Lender hereunder; *third*, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.15; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), 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, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x)

satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.15; *sixth*, to the payment of any amounts owing to the Lenders, the L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued 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, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all

53

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Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.16(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.15.

(C) With respect to any fee payable under Section 2.09(a) or any Letter of Credit Fees not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the L/C Issuer and Swing Line Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swing Line Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 10.20, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuer's Fronting Exposure in accordance with the procedures set forth in Section 2.15.

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(e) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swing Line Lender and the L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the ~~Committed~~ Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.16(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(f) New Swing Line Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swing Line Lender shall not be required to fund any Swing Line Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Line Loan and (ii) the L/C Issuer shall not be required to issue, extend, increase, reinstate or renew any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

**2.17 ESG Adjustments TC "2.17ESG Adjustments." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d) After the Closing Date, the Borrower and the Sustainability Coordinator, shall be entitled, but shall not be required, to establish specified key performance indicators ("KPIs") with respect to certain environmental, social and governance ("ESG") targets of the Borrower and its Subsidiaries. The Sustainability Coordinator and the Borrower, with the consent of the Required Lenders and the Administrative Agent, may amend this Agreement (such amendment, an "ESG Amendment") solely for the purpose of incorporating the KPIs and other related provisions (the "ESG Pricing Provisions") into this Agreement. Upon the effectiveness of any such ESG Amendment, based on the Borrower's performance against the KPIs, certain adjustments (increase, decrease or no adjustment) (such adjustments, the "ESG Applicable Rate Adjustments") to the otherwise applicable Applicable Rate for Term SOFR Loans, Base Rate Loans, Letter of Credit Fees, and the Unused Fee will be made; provided, that, the amount of such adjustments shall not exceed (i) in the case of the Applicable Rate for the Unused Fee, an increase and/or decrease of 0.005% for any one KPI, or 0.01% in the aggregate for all KPIs and (ii) in the case of the Applicable Rate for Term SOFR Loans, Base Rate Loans, and Letter of Credit Fees, an increase and/or decrease of 0.025% for any one KPI, or 0.05% in the aggregate for all KPIs; provided, further, that, in no event shall the Applicable Rate for Term SOFR Loans, Base Rate Loans, Letter of Credit Fees, or the Unused Fee be less than zero. The KPIs, the Borrower's performance against the KPIs, and any related ESG Applicable Rate Pricing Adjustments resulting therefrom, will be determined based on certain certificates, reports and other documents, in each case, setting forth the



calculation and measurement of the KPIs in a manner that is aligned with the Sustainability Linked Loan Principles and to be mutually agreed between the Borrower and the Sustainability Coordinator (each acting reasonably). Following the effectiveness of an ESG Amendment, any modification to the ESG Pricing Provisions shall be subject only to the consent of the Borrower, the Administrative Agent and the Required

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Lenders so long as such modification does not have the effect of reducing the Applicable Rate for Term SOFR Loans, Base Rate Loans, Letter of Credit Fees, or the Unused Fee to a level not otherwise permitted by this Section 2.17(a).

(e) The Sustainability Coordinator will (i) assist the Borrower in determining the ESG Pricing Provisions in connection with the ESG Amendment and (ii) assist the Borrower in preparing informational materials focused on ESG to be used in connection with the ESG Amendment.

(f) This Section 2.17 shall supersede any provisions in Section 10.01 to the contrary.

### ARTICLE III

#### TAXES, YIELD PROTECTION AND ILLEGALITY

##### 3.01 Taxes TC "3.01 Taxes." \f c \ "2" \\* MERGEFORMAT AUTONF D3 TC.

(d) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding Taxes, from any payment, then (A) the



Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with applicable Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(e) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Laws.

(f) Tax Indemnifications.

(i) The Borrower shall, and does hereby, indemnify each Recipient, and shall make payment in respect thereof within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or

56

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attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The Borrower shall also, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within ten days after demand therefor, for any amount which a Lender or the L/C Issuer fails to pay indefeasibly to the Administrative Agent as required by clause (ii) of this subsection. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(ii) Each Lender and the L/C Issuer shall, and does hereby, and shall make payment in respect thereof within ten days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender

or the L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (y) the Administrative Agent and the Borrower, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender or the L/C Issuer, in each case, that are payable or paid by the Administrative Agent or the Borrower 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 and the L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(g) Evidence of Payments. Upon request by the Borrower or the Administrative Agent, as the case may be, after any payment of Taxes by the Borrower or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Administrative Agent, as the case may be.

(h) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding.

57

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In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income Tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such Tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such Tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section

881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BEN-E; or

58

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

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to

determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(i) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. If the Administrative Agent, any Lender, or the L/C Issuer determines, in its sole discretion exercised in good faith, that it has received a refund (or credit or deduction in lieu of a refund) of any Taxes as to which it has been indemnified by the

59

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Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to the Borrower an amount equal to such refund (or credit or deduction in lieu of a refund) (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by the Administrative Agent, such Lender, or the L/C Issuer, as the case may be, 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, such Lender, or the L/C Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender, or the L/C Issuer in the event the Administrative Agent, such Lender, or the L/C Issuer is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Borrower pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if Tax subject to indemnification and giving rise to such refund had not been deducted,

withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such tax had never been paid. This subsection shall not be construed to require the Administrative Agent, any Lender, or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(j) Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

### **3.02 Illegality TC "3.02Illegality." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR or Term SOFR, or to determine or charge interest rates based upon SOFR or Term SOFR, then, upon notice thereof by such Lender to the Borrower (through the Administrative Agent), (a) any obligation of such Lender to make or continue Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans shall be suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Term SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the 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. Upon receipt of such notice, (i) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Term SOFR Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Loan to such day, or immediately, if such Lender may not

60

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lawfully continue to maintain such Term SOFR Loan and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon SOFR, the Administrative Agent shall during the period of such suspension compute the 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 SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to [Section 3.05](#).

**3.03 Inability to Determine Rates** TC "3.03Inability to Determine Rates." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

(d) If in connection with any request for a Term SOFR Loan or a conversion of Base Rate Loans to Term SOFR Loans or a continuation of any of such Loans, as applicable, (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (A) no Successor Rate has been determined in accordance with [Section 3.03\(b\)](#), and the circumstances under [clause \(i\)](#) of [Section 3.03\(b\)](#) or the Scheduled Unavailability Date has occurred, or (B) adequate and reasonable means do not otherwise exist for determining Term SOFR for any requested Interest Period with respect to a proposed Term SOFR Loan or in connection with an existing or proposed Base Rate Loan, or (ii) the Administrative Agent or the Required Lenders determine that for any reason that Term SOFR for any requested Interest Period with respect to a proposed Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, 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, or to convert Base Rate Loans to 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 the Term SOFR component of the Base Rate, the utilization of the Term SOFR component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in [clause \(ii\)](#) of this [Section 3.03\(a\)](#), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a Borrowing of, or conversion to, or continuation of Term SOFR Loans (to the extent of the affected Term SOFR Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein and (ii) any outstanding Term SOFR Loans shall be deemed to have been converted to Base Rate Loans immediately at the end of their respective applicable Interest Period.

(e) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Borrower) that the Borrower or Required Lenders (as applicable) have determined, that:



(i)adequate and reasonable means do not exist for ascertaining one month, three month and six month interest periods of Term SOFR, including, without limitation, because the Term SOFR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

61

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(ii)CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Term SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate shall or will no longer be made available, or permitted to be used for determining the interest rate of Dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide such interest periods of Term SOFR after such specific date (the latest date on which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the “Scheduled Unavailability Date”);

then, on a date and time determined by the Administrative Agent (any such date, the “Term SOFR Replacement Date”), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, Term SOFR will be replaced hereunder and under any Loan Document with Daily Simple SOFR *plus* the SOFR Adjustment for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “Successor Rate”).

If the Successor Rate is Daily Simple SOFR *plus* the SOFR Adjustment, all interest payments will be payable on a quarterly basis.

Notwithstanding anything to the contrary herein, (i) if the Administrative Agent determines that Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date, or (ii) if the events or circumstances of the type described in Section 3.03(b)(i) or (ii) have occurred with respect to the Successor Rate then in



effect, then in each case, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing Term SOFR or any then current Successor Rate in accordance with this Section 3.03 at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, as applicable, with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities syndicated and agented in the United States for such alternative benchmark and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities syndicated and agented in the United States for such benchmark, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustments, shall constitute a “Successor Rate”. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

62

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The Administrative Agent will promptly (in one or more notices) notify the Borrower and each Lender of the implementation of any Successor Rate.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero%, the Successor Rate will be deemed to be zero% for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a Successor Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

For purposes of this Section 3.03, those Lenders that either have not made, or do not have an obligation under this Agreement to make, the relevant Loans in Dollars shall be excluded from any determination of Required Lenders.

**3.04 Increased Costs** TC "3.04**Increased Costs.**" \f c \l "2" \\* MERGEFORMAT AUTONUM D3\_TC.

(d)**Increased Costs Generally.** If any Change in Law shall:

(i)impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii)subject any Recipient to any Tax (other than Indemnified Taxes and Excluded Taxes) on its loans, loan principal, letters of credit, commitments or other obligations or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii)impose on any Lender or the L/C Issuer any other condition, cost or expense (other than Taxes) affecting this Agreement or Term SOFR Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrower will pay to

63

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such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(e) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments or First Incremental Term Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swing Line Loans held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(f) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(g) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions (i) suffered more than six months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six month period referred to above shall be extended to include the period of retroactive effect thereof) or (ii) if such Lender or L/C Issuer has not required other similarly situated borrowers or obligors to pay comparable amounts with respect to such increased cost or reductions.

**3.05 Compensation for Losses** TC "3.05**Compensation for Losses.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from

any loss, cost or expense incurred by it as a result of:

64

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(d)any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(e)any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(f)any assignment of a Term SOFR Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

**3.06 Mitigation Obligations; Replacement of Lenders TC "3.06Mitigation Obligations; Replacement of Lenders." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d)Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, the L/C Issuer, or any Governmental Authority for the account of any Lender or the L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender or the L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender or the L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or the L/C Issuer, as the case may be, to

any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or the L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or the L/C Issuer in connection with any such designation or assignment.

(e)Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 10.13.

### **3.07 Survival TC "3.07Survival." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments and the First Incremental Term Commitment, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

65

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## **ARTICLE IV**

### **CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

#### **4.01 Conditions of Initial Credit Extension TC "4.01Conditions of Initial Credit Extension." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(d)Administrative Agent's Receipt of Executed Loan Documents, Opinions, Certifications and Other Documents. The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:

(i)executed counterparts of this Agreement and the Guaranty, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower;

(ii) a Note executed by the Borrower in favor of each Lender requesting a Note;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each of the Borrower and the Guarantors is validly existing, in good standing and qualified to engage in business in its state of formation; and

(v) a favorable opinion of Norton Rose Fulbright US LLP, counsel to the Loan Parties, addressed to the Administrative Agent and each Lender.

(e) Anti-Money-Laundering. Upon the reasonable request of any Lender, the Borrower shall have provided to such Lender, and such Lender shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act.

(f) Fees and Expenses. Any fees required to be paid on or before the Closing Date shall have been paid. Unless waived by the Administrative Agent, the Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel, if requested by the Administrative Agent), to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be

66

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incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be

consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**4.02** Conditions to all Credit Extensions TC "4.02Conditions to all Credit Extensions." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. The obligation of each Lender and the L/C Issuer to honor any Request for Credit Extension (other than a ~~Committed~~-Loan Notice requesting only a conversion of ~~Committed~~-Loans to the other Type, or a continuation of Term SOFR Loans) is subject to the following conditions precedent:

(d) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any certificate or Request for Credit Extension furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date (unless such representations and warranties are qualified as to "materiality" or "Material Adverse Effect", in which case, they are true and correct in all respects), and except that for purposes of this Section 4.02, the representations and warranties contained in subsection (a) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsection (a) of Section 6.01.

(e) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(f) The Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a ~~Committed~~-Loan Notice requesting only a conversion of ~~Committed~~-Loans to the other Type or a continuation of Term SOFR Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

**5.01** Existence, Qualification and Power TC "5.01Existence, Qualification and Power." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b)

has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

**5.02 Authorization; No Contravention TC "5.02Authorization; No Contravention." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

**5.03 Governmental Authorization; Other Consents TC "5.03Governmental Authorization; Other Consents." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

**5.04 Binding Effect TC "5.04Binding Effect." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms.

**5.05 Financial Statements; No Material Adverse Effect TC "5.05Financial Statements; No Material Adverse Effect." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**



(d)The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(e)The most recent unaudited consolidated balance sheets of the Borrower and its Subsidiaries delivered pursuant to Section 6.01(b), and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on the

68

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date of such financial statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(f)Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(g)The financial plan of the Borrower delivered pursuant to Section 6.01(c) was prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such financial plan, and represented, at the time of delivery, the Borrower's best estimate of its future financial condition and performance.

#### 5.06 Litigation TC "5.06Litigation." \f c \ "2" \\* MERGEFORMAT AUTONF D3 TC.

There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or contemplated, at Law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated

hereby, or (b) either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

**5.07 No Default TC "5.07No Default." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

**5.08 Ownership of Property; Liens TC "5.08Ownership of Property; Liens." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Each of the Borrower and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Borrower and its Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.01.

**5.09 Environmental Compliance TC "5.09Environmental Compliance." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

To the Borrower's knowledge, no claims or potential claims alleging liability or responsibility for violation of any Environmental Law have been asserted against the businesses, operations or properties of the Borrower or any of its Subsidiaries, nor have any circumstances occurred which could give rise to such claims or potential claims, which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

69

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**5.10 Insurance TC "5.10Insurance." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrower, in such amounts (after giving effect to any self-insurance compatible with the following standards), with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

**5.11 Taxes TC "5.11Taxes." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

The Borrower and its Subsidiaries have filed all Federal and state income tax returns and other material tax returns and reports required to be filed, and have paid all Federal and state income and other material taxes, assessments, fees and other governmental charges, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower or any Subsidiary that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

**5.12 ERISA Compliance TC "5.12ERISA Compliance." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) Except as could not reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter or is subject to a favorable opinion letter from the IRS to the effect that the form of such Plan was qualified under Section 401(a) of the Code and the trust related thereto was determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS. Except as could not reasonably be expected to result in a Material Adverse Effect, to the knowledge of the Borrower, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(e) There are no pending or, to the knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(f)(i) No ERISA Event has occurred, and neither the Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) the Borrower and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither the Borrower nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither the Borrower nor any ERISA Affiliate has incurred any liability to the PBGC that has not been satisfied other than for the payment of premiums, and there are no

premium payments which have become due that are unpaid; (v) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(g) As of the Closing Date, neither the Borrower or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan.

(h) The Borrower represents and warrants as of the Closing Date that the Borrower is not and will not be using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to the Borrower's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments, the First Incremental Term Commitment or this Agreement.

**5.13 Subsidiaries; Equity Interests TC "5.13Subsidiaries; Equity Interests." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

As of the Closing Date, the Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by a Loan Party in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens. As of the Closing Date, the Borrower has no equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13.

**5.14 Margin Regulations; Investment Company Act TC "5.14Margin Regulations; Investment Company Act." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 7.01 or Section 7.05 or subject to any restriction contained in any agreement or instrument between the Borrower or any of its Subsidiaries and any Lender or any Affiliate of

any Lender relating to Indebtedness and within the scope of Section 8.01(e) will be margin stock.

(e)None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

**5.15 Disclosure TC "5.15Disclosure." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

The Borrower has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a

71

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Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to any forecasts or projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

**5.16 Compliance with Laws TC "5.16Compliance with Laws." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

**5.17 Taxpayer Identification Number TC "5.17Taxpayer Identification Number." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

The Borrower's true and correct U.S. taxpayer identification number is set forth on Schedule 10.02.

**5.18 Intellectual Property; Licenses, Etc** TC "5.18**Intellectual Property; Licenses, Etc.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

The Borrower and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

**5.19 Burdensome Agreements** TC "5.19**Burdensome Agreements.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Neither the Borrower nor any of its Subsidiaries has entered into any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (ii) of any Subsidiary to Guarantee the Indebtedness of the Borrower or (iii) of the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided that this clause (iii) does not apply to any negative pledge incurred or provided (x) in favor of any holder of Indebtedness permitted under Section 7.03(e) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness, (y) under the Prudential Note Documents or (z) under the documents evidencing any Indebtedness described in Section 7.03(f); (b) requires the grant of a

72

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Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person (other than pursuant to the Prudential Note Documents or any Indebtedness described in Section 7.03(f)); or (c) materially and adversely affects such Person's business or property, assets, operations or condition, financial or otherwise.

**5.20 Sanctions TC "5.20Sanctions." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

Neither the Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Borrower and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (a) currently the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, Her Majesty's Treasury's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other applicable sanctions authority (any individual or entity that is described in clause (a) or clause (b), each, a "Sanctioned Person") or (c) located, organized or resident in a Designated Jurisdiction.

**5.21 Anti-Corruption Laws TC "5.21Anti-Corruption Laws." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

The Borrower and its Subsidiaries have, in all material respects, conducted their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions applicable to the Borrower and its Subsidiaries, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

**5.22 No Affected Financial Institution TC "5.22No Affected Financial Institution." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

No Loan Party is an Affected Financial Institution.

**5.23 Covered Entities TC "5.23Covered Entities." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

No Loan Party is a Covered Entity.

**ARTICLE VI**

**AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment or First Incremental Term Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Guarantor and each Material Subsidiary to:

**6.01 Financial Statements TC "6.01Financial Statements." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. Deliver to the Administrative Agent, in form and detail satisfactory to the Administrative Agent and the Required Lenders:**

(d)as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower (commencing with the fiscal year ended December 31, 2022), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders'



equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(e)as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended June 30, 2022), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity, and cash flows for the portion of the Borrower's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

(f)within 15 days following approval thereof by the Borrower's board of directors, but in any event within 120 days after the end of each fiscal year (commencing with the fiscal year ended December 31, 2022), a copy of the Borrower's financial plan for the next succeeding fiscal year (including the fiscal year in which the Maturity Date occurs), including consolidated balance sheets and statements of income or operations and cash flows of the Borrower and its Subsidiaries on a quarterly basis for such fiscal year. In no event shall the information delivered pursuant to this subsection (c) be deemed "PUBLIC" within the meaning of the last paragraph of Section 6.02.

**6.02 Certificates; Other Information TC "6.02Certificates; Other Information." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Deliver to the Administrative Agent, in form and detail satisfactory to the Administrative Agent and the Required Lenders:



(d) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b) (commencing with the delivery of the financial statements for the fiscal quarter ended June 30, 2022), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

(e) to the extent that delivery thereof is not prohibited by confidentiality or other agreements, promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent

74

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accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them;

(f) promptly after the furnishing thereof, copies of any statement or report (other than those regularly scheduled for delivery) furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(g) promptly, and in any event within five Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(h) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act and the Beneficial Ownership Regulation; and

(i) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary, or compliance with the terms of

the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (A) the Borrower shall deliver paper copies of such documents to the Administrative Agent until a written request to cease delivering paper copies is given by the Administrative Agent and (B) the Borrower shall notify the Administrative Agent (by fax transmission or e-mail transmission) of the posting of any such documents and provide to the Administrative Agent by e-mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that so long as the Borrower is the issuer of any outstanding debt or Equity Interests that are registered or issued pursuant to a

75

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private offering or is actively contemplating issuing any such securities (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear

prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC", the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States Federal and state securities Laws (provided that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform that is not designated "Public Side Information". No Information, and no Borrower Materials not marked "Public", shall be made available to Public Lenders unless marked "PUBLIC".

**6.03 Notices TC "6.03Notices." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Promptly notify the Administrative Agent (for distribution to each Lender):

(d) of the occurrence of any Default;

(e) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including any such matter consisting of (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Subsidiary, including pursuant to any applicable Environmental Laws;

(f) of the occurrence of any ERISA Event; and

(g) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary, including any determination by the Borrower referred to in Section 2.10(b).

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

**6.04 Payment of Obligations TC "6.04Payment of Obligations." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Pay and discharge as the same shall become due and payable, all its material obligations and liabilities, including those consisting of (a) tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary; (b) lawful claims which, if unpaid, would by Law become a Lien upon its property not permitted under the

Loan Documents; and (c) Indebtedness, as and when due and payable, but subject to any applicable terms of subordination.

76

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**6.05** Preservation of Existence, Etc TC "6.05**Preservation of Existence, Etc.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

(d) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

**6.06** Maintenance of Properties TC "6.06**Maintenance of Properties.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

(d) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted, or make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) use the standard of care typical in the industry in the operation and maintenance of its facilities.

**6.07** Maintenance of Insurance TC "6.07**Maintenance of Insurance.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance compatible with the following standards) as are customarily carried under similar circumstances by such other Persons and providing for not less than 30 days' (or ten days', in the case of cancellation for nonpayment of premium) prior notice to the Administrative Agent of termination, lapse or cancellation of such insurance.

**6.08 Compliance with Laws** TC "6.08**Compliance with Laws.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

**6.09 Books and Records** TC "6.09**Books and Records.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

(d) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all

77

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applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower or such Subsidiary, as the case may be.

**6.10 Inspection Rights** TC "6.10**Inspection Rights.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Permit representatives and independent contractors of the Administrative Agent and each Lender, so long as such Lender has given to the Administrative Agent two days' notice of its intent to do so and has received the Administrative Agent's consent to do so (such consent not to be unreasonably withheld), to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at the expense of the Borrower and at such reasonable times (but, absent the existence of an Event of Default, no more frequently than twice per year) during normal business hours, upon reasonable advance notice to the Borrower; provided that, so long as no Event of Default is continuing, the Borrower shall, notwithstanding any other provision of this Agreement, only be required to reimburse the Administrative Agent for costs and expenses incurred in connection with one such inspection per year; and provided, further, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing, all at the expense of

the Borrower, at any time (without limitation regarding frequency) during normal business hours and without advance notice.

**6.11 Use of Proceeds** TC "6.11**Use of Proceeds.**" \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC.

Use the proceeds of the Credit Extensions (a) on the Closing Date, to refinance indebtedness under the Existing Credit Agreement and (b) on the Closing Date and thereafter, for working capital, capital expenditures and other lawful corporate purposes (including, without limitation, any acquisition not prohibited under Article VII) not in contravention of any Law or of any Loan Document.

**6.12 Additional Guarantors** TC "6.12**Additional Guarantors.**" \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC.

(d) Promptly (and, in any event, within 30 days) after any Person becomes an Eligible Subsidiary (or such longer period approved by the Administrative Agent), cause such Person to (i) become a Guarantor by executing and delivering to the Administrative Agent a counterpart of the Guaranty or such other document as the Administrative Agent shall deem appropriate for such purpose and (ii) deliver to the Administrative Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.01(a) and favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (i)), all in form, content and scope reasonably satisfactory to the Administrative Agent.

(e) In the event that Non-Eligible Subsidiaries at any time have, in the aggregate, (i) total revenues constituting 10% or more of the total revenues of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed period of four consecutive fiscal quarters for which the Borrower has delivered financial statements pursuant to Section 6.01 or (ii) total assets constituting 10% or more of the total assets of the Borrower and its Subsidiaries on a consolidated basis as of the end of the most recently completed period of four consecutive fiscal quarters for which the Borrower has delivered financial statements pursuant to Section 6.01, promptly (and, in any event, within 30 days after such time or such longer period approved by the Administrative Agent) cause one or more of such Non-Eligible Subsidiaries to become Guarantors in the manner set forth in Section 6.12(a), such that, after

78

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such Subsidiaries become Guarantors, Non-Eligible Subsidiaries in the aggregate shall cease to have revenues or assets, as applicable, that meet the thresholds set forth in clauses (i) and (ii) above; provided that no Subsidiary that is not a Domestic Subsidiary shall be required to become a Guarantor if doing so would result in adverse tax consequences for the Borrower and its Subsidiaries, taken as a whole.

**6.13 Anti-Corruption Laws TC "6.13Anti-Corruption Laws." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Conduct its businesses, in all material respects, in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anticorruption legislation in other jurisdictions where it conducts business, and maintain policies and procedures designed to promote and achieve compliance with such laws.

**ARTICLE VII  
NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment or First Incremental Term Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall not, nor shall it permit any Guarantor or any Material Subsidiary to, directly or indirectly:

**7.01 Liens TC "7.01Liens." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues (in each case, other than margin stock (within the meaning of Regulation U issued by the FRB)), whether now owned or hereafter acquired, other than the following:**

(d)Liens pursuant to any Loan Document;

(e)Liens existing on the date hereof and listed on Schedule 7.01 and any renewals or extensions thereof; provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.03(b), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.03(b);

(f)Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(g)carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than thirty (30) days after receipt of notice thereof or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(h)pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

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(i) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(j) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(k) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(l) Liens securing Indebtedness permitted under Section 7.03(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(m) Liens securing Indebtedness permitted under Section 7.03(h)(i)(A); provided that such Liens do not at any time encumber any property (including assets or Equity Interests) other than property acquired as part of a Permitted Acquisition;

(n) Liens arising from or related to precautionary UCC or like personal property financing statements filed in connection with any lease of inventory; and

(o) bankers' Liens, rights of setoff and other similar Liens existing on property on deposit in one or more accounts maintained by such Loan Party.

**7.02 Investments TC "7.02 Investments." \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC. Make any Investments, except:**

(d) Investments in the form of cash equivalents;

(e) advances to officers, directors and employees of the Borrower and Subsidiaries in an aggregate amount not to exceed \$1,000,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;



(f) Investments of (i) any Loan Party in any other Loan Party, (ii) any Subsidiary which is not a Loan Party in any Loan Party or any other Subsidiary which is not a Loan Party, and (iii) the Borrower in any Subsidiary which is not a Loan Party; provided that the aggregate amount of such Investments under this clause (iii) made from and after the Closing Date (including amounts advanced by the Borrower pursuant to any Guarantees of Indebtedness permitted under Section 7.03(c)) shall not exceed \$25,000,000;

(g) 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, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(h) Guarantees permitted by Section 7.03;

80

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(i) Investments constituting Permitted Acquisitions;

(j) Investments made in lieu of Restricted Payments otherwise permitted under Section 7.06;

(k) other Investments not exceeding \$10,000,000 in the aggregate in any fiscal year of the Borrower; and

(l) Capital leases entered into with customers in the ordinary course of business.

**7.03 Indebtedness TC "7.03Indebtedness." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.  
Create, incur, assume or suffer to exist any Indebtedness, except:**

(d) Indebtedness under the Loan Documents;

(e)(i) Indebtedness outstanding on the date hereof and listed on Schedule 7.03, (ii) the Treasury Sweep Note (the principal amount of which may be increased up to \$20,000,000) and (iii) any refinancings, refundings, renewals or extensions thereof; provided that (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a premium or other amount paid, and fees and expenses incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization,

maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, shall be no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(f) Guarantees of the Borrower or any Guarantor in respect of Indebtedness otherwise permitted hereunder of the Borrower or any Guarantor;

(g) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Swap Contract; provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view"; and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party (other than by way of setoff);

(h) Indebtedness in respect of capital leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(i); provided that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$20,000,000;

(i) unsecured Indebtedness in respect of senior notes (including the senior notes issued under the Prudential Note Documents) in an aggregate principal amount not to exceed

81

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\$250,000,000; provided that (i) after giving effect to any such Indebtedness the Borrower shall be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis, (ii) the terms (including amortization and mandatory prepayments) relating to any such Indebtedness shall be on then-prevailing market terms and (iii) (A) the maturity of any such Indebtedness (other than the senior notes issued under the Prudential Note Documents) shall occur no earlier than ninety-one (91) days following the Maturity Date (provided that the Borrower may make regularly scheduled principal payments and, to the extent permitted by Section 7.13, optional prepayments with respect to such Indebtedness prior to the Maturity Date), (B) no

Subsidiary other than the Guarantors shall guarantee any such Indebtedness and (C) the covenants set forth in the documentation evidencing any such Indebtedness shall be, as a whole, no more restrictive on the Loan Parties than those set forth in this Agreement;

(j) unsecured Indebtedness in an aggregate principal amount not to exceed \$50,000,000 at any time outstanding; and

(k) Indebtedness acquired as part of a Permitted Acquisition; provided that (i) the principal amount of (A) any secured Indebtedness acquired does not exceed \$30,000,000 at any time outstanding and (B) any unsecured Indebtedness acquired does not exceed \$50,000,000 at any time outstanding; and (ii) such Indebtedness was initially incurred prior to such Permitted Acquisition and not in contemplation thereof.

**7.04 Fundamental Changes** TC "7.04**Fundamental Changes.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC. **Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except for the following, so long as no Default exists or would result therefrom:**

(d) any Subsidiary may merge with (i) the Borrower; provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries; provided that when any Guarantor is merging with another Subsidiary, the Guarantor shall be the continuing or surviving Person;

(e) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) in a Disposition permitted by Section 7.05;

(f) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or to another Subsidiary; provided that if the transferor in such a transaction is a Guarantor, then the transferee must either be the Borrower or a Guarantor; and

(g) any Subsidiary may merge with any other Person in order to effect a Permitted Acquisition; provided that the continuing or surviving Person shall have complied with the requirements of Section 6.12.

**7.05 Dispositions** TC "7.05**Dispositions.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC. **Make any Disposition or enter into any agreement to make any Disposition, except:**

(d) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(e) Dispositions of inventory in the ordinary course of business;

(f) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(g) Dispositions of property by any Subsidiary to the Borrower or to a wholly-owned Subsidiary; provided that if the transferor of such property is a Guarantor, the transferee thereof must either be the Borrower or a Guarantor;

(h) Dispositions permitted by Section 7.01, 7.02, 7.04, 7.06 or 7.08;

(i) Dispositions not otherwise permitted under this Section 7.05; provided that (i) at the time of such Disposition, no Default shall exist or would result from such Disposition and (ii) the aggregate book value of all property Disposed of in reliance on this clause (f) in any fiscal year shall not exceed \$50,000,000;

(j) any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of the Borrower or any Subsidiary;

(k) Dispositions of assets acquired in a Permitted Acquisition that are either immaterial or are no longer used or useful in the Borrower's ordinary course of business;

(l) the Disposition of all of the Equity Interests of, or substantially all of the assets of, Adler Tank Rentals, LLC, a Delaware limited liability company, to the extent that the net proceeds thereof (or an amount equal thereto) are or were used within 365 days before or after the date thereof for investment in or the purchase, acquisition, development, redevelopment or construction of assets or businesses which are to be used or useful in the business of the Borrower or any Material Subsidiary (or the payment of Indebtedness incurred in relation to the same, so long as such Indebtedness was incurred within 365 days before or after the date thereof); and

(m) Dispositions of Subsidiaries that are not Material Subsidiaries and of equity investments in any other entities that are not Subsidiaries;

provided that any Disposition pursuant to clauses (a), (b), (c), (e), (f), (g) or (h) shall be for fair market value.

**7.06 Restricted Payments** TC "7.06**Restricted Payments.**" \f c \l "2" \\* MERGEFORMAT  
**AUTONF D3\_TC. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that, so long as no Default shall have occurred and be continuing at the time of any action described below or would result therefrom:**

(d) each Guarantor may make Restricted Payments to any other Loan Party and any other Person that owns an Equity Interest in such Guarantor, ratably

according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

83

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(e)the Borrower and each Subsidiary may declare and make dividend payments or other distributions payable (i) in the common stock or other common Equity Interests of such Person, and (ii) in cash so long as, both before and after giving effect to any such dividend payment, the Borrower shall be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis; and

(f)the Borrower and each Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by it (i) with proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests or (ii) in cash so long as, after giving effect to any such Restricted Payment, the Borrower shall be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis.

**7.07** Change in Nature of Business TC "7.07Change in Nature of Business." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the date hereof or any business substantially related or incidental thereto or engaged in by lessors generally.

**7.08** Transactions with Affiliates TC "7.08Transactions with Affiliates." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than (a) on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate and (b) transactions otherwise not prohibited under this Article VII.

**7.09** Use of Proceeds TC "7.09Use of Proceeds." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

**7.10** Financial Covenants TC "7.10Financial Covenants." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

(d) Consolidated Fixed Charge Coverage Ratio. In the case of Borrower, permit the Consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter of the Borrower to be less than 2.50 to 1.00.

(e) Consolidated Leverage Ratio. In the case of Borrower, permit the Consolidated Leverage Ratio at any time during any period of four consecutive fiscal quarters of the Borrower to be greater than 2.75 to 1.00.

(f) Most Favored Lender Status. In the event that the Prudential Note Documents (or any amendment, restatement, refinancing or replacement thereof), whether in whole or in part, contains any financial covenant that is more restrictive than, or in addition to, the financial covenants set forth in this Section 7.10, then the terms of this Agreement shall, without any further action on the part of the Administrative Agent or the Lenders, be deemed to be automatically amended to include such financial covenant.

84

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**7.11 Sanctions TC "7.11Sanctions." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Directly or indirectly, use any Credit Extension or the proceeds of any Credit Extension, or lend, contribute or otherwise make available such Credit Extension or the proceeds of any Credit Extension to any Sanctioned Person, to fund any activities of or business with any Sanctioned Person, or in any Designated Jurisdiction, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swing Line Lender, or otherwise) of Sanctions.

**7.12 Anti-Corruption Laws TC "7.12Anti-Corruption Laws." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Directly or indirectly use any Credit Extension or the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 or other similar anti-corruption legislation in other jurisdictions.

**7.13 Prepayments, etc. of Unsecured Senior Notes TC "7.13Prepayments, etc. of Unsecured Indebtedness." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Make any optional prepayments, repurchase or redemption of any unsecured Indebtedness incurred or existing under Section 7.03(f) prior to the scheduled maturity thereof ("Restricted Debt Prepayments") except:

(d) Restricted Debt Prepayments to the extent funded with (i) proceeds of the incurrence of unsecured Indebtedness incurred under Section 7.03(f) or Section 7.03(g) and (ii) proceeds received from the substantially concurrent issue of new shares of common stock or other common Equity Interests of the Borrower; and

(e) Restricted Debt Prepayments so long as (i) no Default shall have occurred and be continuing at the time of such Restricted Debt Prepayment or would result therefrom and (ii) both before and after giving effect to such Restricted Debt Prepayment, the Borrower shall be in compliance with the financial covenants set forth in Section 7.10 on a Pro Forma Basis.

## ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

### 8.01 Events of Default TC "8.01Events of Default." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC. Any of the following shall constitute an Event of Default:

(d) Non-Payment. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(e) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.10, 6.11 or 6.12 or Article VII, or any Guarantor fails to perform or observe any term, covenant or agreement contained in Article IV of the Guaranty; or

85

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(f) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days; or

(g) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any certified or signed document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or



(h) Cross-Default. (i) The Borrower, any Guarantor or any Material Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower, any Guarantor or any Material Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Borrower or any Material Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Borrower, such Guarantor or such Material Subsidiary as a result thereof is greater than the Threshold Amount; or

(i) Insolvency Proceedings, Etc. Any Loan Party or any of its Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(j) Inability to Pay Debts; Attachment. (i) The Borrower or any Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied



against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(k)Judgments. There is entered against the Borrower or any Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of ten consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(l)ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(m)Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any Affiliate thereof contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(n)Change of Control. There occurs any Change of Control.

**8.02 Remedies Upon Event of Default TC "8.02 Remedies Upon Event of Default." \f c \l "2" \\***  
**MERGEFORMAT AUTONF D3\_TC.**

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(d)declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(e)declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or

under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(f) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and

87

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(g) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

### **8.03 Application of Funds TC "8.03Application of Funds." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02) or if at any time insufficient funds are received by and available to the Administrative Agent to pay fully all Obligations then due hereunder, any amounts received on account of the Obligations shall, subject to Sections 2.15 and 2.16 be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (including fees and time charges for attorneys who may be employees of any Lender or the L/C Issuer) and amounts payable under Article III), ratably

among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, (a) to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and amounts owing under Swap Contracts of the Borrower with a Lender or Affiliate of a Lender and (b) to the Administrative Agent, for the account of the L/C Issuer, to Cash Collateralize that portion of the L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.15, ratably among the Lenders, the L/C Issuer, the Lenders (or, if applicable, Affiliates of Lenders) who are parties to such Swap Contracts and the Administrative Agent (for the account of the L/C Issuer) in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.15, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy

88

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drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above. Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or such assets, but 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.

Notwithstanding the foregoing, Obligations arising under Swap Contracts of the Borrower with a Lender or Affiliate of a Lender shall be excluded from the application described above if the Administrative Agent has not received a written notice of such Swap Contract from such Lender or Affiliate of a Lender, together with such supporting documentation as the Administrative Agent may request. Any Affiliate of a Lender not a

party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX for itself and its Affiliates as if a “Lender” party hereto.

## **ARTICLE IX**

### **ADMINISTRATIVE AGENT**

**9.01** Appointment and Authority TC "9.01**Appointment and Authority.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and the Borrower shall not have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

**9.02** Rights as a Lender TC "9.02**Rights as a Lender.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

**9.03 Exculpatory Provisions TC "9.03Exculpatory Provisions." \f c \l "2" \\* MERGEFORMAT**  
**AUTONF D3 TC.**

- (a) None of the Administrative Agent, any Sustainability Coordinator or any Arranger, as applicable, shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent, any Sustainability Coordinator or any Arranger, as applicable, and its Related Parties:
  - (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
  - (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and
  - (iii) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or the L/C Issuer 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 Affiliates that is communicated to, or in the possession of, the Administrative Agent, any Sustainability Coordinator, any Arranger or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein.
- (b) Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or the L/C Issuer.
- (c) Neither the Administrative Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan

Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition

90

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set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

**9.04** Reliance by Administrative Agent TC "9.04Reliance by Administrative Agent." \f c \l "2" \\*  
MERGEFORMAT AUTONF D3\_TC.

The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objections.

**9.05 Delegation of Duties TC "9.05Delegation of Duties." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

**9.06 Resignation of Administrative Agent TC "9.06Resignation of Administrative Agent." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

(d) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required

91

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Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(e) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the



Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(f) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(g) Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. If Bank of



America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment by the Borrower of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

**9.07 Non-Reliance on Administrative Agent, the Arrangers, Sustainability Coordinators and the Other Lenders** TC "9.07**Non-Reliance on Administrative Agent, the Arrangers and the Other Lenders.**" \f c \ "2" \\* MERGEFORMAT AUTONF D3\_TC.

Each Lender and the L/C Issuer expressly acknowledges that none of the Administrative Agent, any Sustainability Coordinator nor any Arranger has made any representation or warranty to it, and that no act by the Administrative Agent, any Sustainability Coordinator or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent, any Sustainability Coordinator or any Arranger to any Lender or the L/C Issuer as to any matter, including whether the Administrative Agent, any Sustainability Coordinator or any Arranger have disclosed material information in their (or their Related Parties') possession. Each Lender and the L/C Issuer represents to the Administrative Agent, the Sustainability Coordinator and the Arrangers that it has, independently and without reliance upon the Administrative Agent, any Sustainability Coordinator, any Arranger, 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 of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the

Administrative Agent, any Sustainability Coordinator, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and the L/C Issuer represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or L/C Issuer for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or L/C Issuer, and not for the purpose of

93

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purchasing, acquiring or holding any other type of financial instrument, and each Lender and the L/C Issuer agrees not to assert a claim in contravention of the foregoing. Each Lender and the L/C Issuer represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such L/C Issuer, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

**9.08 No Other Duties, Etc TC "9.08No Other Duties, Etc." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Anything herein to the contrary notwithstanding, none of the titles listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, an Arranger, a Lender or the L/C Issuer hereunder.

**9.09 Administrative Agent May File Proofs of Claim TC "9.09Administrative Agent May File Proofs of Claim." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have

made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(d) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

(e) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, 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 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer in any such proceeding.

94

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**9.10 Guaranty Matters TC "9.10 Guaranty Matters." \f c \l "2" \\* MERGEFORMAT AUTONE D3 TC.**

The Lenders and the L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Guarantor from its obligations under the Guaranty if such Person ceases to be an Eligible Subsidiary described in clause (a) of the definition thereof as a result of a transaction permitted hereunder.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

**9.11 Certain ERISA Matters TC "9.11Certain ERISA Matters." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

- (d) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:
- (i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments, [the First Incremental Term Commitment](#) or this ~~agreement~~[Agreement](#),
- (ii) 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 Letters of Credit, the Commitments, [the First Incremental Term Commitment](#) and this Agreement,
- (iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84–14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments, [the First Incremental Term Commitment](#) and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments, [the First Incremental Term Commitment](#) and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84–14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84–14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments, [the First Incremental Term Commitment](#) and this Agreement, or
- (iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(e) In addition, unless either (1) clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent 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 Letters of Credit, the Commitments, the First Incremental Term Commitment 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).

**9.12 Recovery of Erroneous Payments TC "9.12 Recovery of Erroneous Payments." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender Recipient Party, whether or not in respect of an Obligation due and owing by any Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Lender Recipient Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand (and, in any case, within two Business Days of the date of such demand) the Rescindable Amount received by such Lender Recipient Party in immediately available funds, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender Recipient Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Lender Recipient Party promptly upon determining that any payment made to such Lender Recipient Party comprised, in whole or in part, a Rescindable Amount, and provide a brief description of the reason(s) for which the Administrative Agent has made such determination.

**ARTICLE X  
MISCELLANEOUS**

**10.01 Amendments, Etc TC "10.01 Amendments, Etc." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

Subject to Section 3.03(b), no amendment or waiver of any provision of this Agreement or any other Loan Document (other than pursuant to Section 7.10(c)), and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no such amendment, waiver or consent shall:

(d)waive any condition set forth in Section 4.01 without the written consent of each Lender;

96

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(e)extend or increase the Commitment or the First Incremental Term Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(f)postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(g)reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided that (x) only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder and (y) in order to implement any ESG Amendment, this Agreement and the other Loan Documents may be amended in accordance with Section 2.17 with only the consent of the Borrower, the Sustainability Coordinator and the Required Lenders;

(h)change Section 8.03 or Section 2.13 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;

(i) change any provision of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender;

(j) release all or substantially all of the value of the Guaranty without the written consent of each Lender, except to the extent the release of any Guarantor is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone); or

(k) subordinate, or have the effect of subordinating, the Obligations to any other Indebtedness or other obligation without the written consent of each Lender;

and; provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other

97

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than Defaulting Lenders), except that (x) the Commitment or First Incremental Term Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

**10.02** Notices; Effectiveness; Electronic Communication TC "10.02**Notices; Effectiveness; Electronic Communication."** \f c \l "2" \\* MERGEFORMAT AUTONE D3\_TC.



(d) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below and in the penultimate paragraph of Section 6.02 with respect to financial statements), 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 fax transmission or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, fax number, e-mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, fax number, e-mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(e) Electronic Communications. Notices and other communications to the Administrative Agent, the Lenders, the Swing Line Lender and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging, and Internet or intranet websites) pursuant to an electronic communications agreement (or such other procedures approved by the Administrative Agent in its sole discretion) (including those with respect to financial statements set forth in the penultimate paragraph of Section 6.02); provided that the foregoing shall not apply to notices to any Lender, the Swing Line Lender or the L/C Issuer pursuant to Article II if such Lender, the Swing Line Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, Swing Line Lender, L/C Issuer or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.



Except as otherwise provided in the penultimate paragraph of Section 6.02 with respect to financial statements, unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement) and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(f)The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided that in no event shall any Agent Party have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(g)Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto (or, in the case of the Borrower, to the Administrative Agent). Each other Lender may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative

Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, fax number and e-mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that

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may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities Laws.

(h) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic ~~Committed~~ Loan Notices, Letter of Credit Applications, Notice of Prepayment and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

**10.03**No Waiver; Cumulative Remedies; Enforcement TC "10.03**No Waiver; Cumulative Remedies; Enforcement."** \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under

each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at Law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuer; provided that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

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**10.04 Expenses; Indemnity; Damage Waiver TC "10.04 Expenses; Indemnity; Damage Waiver." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

(d) **Costs and Expenses.** The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-

pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(e) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, 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, liabilities and related reasonable expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all reasonable fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby (including, without limitation, the Indemnitee's reliance on any Communication executed using an Electronic Signature, or in the form of an Electronic Record), the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, 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, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any

101

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Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such other Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of [Section 3.01\(c\)](#), this [Section 10.04\(b\)](#) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(f)[Reimbursement by Lenders](#). To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer, the Swing Line Lender or such Related Party, as the case may be, such Lender's Applicable Percentage [of the Commitments and Incremental Term Loan](#) (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swing Line Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of [Section 2.12\(d\)](#).

(g)[Waiver of Consequential Damages, Etc.](#) To the fullest extent permitted by applicable Law, the Borrower shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in [subsection \(b\)](#) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction, and other than to the extent that such information or other materials are

obtained as a result of a breach by such Indemnitee of its obligations under Section 10.07.

(h)Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(i)Survival. The agreements in this Section and the indemnity provisions of Section 10.02(e), shall survive the resignation of the Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments

102

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and the First Incremental Term Commitment and the repayment, satisfaction or discharge of all the other Obligations.

10.05Payments Set Aside TC "10.05Payments Set Aside." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06Successors and Assigns TC "10.06Successors and Assigns." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

(d) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(e) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or

103

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contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then



in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (which, except in the case of an assignee that is considered by the Borrower to be a competitor of the Borrower or any Affiliate thereof, shall not be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of the L/C Issuer and the Swing Line Lender (each such consent not to be unreasonably withheld or delayed) shall be required for any assignment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment; and provided, further, that in no event shall the Borrower be



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required to pay such fee. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v)No Assignment to Certain Persons. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person).

(vi)Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment;

provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(f)Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for Tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to

105

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it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender (with respect to such Lender's interest only), at any reasonable time and from time to time upon reasonable prior notice.

(g)Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations

under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation); provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit

106

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or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error,

and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(h) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(i) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to subsection (b) above, Bank of America may, (i) upon 30 days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

**10.07 Treatment of Certain Information; Confidentiality** TC "10.07 Treatment of Certain Information; Confidentiality." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below) and not to use any Information except in connection with the administration, evaluation and enforcement of the Loan Documents, except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b)

to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by

107

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applicable Laws or regulations or by any subpoena or similar legal process (provided that, unless prohibited by applicable Laws, such Administrative Agent, Lender or L/C Issuer shall provide the Borrower with prompt notice of any such requirement so that the Borrower may, at its sole expense, seek a protective order or take other appropriate action), (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to [Section 2.14\(c\)](#) or (ii) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Borrower and its obligations, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents, ~~and the~~ Commitments [and the First Incremental Term Commitments](#).

For purposes of this Section, "Information" means all material non-public information (within the meaning of United States federal securities Laws) received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same

degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

The Borrower and its Affiliates agree that they will not in the future issue any press releases using the name of the Administrative Agent or any Lender or their respective Affiliates or referring to this Agreement or any of the Loan Documents without the prior written consent of the Administrative Agent, unless (and only to the extent that) the Borrower or such Affiliate is required to do so under law and then, in any event the Borrower or such Affiliate will consult with such Person before issuing such press release.

The Borrower consents to the publication by the Administrative Agent or any Lender of customary advertising material relating to the transactions contemplated hereby using the name, product photographs, logo or trademark of the Loan Parties.

108

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**10.08**Right of Setoff TC "10.08**Right of Setoff.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or the L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the

provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

**10.09Interest Rate Limitation TC "10.09Interest Rate Limitation." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

**10.10Integration; Effectiveness TC "10.10Integration; Effectiveness." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or the L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures

109

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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 assigns.

**10.11 Survival of Representations and Warranties TC "10.11 Survival of Representations and Warranties." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

**10.12 Severability TC "10.12 Severability." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

**10.13 Replacement of Lenders TC "10.13 Replacement of Lenders." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(d) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);



(e) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

110

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(f) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(g) such assignment does not conflict with applicable Laws; and

(h) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

**10.14** Governing Law; Jurisdiction; Etc TC "10.14 **Governing Law; Jurisdiction; Etc.**" \f c \l "2"  
\\* MERGEFORMAT AUTONF D3 TC.

(d) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(e) SUBMISSION TO JURISDICTION. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, THE L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER

LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER

111

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LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(f) WAIVER OF VENUE. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(g) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**10.15**Waiver of Jury Trial TC "10.15**Waiver of Jury Trial.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**10.16**No Advisory or Fiduciary Responsibility TC "10.16**No Advisory or Fiduciary Responsibility.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Administrative Agent, each Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or

112

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any other Person and (ii) neither the Administrative Agent, nor any Arranger or any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, the Arrangers and the Lenders and their

respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, nor any Arranger or any Lender has any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by Law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, any Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**10.17Electronic Execution; Electronic Records; Counterparts TC "10.17Electronic Execution; Electronic Records; Counterparts." \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.**

This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent, the L/C Issuer, the Swing Line Lender, and each Lender (collectively, each a "Credit Party") agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into .pdf format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Credit Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent, L/C Issuer nor Swing Line Lender is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent, L/C Issuer and/or Swing Line Lender has agreed to accept such Electronic Signature, the Administrative Agent and each of the Credit Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Credit Party without further verification and regardless of the appearance or form of such Electronic Signature, and (b) upon the request of the Administrative Agent or any Credit Party, any Communication executed using an Electronic Signature shall be promptly followed by a manually executed counterpart.

Neither the Administrative Agent, L/C Issuer nor Swing Line Lender shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or

document (including, for the avoidance of doubt, in connection with the Administrative Agent's, L/C Issuer's or Swing Line Lender's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent, L/C Issuer and Swing Line Lender shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any

113

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Communication or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Loan Parties and each Credit Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document based solely on the lack of paper original copies of this Agreement, such other Loan Document, and (ii) any claim against the Administrative Agent, each Credit Party and each Related Party for any liabilities arising solely from the Administrative Agent's and/or any Credit Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature

**10.18**USA PATRIOT Act TC "10.18**USA PATRIOT Act.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

Each Lender that is subject to the Patriot Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into Law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Patriot Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

**10.19**California Judicial Reference TC "10.19**California Judicial Reference.**" \f c \l "2" \\* MERGEFORMAT AUTONF D3\_TC.

If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision, provided that at the option of any party to such proceeding, any such issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by the court, and (b) without limiting the generality of Section 10.04, the Borrower shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

**10.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions TC**  
**"10.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions." \f c \**  
**"2" \\* MERGEFORMAT AUTONF D3\_TC.**

Solely to the extent any Lender or L/C Issuer that is an Affected Financial Institution is a party to this Agreement and 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 Lender that is an Affected Financial Institution arising under any Loan Document, to the

114

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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:

(d) 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 Lender or L/C Issuer that is an Affected Financial Institution; and

(e) 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.

**10.21 Acknowledgement Regarding Any Supported QFCs TC "10.21 Acknowledgement Regarding Any Supported QFCs." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract 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 United States or any other state of the United States): 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.

**10.22 Amendment and Restatement TC "10.22 Amendment and Restatement." \f c \l "2" \\* MERGEFORMAT AUTONF D3 TC.**

115

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The parties hereto agree that, at such time as this Agreement shall have become effective pursuant to the terms of Section 4.01, the following transactions shall be deemed to occur automatically, without further action by any party hereto:

(d)the Existing Credit Agreement shall be deemed to be amended and restated in its entirety pursuant to this Agreement and this Agreement is not executed in novation of the Existing Credit Agreement;

(e)all Obligations (as defined in the Existing Credit Agreement) under the Existing Credit Agreement shall be deemed to be Obligations outstanding hereunder and this Agreement shall not constitute a novation of such Obligations or any of the rights, duties and obligations of the parties hereunder;

(f)if any Loans are outstanding under the Existing Credit Agreement on the Closing Date, then each Lender shall make Loans on the Closing Date, the proceeds of which shall be applied by the Administrative Agent to prepay the outstanding Loans under the Existing Credit Agreement, in an amount necessary such that immediately after giving effect thereto each Lender holds its Applicable Percentage of the outstanding Loans;

(g)if any Letters of Credit or Swing Line Loans are outstanding under the Existing Credit Agreement on the Closing Date, then on the Closing Date the risk participations of the Lenders in each outstanding Letter of Credit and each outstanding Swing Line Loan shall be automatically reallocated such that the risk participation of each Lender in each outstanding Letter of Credit and Swing Line Loan equals such Lender's Applicable Percentage of each such Letter of Credit and Swing Line Loan;

(h)each Lender that is a party to the Existing Credit Agreement immediately prior to the Closing Date waives, and agrees not to demand from the Borrower any claim under Section 3.05 of the Existing Credit Agreement for any loss, cost and expense attributable to the conversion of any Eurodollar Rate Loans (as defined in the Existing Credit Agreement) to Term SOFR Loans on the Closing Date; and

(i)on the Closing Date, each of the following outstanding Eurodollar Rate Loans under the Existing Credit Agreement will be automatically converted to a Term SOFR Loan in the same amount and with the same Interest Period expiring on the same date:

<b>Outstanding Loan Amount</b>	<b>Interest Period</b>	<b>Interest Period Expiration Date</b>
\$53,000,000.00	One month	August 9, 2022
\$59,000,000.00	One month	August 15, 2022
\$44,000,000.00	One month	August 18, 2022
\$11,500,000.00	One month	July 25, 2022



\$64,000,000.00	One month	August 1, 2022
\$44,000,000.00	One month	August 8, 2022

10.23ENTIRE AGREEMENT TC "10.23ENTIRE AGREEMENT." \f c \l "2" \\* MERGEFORMAT  
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116

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THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL  
AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE  
OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE  
PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[END]

117

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<div>Summary report:</div> <div>Litera Compare for Word 11.2.0.54 Document comparison done on 4/23/2024 10:27:38 AM</div>	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Schedule 3 to First Incremental Facility Amendment (Amended Credit Agreement) - McGrath (2024) (13569129.1).docx	
Modified filename: Schedule 3 to First Incremental Facility Amendment (Amended Credit Agreement) - McGrath (2024) (13569129.4).DOCX	
Changes:	
Add	215
Delete	185

Move From	0
Move To	0
Table Insert	8
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:	408

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Exhibit 15.1

AWARENESS LETTER FROM GRANT THORNTON LLP

McGrath RentCorp  
5700 Las Positas Road  
Livermore, California 94551

We have reviewed, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the unaudited interim financial information of McGrath RentCorp for the periods ended March 31, 2024 June 30, 2024 and 2023, as indicated in our report dated April 25, 2024 July 25, 2024; because we did not perform an audit, we expressed no opinion on that information.

We are aware that our report referred to above, which is included in your Quarterly Report on Form 10-Q for the quarter ended March 31, 2024 June 30, 2024 is incorporated by reference in Registration Statements on Form S-8 (File No. 333-74089, File No. 333-151815, File No. 333-161128, and File No. 333-183231).

We also are aware that the aforementioned report, pursuant to Rule 436(c) under the Securities Act of 1933, is not considered a part of the Registration Statement prepared or certified by an accountant within the meaning of Sections 7 and 11 of that Act.

/s/ GRANT THORNTON LLP

San Francisco, California  
April July 25, 2024

**McGRATH RENTCORP**  
**SECTION 302 CERTIFICATION**

I, Joseph F. Hanna, certify that:

1. I have reviewed this quarterly report on Form 10-Q of McGrath RentCorp;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 25, 2024 July 25, 2024

By: /s/ Joseph F. Hanna

Joseph F. Hanna

Chief Executive Officer

**McGRATH RENTCORP**  
**SECTION 302 CERTIFICATION**

I, Keith E. Pratt, certify that:

1. I have reviewed this quarterly report on Form 10-Q of McGrath RentCorp;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respect the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 25, 2024 July 25, 2024

By: /s/ Keith E. Pratt

Keith E. Pratt

Chief Financial Officer

**McGRATH RENTCORP**  
**SECTION 906 CERTIFICATION**

In connection with the quarterly report of McGrath RentCorp (the "Company") on Form 10-Q for the period ended **March 31, 2024** **June 30, 2024**, as filed with the Securities and Exchange Commission (the "Report"), I, Joseph F. Hanna, Chief Executive Officer of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

This Certification has not been, and shall not be deemed, "filed" with the Securities and Exchange Commission for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to liability of that section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.

Date: **April 25, 2024** **July 25, 2024**

By: /s/ Joseph F. Hanna

Joseph F. Hanna

Chief Executive Officer

**McGRATH RENTCORP**  
**SECTION 906 CERTIFICATION**

In connection with the quarterly report of McGrath RentCorp (the "Company") on Form 10-Q for the period ended **March 31, 2024** **June 30, 2024**, as filed with the Securities and Exchange Commission (the "Report"), I, Keith E. Pratt, Chief Financial Officer of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

This Certification has not been, and shall not be deemed, “filed” with the Securities and Exchange Commission for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to liability of that section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.

Date: April 25, 2024 July 25, 2024

By: /s/ Keith E. Pratt

Keith E. Pratt

Chief Financial Officer

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