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

AMENDMENT NO. 2
TO
FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

McAfee Corp.
(Exact name of registrant as specified in its charter)

(Primary Standard Industrial
Classification Code Number)
6220 America Center Drive
San Jose, CA 95002
(866) 622-3911

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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San Jose, CA 95002
(866) 622-3911

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Palo Alto, CA 94304-1050
(650) 493-9300

Approximate date of commencement of proposed sale to public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☒

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

Large accelerated filer ☐
Non-accelerated filer ☒
Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

<table>
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<th>Title of Each Class of Securities to be Registered</th>
<th>Shares to Be Registered(1)</th>
<th>Proposed Maximum Aggregate Offering Price per Share(2)</th>
<th>Proposed Maximum Aggregate Offering Price(2)</th>
<th>Amount of Registration Fee</th>
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<tr>
<td>Class A common stock, $0.001 par value per share</td>
<td>42,550,000</td>
<td>$22.00</td>
<td>$936,100,000</td>
<td>$104,198.51</td>
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(1) Includes 5,550,000 shares of Class A common stock that may be sold if the underwriters' option to purchase additional shares is exercised.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

(3) The registrant previously paid $12,980 of this amount in connection with a prior filing of this registration statement.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.
The information in this prospectus is not complete and may be changed. We and the selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Issued October 13, 2020

37,000,000 SHARES

McAfee Corp.

CLASS A COMMON STOCK

$ per share

This is the initial public offering of shares of Class A common stock of McAfee Corp. We are selling 30,982,558 shares of our Class A common stock. The selling stockholders are selling an additional 6,017,442 shares of our Class A common stock. We will not receive any of the proceeds from the sale of shares by the selling stockholders. We currently expect the initial public offering price to be between $19.00 and $22.00 per share.

Prior to this offering, there has been no public market for shares of our Class A common stock. We have applied for listing of our Class A common stock on The Nasdaq Global Select Market (the “Exchange”) under the symbol “MCFE”.

We will use a portion of the net proceeds that we receive from this offering to directly or indirectly purchase newly issued common units, which we refer to as “LLC Units,” in Foundation Technology Worldwide LLC. We refer to the holders of LLC Units following the closing of this offering (other than the Management Owners (as defined below), the Company and our subsidiaries) as “Continuing LLC Owners.” We will use the remaining net proceeds that we receive from this offering to directly or indirectly purchase 1,714,265 issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners (or 2,944,806 LLC Units and an equal number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock) at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions. We refer to those of our pre-initial public offering (“pre-IPO”) investors and certain of their affiliates who will receive shares of Class A common stock in connection with the Reorganization Transactions (as defined herein) and who do not hold LLC Units as “Continuing Corporate Owners,” and together with the Continuing LLC Owners, as “Continuing Owners.” We refer to the holders of management incentive units of Foundation Technology Worldwide LLC (“MIUs”) as well as members of management who hold LLC Units following the closing of the offering or are to receive Class A common stock in satisfaction of existing incentive awards as “Management Owners.”

We have two classes of authorized common stock: the Class A common stock offered hereby and Class B common stock, each of which is entitled to one vote per share. The Continuing LLC Owners and certain Management Owners will own all of our shares of Class B common stock, on a one-to-one basis with the number of LLC Units they own (except that Management Owners will not receive shares of Class B common stock in connection with their exchange of MIUs for LLC Units). Each LLC Unit will be exchangeable for cash or (at our option) for one share of Class A common stock, and we will cancel a share of Class B common stock held by the exchanging member in connection therewith (to the extent the exchanging member has shares of Class B common stock). Immediately following this offering, the holders of shares of our Class A common stock issued in this offering collectively will hold 22.4% of the economic interests in us and 6.6% of the voting power in us, the Management Owners, through their ownership of Class A common stock, LLC Units, MIUs and shares of Class B common stock, collectively will hold 5.5% of the economic interests in us and 3.2% of the voting power in us, the Continuing Corporate Owners, through their ownership of shares of Class A common stock, collectively will hold 66.1% of the economic interests in us and 25.4% of the voting power in us, and the Continuing LLC Owners, through their ownership of LLC Units, shares of Class A common stock and shares of Class B common stock, collectively will hold the remaining 6.0% of the economic interest in us and the remaining 62.8% of the voting power in us. We will be a holding company, and upon consummation of this offering and the application of proceeds therefrom, our principal asset will be the LLC Units we directly and indirectly hold, representing an aggregate 38.8% economic interest in Foundation Technology Worldwide LLC. Management Owners, through their ownership of MIUs and LLC Units, will own a 2.3% economic interest in Foundation Technology Worldwide LLC, and the Continuing LLC Owners through their ownership of LLC Units will own the remaining 59.7% economic interest in Foundation Technology Worldwide LLC.

Following this offering, we will be a “controlled company” within the meaning of the corporate governance rules of the Exchange. See “Management—Board Composition and Director Independence.”

Investing in shares of our Class A common stock involves risk. See “Risk Factors” beginning on page 32.

<table>
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<th>Per share</th>
<th>Total</th>
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<tr>
<td>Initial public offering price</td>
<td>$</td>
</tr>
<tr>
<td>Underwriting discounts and commissions(1)</td>
<td>$</td>
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<tr>
<td>Proceeds to us, before expenses</td>
<td>$</td>
</tr>
<tr>
<td>Proceeds to the selling stockholders, before expenses</td>
<td>$</td>
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</table>

(1) We have agreed to reimburse the underwriters for certain expenses in connection with this offering. See “Underwriters (Conflicts of Interest)” for additional information regarding underwriting compensation.

To the extent that the underwriters sell more than 37,000,000 shares of our Class A common stock, we and the selling stockholders have granted the underwriters the option to purchase up to 5,500,000 additional shares of our Class A common stock at the initial public offering price less the underwriting discount within 30 days from the date of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed on the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.
Our Pledge

We dedicate ourselves to keeping the world safe from cyberthreats. Threats that are no longer limited to the confines of our computers, but are prevalent in every aspect of our connected world. We will not rest in our quest to protect the safety of our families, our communities, and our nations.

We Sign Our Walls

McAfee employees sign their names on pledge walls at campuses around the world.
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Through and including [25th day after the date of this prospectus], all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer’s obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

We are responsible for the information contained in this prospectus and in any free writing prospectus we prepare or authorize. Neither we nor the selling stockholders nor the underwriters have authorized anyone to provide you with different information, and neither we nor the selling stockholders nor the underwriters take responsibility for any other information others may give you. Neither we nor the selling stockholders nor the underwriters are making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus is accurate as of any date other than its date.

For investors outside of the United States: neither we nor the selling stockholders nor any of the underwriters have done anything that would permit this offering or possession or distribution of this prospectus or any free writing prospectus we may provide to you in connection with this offering in any jurisdiction where action for that purpose is required, other than in the United States. You are required to inform yourselves about, and observe any restrictions relating to, this offering of the shares of our Class A common stock and the distribution of this prospectus and any such free writing prospectus outside of the United States.
Unless the context requires otherwise, references in this prospectus to the “Company,” “we,” “us,” “our,” and “McAfee” (i) for periods through April 3, 2017, refer to the McAfee cybersecurity business, which operated as a part of a business unit of Intel, (ii) for periods from April 4, 2017 to prior to giving effect to the Reorganization Transactions described under “The Reorganization Transactions,” refer to Foundation Technology Worldwide LLC and its subsidiaries, and (iii) after giving effect to the Reorganization Transactions, refer to McAfee Corp. and its consolidated subsidiaries. The financial results of Foundation Technology Worldwide LLC and its subsidiaries will be consolidated in the financial statements of McAfee Corp. following this offering. McAfee Corp. has engaged to date only in activities in contemplation of this offering and has had no operations or assets prior to the completion of the Reorganization Transactions. Following the completion of this offering, McAfee Corp. will be a holding company, and its principal asset will be common units of Foundation Technology Worldwide LLC (“LLC Units”), all of which it will hold directly or indirectly through holding companies. Accordingly, following the completion of this offering, we intend to include the financial statements of McAfee Corp. in our periodic reports and other filings as required by applicable law and the rules and regulations of the Securities and Exchange Commission (the “SEC”). See “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for more information.

This prospectus also includes unaudited consolidated pro forma financial information in order to reflect, on a pro forma basis, the impact of the Reorganization Transactions and as further adjusted for this offering, on the historical financial information of Foundation Technology Worldwide LLC and its subsidiaries. See “Unaudited Pro Forma Consolidated Financial Information.”

As used in this prospectus:

- “2017 Predecessor period” refers to the period of the Predecessor Business from January 1, 2017 through April 3, 2017;
- “2017 Successor period” refers to the period of the Successor Business from April 4, 2017 through December 30, 2017;
- “fiscal 2015” and “fiscal 2016” refer to the fiscal years of the Predecessor Business ended December 26, 2015 and December 31, 2016, respectively;
- “fiscal 2018” refers to the fiscal year of Foundation Technology Worldwide LLC and its subsidiaries ended December 29, 2018;
- “fiscal 2019” refers to our fiscal year ended December 28, 2019;
- “fiscal 2020” refers to our fiscal year ending December 26, 2020;
- “Intel” refers to Intel Corporation;
- “Predecessor Business” refers to the McAfee cybersecurity business, as operated as a part of a business unit of Intel, through April 3, 2017;
- “Reorganization Transactions” refers to the reorganization transactions that are described under “The Reorganization Transactions;”
- “Sponsor Acquisition” refers to: (i) the conversion of McAfee, Inc., which was then a part of a business unit of Intel, into a limited liability company, McAfee, LLC, (ii) the contribution of McAfee, LLC to Foundation Technology Worldwide LLC, a wholly-owned subsidiary of Intel, (iii) the transfer beginning on April 3, 2017, by Intel and its subsidiaries of assets and liabilities of the Predecessor Business not already held through Foundation Technology Worldwide LLC to Foundation Technology Worldwide LLC, and (iv) the acquisition immediately thereafter on April 3, 2017, by our Sponsors and certain co-investors of a majority stake in Foundation Technology Worldwide LLC, following which our Sponsors and certain of their co-investors owned 51.0% of the common equity interests in
Foundation Technology Worldwide LLC, with certain affiliates of Intel retaining the remaining 49.0% of the common equity interests;

- “Sponsors” refers to investment funds affiliated with or advised by TPG Global, LLC (“TPG”) and Thoma Bravo, L.P. (“Thoma Bravo”), respectively; and

- “Successor Business” refers to Foundation Technology Worldwide LLC on and after April 4, 2017.
PROSPECTUS SUMMARY

This summary highlights information contained in other parts of this prospectus. Because it is only a summary, it does not contain all of the information that you should consider before investing in shares of our Class A common stock, and it is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this prospectus. You should read the entire prospectus carefully, especially “Risk Factors,” “Cautionary Note Regarding Forward-Looking Statements,” and our financial statements and the related notes, before deciding to purchase shares of our Class A common stock.

OUR PLEDGE

We dedicate ourselves to keeping the world safe from cyberthreats. Threats that are no longer limited to the confines of our computers but are prevalent in every aspect of our connected world. We will not rest in our quest to protect the safety of our families, our communities, and our nations.

— On the walls of McAfee campuses worldwide and signed by employees

OVERVIEW

McAfee has been a pioneer and leader in protecting consumers, enterprises, and governments from cyberattacks for more than 30 years with integrated security, privacy, and trust solutions. We built our platform through a deep, rich history of innovation and have established a leading global brand. Whether we are securing the digital experience of a consumer who is increasingly living life online, or defending many of the world’s largest enterprises and governments from sophisticated attacks and nation-state threats, McAfee is singularly committed to one mission: to protect all things that matter through leading-edge cybersecurity.

We live in a digital world. Consumers are increasingly moving their daily lives online, interacting through multiple devices, networks and platforms, and leveraging technology in nearly every aspect of their lives. This shift is most noticeable in the way individuals are working, socializing, consuming, and transacting, leading to a proliferation of digital touchpoints and applications. Remote work and increasing work from home arrangements are driving a pronounced convergence of work and personal life. While people expect effective and frictionless security at work and in their personal lives, this lifestyle shift has been accompanied by a more challenging threat landscape and an increase in points of vulnerability, risking individuals’ privacy, identity, data and other vital resources. Similarly, enterprises embracing employee mobility, work from home strategies, bring your own device, and greater cloud adoption are facing a broader attack surface and dissolving network perimeter. These drivers have amplified the number of workloads across endpoints, making it challenging for enterprises to monitor and protect all of their workloads and applications. This challenge, coupled with an increase in cyberthreats, has heightened the importance of the consumer in making security decisions for their converged digital lives.

We have a differentiated ability to secure the digital experience against cyberthreats by using threat intelligence capabilities that we have developed through the scale and diversity of our sensor network. We define our sensor network as the aggregate of our presence in all of our customers’ endpoints, networks, gateways, and clouds that generate massive amounts of data that we translate into actionable, real-time insights. The McAfee platform is continuously enriched by artificial intelligence, machine learning and the telemetry gathered from over one billion sensors across our consumer, enterprise, and government customer base. Our vast and dynamic data set and advanced analytics capabilities enable us to provide defense for advanced zero-day threats by training machine learning models on the 62.7 billion threat queries we receive each day. McAfee simplifies the
complexity of threat detection and response by correlating events, detecting new threats, reducing false positives, automating and prioritizing incident response, and creating workflows that guide analysts through remediation. Protecting our customers has been the foundation of our success, enabling us to maintain an industry-leading reputation among our customers and partners.

Consumers, enterprises and governments have turned to McAfee as a leading brand in cybersecurity for over 30 years. Our Personal Protection Service provides holistic digital protection for an individual or family at home, on the go, and on the web. Our platform includes device security, privacy and safe Wi-Fi, online protection, and identity protection, creating a seamless and integrated digital moat. With a single interface, simple set up and ease of use, consumers obtain immediate time-to-value whether on a computer, smartphone or tablet, and across multiple operating systems. For enterprises and governments, we offer a comprehensive cybersecurity solution that protects our customers against adversarial threats across cloud, on-premise, hybrid environments and endpoint devices. Our cloud-native MVISION platform offers true device-to-cloud protection with threat detection and data protection for devices, secure access service edge (“SASE”) solutions for the multi-cloud, centralized policy orchestration, automated threat response, and threat insights generated by our predictive analytics engine.

Our consumer focused products protected over 600 million devices as of June 27, 2020. Our consumer go-to-market strategy consists of a digitally-led omnichannel approach to reach the consumer at crucial moments in their purchase lifecycle via several direct and indirect channels. We have longstanding exclusive partnerships with many of the leading PC original equipment manufacturers (“OEMs”) and continue to expand our presence with mobile service providers and internet service providers (“ISPs”) as the demand for mobile security protection increases. Through many of these relationships, our consumer security software is pre-installed on devices on a trial basis until conversion to a paid subscription, through a thoughtfully tailored conversion process that fits the customer journey. Our consumer go-to-market channel also consists of partners including some of the largest electronics retailers and ISPs globally. Our enterprise business protects many of the largest enterprises and governments around the world, including 86%, 78%, and 61% of Fortune 100, Fortune 500, and Global 2000 firms, respectively, as of June 27, 2020. Some of our largest customers are government entities who represent over 25% of our 250 largest Enterprise customers and 45% of our top 250 Enterprise customer annualized contract value, with an average tenure of nearly 20 years. We primarily engage our enterprise and government customers with our direct sales force, while mid-market customers generally conduct their business through our channel partners. We operate a global business, with 46.6% of our fiscal 2019 net revenue earned outside of the United States.

In 2011, McAfee was acquired by Intel and operated as a part of a business unit of Intel. Since then, McAfee has grown from $1.9 billion in net revenue in 2011 to $2.6 billion in 2019. Recognizing the growth drivers that would power a surge in our business, in 2017, our Sponsors acquired a controlling interest in McAfee, accelerating our transformational journey to optimize and reinforce our cybersecurity platform. Over the last several years, we have invested in new routes to market and partnerships for the consumer business, and rationalized our enterprise portfolio by divesting our network firewall, email, and vulnerability management businesses to reorient our focus and resources to products that align with our device-to-cloud strategy. We launched MVISION, the cloud-native family of our platform that offers threat defense, management, automation, and orchestration across devices, networks, clouds (IaaS, PaaS, and SaaS), and on-premises environments. We have also made multiple operational changes designed to increase efficiency in our product delivery and go-to-market strategies. These efforts included the transformation of our performance marketing through a digital first approach focused on new customer acquisition, and overall customer retention, through our PC led product experience and consumer application development programs. Our investments in our platform and strategy have reinforced our market leadership, and we intend to continue innovating to protect our customers.
Our financial performance has been characterized by the following:

- Net revenue was $2,635 million in fiscal 2019 and $1,401 million in the 26 weeks ended June 27, 2020
- Net loss was $236 million in fiscal 2019 and net income was $31 million in the 26 weeks ended June 27, 2020
- Net loss margin was 9.0% in fiscal 2019 and net income margin was 2.2% in the 26 weeks ended June 27, 2020
- Adjusted EBITDA was $799 million in fiscal 2019 and $507 million in the 26 weeks ended June 27, 2020
- Adjusted EBITDA margin was 30.3% in fiscal 2019 and 36.2% in the 26 weeks ended June 27, 2020

See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for a description of adjusted EBITDA, and free cash flow, and a reconciliation of these measures to the nearest financial measure calculated in accordance with generally accepted accounting principles (“GAAP”).

INDUSTRY BACKGROUND

The Internet has led to a hyper connected world and driven profound changes in both personal and business settings. As the Internet continues to evolve, introduce new technologies and reshape our lives, consumers, enterprises, and governments continue to react to multiple important trends.

**Online adoption use is global and continues to grow.** Globally, people are coming online faster than ever before. According to IDC, there were over 4 billion Internet users in 2020. Additionally, the number of mobile-only Internet users is expected to grow at an approximate 8% compound annual growth rate (“CAGR”) from 2020 to 2024. According to Frost & Sullivan, there were over 6 billion Internet-connected devices worldwide in 2020. This significant growth in the mobile install base is driving the ubiquity of the Internet and online browsing.

**The global consumer is completing more of their everyday routine online, expanding their digital footprint.** Consumers are more comfortable engaging in critical transactions on mobile devices and their PCs. At the same time, they are rapidly expanding their social interactions and media consumption online, and shifting data storage to cloud-based solutions to store personal photos and large amounts of data that is accessible across any endpoint device. While unlocking consumers’ digital lives allows for convenience, using a greater number of digital platforms increases the surface area that cybercriminals can use to access personal data.

**Increased attack surface results in high risk of being hacked and critical data used for profit.** Cyberattacks have evolved from rudimentary malware into highly sophisticated, organized and large-scale attacks targeting consumers, governments, and a broad range of industries. According to RiskBased Security, during 2019, over 7,000 data breaches were reported, resulting in over 15 billion records being exposed. We have seen the number of threats from external actors targeting cloud services increase approximately 630% from January 2020 to April 2020. Enterprises have to protect themselves from increasing ransomware attacks which has generated billions of dollars in payments to cybercriminals and inflicted significant damage and expenses for consumers, businesses and governments.

**Workplace digital transformation is driving the increased use of cloud-based applications and personal devices, which is straining traditional enterprise defenses.** The development of cloud-based SaaS applications and bring-your-own-device adoption has enabled the enterprise employee to bring their professional lives online.
and into the home. The rapid adoption of cloud applications has increased organizations’ attack surface by moving both threats and sensitive data away from the traditional network perimeter, reducing the effectiveness of many existing security products. Cyberattacks have also fundamentally shifted from not just targeting enterprise infrastructure but also targeting people.

- **Complexity of the IT environment and dissolution of the enterprise perimeter.** According to IDC, spending on cloud IT infrastructure including cloud software is expected to reach almost $272 billion in 2020, approximately a 16% increase year over year, and expected to grow at a CAGR of 19% from 2020 to 2024.

- **Loss of visibility and control.** As devices proliferate and perimeters dissolve, organizations are losing visibility and control of data in their environment. As enterprise environments comprise a mix of clouds, networks, and devices, managing data security policies across this heterogeneous, multi-cloud footprint to avoid breaches and demonstrate regulatory compliance is paramount.

- **Mobility of the workforce.** IDC estimates the mobile worker population in the United States will exceed 93 million by 2024, representing 60% of the total U.S. workforce. As mobile adoption increases, the enterprise attack surface expands. We detected over 35 million total mobile malware incidents in Q4 2019.

- **Third party access.** Enterprises rely on third parties to help complete certain functions or processes. Providing enterprise network access and data to third parties further increases the attack surface area. Data breaches can result if third party networks are compromised and bad actors gain access to data that allows them to access another enterprise’s network.

**Data and IT infrastructure are increasingly interdependent and require comprehensive protection solutions.** Primary adversarial threat vectors may consistently apply to either data or networks. Cybersecurity victims may find their data or networks held for ransom (ransomware), denied, exploited, or lost. As adversarial tactics and techniques converge to compromise data or networks, defensive technologies must also holistically apply to data protection and threat defense.

- **Data protection.** Data is one of the most important corporate assets, making it a top target for cyber criminals. Enterprises need a centralized solution that automatically enforces and updates a consistent policy to protect data everywhere it lives, including the cloud, corporate endpoints, networks, and unmanaged devices.

- **Threat defense.** The volume and sophistication of cyberattacks continues to increase at a rapid pace. Enterprises need consistent threat defense across endpoint, network, web, and cloud domains to defend against cyberattacks as a vulnerability anywhere has the potential to compromise the entire system.

**There is a need for integrated device-to-cloud cybersecurity solutions that secure consumers, enterprises and governments in a connected world by offering the following:**

- **Comprehensive and convenient security solutions to protect consumers across their digital footprint.** Consumers have an increasingly expanding digital presence in their daily lives as they access different online platforms and apps. These daily online interactions require solutions that provide peace of mind that are designed to meet consumers’ anti-malware, identity, and privacy protection needs that can be used by hundreds of millions of digital users around the globe.

- **Consumer protection powered by seamless digital experience across device platforms.** Consumers require holistic digital protection for themselves, their families, and their data across devices and platforms whether they are at home, at work, or on the go. This digital protection requires an interface that is simple to set up and use, and provides ongoing protection without hampering device performance and consumer’s digital experience.
Consumer products to address privacy needs. A growing online presence exposes more personal and financial data that is targeted by malicious hackers for profit. According to Identity Theft Resource Center, more than 490 million individuals were affected by data breaches in 2019 with an estimated global cost of cybercrime of $600 billion per year. Users are increasingly mobile, and thus at a higher risk of connecting to unsecured public Wi-Fi connection, requiring virtual private network ("VPN") solutions to secure personally identifiable information over unsecured networks.

Data protection and threat defense for heterogeneous, multi-cloud IT and hybrid environments. With the growing reliance on cloud, new threat vectors have emerged, requiring enterprises and governments to have both device-to-cloud and on premise solutions that protect data and defend against threats across heterogeneous devices and clouds, rather than relying on traditional corporate network boundaries.

Comprehensive threat intelligence leveraging a unique global sensor network. Consumers, enterprises, and governments require comprehensive threat intelligence that can gather massive amounts of data from multiple domains and devices and translate that data into actionable, real-time insights to protect against the evolving tactics and techniques of cybercriminals. It is challenging for cybersecurity vendors to accomplish this without a systems approach that integrates real-time data collection, machine learning model training and feedback across billions of sensors deployed with consumer, enterprise, and government customers and across multiple defense domains (endpoint, network, gateway, and cloud).

**KEY BENEFITS OF OUR SOLUTIONS**

We protect consumers, enterprises, and governments with our differentiated ability to detect, analyze, and manage responses to adversarial threats. Our customers trust us to protect and defend their families, data, network and online experience whether it is on a device or in the cloud, at home or on the go.

- **Our products are multi-faceted privacy protection solutions that provide consumers security in their everyday lives.** Our Personal Protection Service is designed to provide a comprehensive suite of features that protect consumers and their families across their digital lives. Our products provide cross-device identity protection, online privacy, and Internet and device security against the latest virus, malware, spyware and ransomware attacks that are pervasive across all digital devices.

- **Our solutions provide a seamless and user friendly experience.** With a single McAfee Total Protection subscription, our customers can protect multiples devices without impeding the consumer experience via cloud-based online and offline protection across devices to enjoy security at home and on the go. McAfee Total Protection comes with performance-enhancing features that allow for more productivity and entertainment by automatically assigning more dedicated processor power to the apps you are actively using. Our security, privacy and trust solutions provide a seamless and convenient experience, and an integrated digital moat. We are one of the few scaled cybersecurity companies with integrated data protection and threat defense capabilities built into technologies and solutions that span the digital ecosystem.

- **Our solutions with comprehensive features provide consumers peace of mind that their online experience is protected.** Our Personal Protection Service is a holistic digital protection of consumers and their families wherever they are, whatever they do and on any device they own. Personal Protection Service encompasses data and device security and identity protection through our suite of products while delivering an experience that is equally easy to use whether on a computer, a mobile smartphone or a tablet and across multiple operating system platforms.

- **Our solutions provide integrated threat defense and data protection, from device to cloud.** Our unified cloud and endpoint security solutions provide comprehensive threat detection and data
protection from device to cloud with unified policy control and centralized management and incident reporting. We provide customers the ability to easily extend on-premise data policies to multi-cloud environments to secure data wherever it travels or resides and prevent the risk of data loss. Our MVISION Cloud is designed to secure employees working on enterprise cloud services such as Office 365, Salesforce, Box, and Slack.

- **Our solutions are supported by our global threat intelligence network, which is bolstered by artificial intelligence, machine learning, and deep learning to increase efficacy and efficiency.** Our portfolio leverages over one billion telemetry sensors across multiple domains (device, network, gateway, and cloud) that feed our threat intelligence and insights engines. As of August 2020, our global threat intelligence engine responds to 62.7 billion threat queries and identifies 12.4 million unique threats on an average day. By leveraging artificial intelligence, machine learning, and deep learning, we use complex threat detection and response algorithms that collect data from our vast customer base to correlate events, detect new threats, reduce false positives, and guide analysts through remediation.

**MARKET OPPORTUNITY**

We estimate that our addressable market comprised of consumer and enterprise security is $30.4 billion in 2020, and is projected to grow at a four-year CAGR of 7.9% and reach $41.2 billion in 2024. According to Frost & Sullivan, the global consumer endpoint security market (comprised of endpoint protection and prevention and consumer privacy and identity protection) addressed by our solutions is expected to reach nearly $13.1 billion in 2020, growing to $18.7 billion in 2024. According to IDC, the addressable enterprise security market addressed by our solutions is expected to reach nearly $17.3 billion in 2020, growing at a CAGR of 6.9% through 2024. The “addressable enterprise security market” represents revenue from five markets (Web Security, SIEM, Network Security, Corporate Endpoint, and Data Loss Protection).

**COMPETITIVE STRENGTHS**

Our competitive strengths include:

- **Brand recognition in both Consumer and Enterprise segments.** We have been a trusted provider of cybersecurity products for over 30 years. Built on protecting hundreds of millions of consumers and many of the world’s largest enterprises, our brand recognition drives customer stickiness and bolsters mutually-beneficial long-standing partner relationships.

- **Scale and diversity of threat intelligence network.** The McAfee portfolio is continuously enriched by the intelligence gathered from over one billion sensors across diverse domains and multiple segments (consumers, enterprises, and governments) to inform our machine learning, deep learning, and artificial intelligence capabilities.

- **Experienced management team with deep cybersecurity expertise.** Our world-class management team has extensive cybersecurity expertise and a proven track record of building innovative products and cultivating effective go-to-market strategies at scaled public and private software businesses.

Competitive strengths specific to our Consumer business include:

- **Holistic cybersecurity solutions seamlessly integrated across the consumers’ entire digital ecosystem.** Our holistic personal protection service secures the digital experience and protects privacy of our consumers and their loved ones, across multitude of devices, online, and virtually anywhere. With a single interface, simple set up and ease of use, we provide a seamless and integrated digital moat.
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- **Unique footprint across devices.** Our consumer solutions protected over 600 million devices as of June 27, 2020. Our massive security footprint spans traditional devices including PCs, mobile devices including smartphones and tablets, home gateways and smart / Internet of Things (“IoT”) devices. The vast data from these endpoints helps inform our intelligence and insights engine.

- **Differentiated omnichannel go-to-market strategy.** We have longstanding exclusive partnerships with many of the leading PC and mobile OEMs, communications and ISPs, retailers and ecommerce sites, and search providers. The varied routes to market let us reach the consumer at several crucial moments in their subscription lifecycle.

Competitive strengths specific to our Enterprise business include:

- **Comprehensive device-to-cloud platform spanning cloud, on-premise, and hybrid IT environments.** Our endpoint protection platform (“EPP”) and our endpoint detection and response (“EDR”) together protect against advanced threats across heterogeneous device environments. EPP and EDR complements our Unified Cloud Edge (“UCE”) based MVISION Cloud, designed to protect data across a spectrum of cloud and hybrid environments. Along with protection for on-premise deployments, we provide true device-to-cloud cybersecurity.

- **Blue chip enterprise and exclusive government customer base with a long history of partnership.** We defend the largest enterprises as well as governments globally. Our customer base included 86% of the Fortune 100, 78% of the Fortune 500, and over 61% of the Global 2000, as of June 27, 2020. Our largest customers are typically our longest tenured customers and purchase the most number of products from our portfolio to meet their business needs.

**OUR GROWTH STRATEGY**

Our strategy is to maintain and extend our technology leadership in cybersecurity solutions for consumers, enterprises, and governments by driving frictionless and secure digital experiences. The following are key elements of our growth strategy:

- **Continue to leverage our strength as a trusted cybersecurity brand to increase sales from new and existing customers.** We have one of the most trusted brands and comprehensive cybersecurity platforms in the market. We will invest in and leverage our brand to tap the significant growth opportunity within our core business, as our portfolio of solutions expands. We will continue to target and educate customers through our various sales & marketing motions.

- **Continue to pursue targeted acquisitions.** We have successfully acquired and integrated businesses, including TunnelBear (a consumer VPN provider) and Skyhigh (a leader in cloud access security broker (“CASB”)). We will continue to pursue targeted acquisitions and believe we are well positioned to successfully execute on our acquisition strategy by leveraging our scale, global reach and routes to market, and data assets.

Key elements specific to our Consumer growth strategy include:

- **Invest in new and existing routes to market for consumer customers.** We will continue to drive sales through our direct-to-customer channels by investing in digital and performance marketing motions. We also intend to strengthen our value proposition to our PC OEMs, and replicate that success with retail and ecommerce partners, communications service providers, and Internet providers. We intend to drive new customer growth by expanding our relationships with communications service providers and ISPs utilizing the cross-platform functionality of our solutions.
• **Enhance and tailor the subscriber conversion and renewal process.** As we expand our routes to market and partnerships, we strive to evolve our conversion and renewal process through approaches such as performance marketing, and educate partners to best support mutually beneficial consumer-centric initiatives.

• **Continue to innovate and enhance our consumer security platform and user experience.** To protect our customer’s digital experience across devices, networks and online interactions we plan to continue to invest in new product and platform innovation to help protect data wherever it resides or travels, and defend against threats across multiple domains.

Key elements specific to our Enterprise strategy include:

• **Invest in new and existing routes to market for enterprise and government customers.** We will continue to invest in our existing direct sales force to strengthen global reach and scale, and build partnerships with public cloud service providers to enable our cloud customers to streamline deployment of MVISION, the cloud-native family of our enterprise platform. Additionally, we will continue to develop a partnership ecosystem comprised of distributors, managed security service providers ("MSSP"), and systems integrators.

• **Focus on winning in endpoint and cloud security to further enhance our device-to-cloud platform.** We are a leader in the emerging cloud security and cloud-native endpoint security markets. Our growing CASB and secure web gateway ("SWG") cloud security solutions complement our strong EPP and EDR based device protection solutions. We will continue to extend our market leadership as a device-to-cloud security provider and help customers harness the power of our unified security platform.

## SALES AND MARKETING

**Consumer.** Our consumer go-to-market engine consists of a digitally-led omnichannel approach to reach the consumer at crucial moments in their purchase lifecycle including direct to consumer online sales, acquisition through trial pre-loads on PC OEM devices, and other indirect modes via additional partners such as mobile providers, ISPs, electronics retailers, ecommerce sites, and search providers. Our omnichannel approach and strong partnerships work together to increase our presence at key moments of purchase and security engagement for consumers, allowing us to drive customer engagement and acquisition of new customers.

**Enterprise.** Our enterprise go-to-market strategy leverages direct and indirect routes to market to support customers based on the maturity of our relationship. Our most established accounts are serviced directly by our field sales teams. Emerging accounts and new customers are primarily serviced through a global inside sales engine that work with indirect routes to market. Our enterprise marketing strategy uses a mix of modern digital marketing and traditional marketing approaches. We also use brand awareness campaigns to increase our brand reputation and account-based marketing tactics to support demand generation for high-value customers and prospects.

## RECENT OPERATING RESULTS
(Preliminary and Unaudited)

Set forth below are preliminary estimates of unaudited selected financial results for the 13-week period ended September 26, 2020 and actual unaudited financial results for the 13-week period ended September 28, 2019. Our unaudited interim consolidated financial statements for the 13-week period ended September 26, 2020
are not yet available. We have provided ranges, rather than specific amounts, for the preliminary estimates of the financial information described below primarily because our financial closing procedures for the 13-week period ended September 26, 2020 are not yet complete. Such preliminary estimated ranges reflect management’s current views and may change as a result of our financial closing procedures, final adjustments, management’s review of results, and other developments that may arise between now and the time the financial results are finalized, and are subject to the finalization of financial and accounting review procedures (which have yet to be performed) and should not be viewed as a substitute for full quarterly financial statements prepared in accordance with GAAP. We caution you that such preliminary estimates are forward looking statements and are not guarantees of future performance or outcomes and that actual results may differ materially from the estimates described below. See “Risk Factors,” “Cautionary Note Regarding Forward-Looking Statements,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for additional information regarding factors that could result in differences between the preliminary estimated ranges of certain of our financial results presented below and the actual financial results and other information we will report for the 13-week period ended September 26, 2020. These estimates are not necessarily indicative of the results to be achieved for the remainder of fiscal 2020 or any future period.

The preliminary estimates for the 13-week period ended September 26, 2020 presented below have been prepared by, and are the responsibility of, management. Neither PricewaterhouseCoopers LLP, our independent registered public accounting firm nor any other independent registered public accounting firm, has audited, reviewed, compiled, or performed any procedures with respect to such preliminary information nor has PricewaterhouseCoopers LLP or any other independent registered public accounting firm audited the financial information for the comparative 13-week period ended September 28, 2019. Accordingly, PricewaterhouseCoopers LLP does not express an opinion or any other form of assurance with respect thereto.

<table>
<thead>
<tr>
<th>13-Week Period Ended</th>
<th>September 28, 2019 (Actual)</th>
<th>September 26, 2020 (Estimated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in millions) (unaudited)</td>
<td>Cash and cash equivalents(1)</td>
<td>$240</td>
</tr>
<tr>
<td>Net revenue - Consumer</td>
<td>$322</td>
<td>$387</td>
</tr>
<tr>
<td>Net revenue - Enterprise</td>
<td>$340</td>
<td>$329</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$662</td>
<td>$716</td>
</tr>
<tr>
<td>Operating income - Consumer</td>
<td>$71</td>
<td>$100</td>
</tr>
<tr>
<td>Operating income - Enterprise</td>
<td>(18)</td>
<td>20</td>
</tr>
<tr>
<td>Operating income</td>
<td>$53</td>
<td>$120</td>
</tr>
<tr>
<td>Adjusted EBITDA - Consumer(2)</td>
<td>$144</td>
<td>$172</td>
</tr>
<tr>
<td>Adjusted EBITDA - Enterprise(2)</td>
<td>66</td>
<td>79</td>
</tr>
<tr>
<td>Adjusted EBITDA(2)</td>
<td>$210</td>
<td>$251</td>
</tr>
</tbody>
</table>

(1) Cash and cash equivalents as of September 26, 2020 does not reflect a cash distribution of $75 million that will be distributed prior to this offering, the Reorganization Transactions, this offering and the use of proceeds therefrom. See “Reorganization Transactions” and “Use of Proceeds.”

(2) See “—Non-GAAP Financial Measures” for more information.

Total Company

For the 13-week period ended September 26, 2020, we expect our net revenue to be between $716 million and $731 million compared to $662 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 8.2% and 10.4%. The expected increase in our net revenue was primarily driven by the expected increase in Consumer net revenue partially offset by a decline in expected Enterprise net revenue.
We expect our operating income to be between $120 million and $135 million compared to $53 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 126.4% and 154.7%. We expect our adjusted EBITDA to be between $251 million and $274 million compared to $210 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 19.5% and 30.5%. The expected increase in our operating income and our adjusted EBITDA was primarily driven by the expected increase in our Consumer net revenue along with reduced expenses in the Enterprise business.

**Consumer**

For the 13-week period ended September 26, 2020, we expect our Consumer net revenue to be between $387 million and $397 million compared to $322 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 20.2% and 23.3%. The expected increase in our Consumer net revenue was primarily driven by growth in Core Direct to Consumer Customers and increases in Trailing Twelve Months Dollar Based Retention - Core Direct to Consumer Customers along with growth in Mobile and Internet Service Provider business. We expect our Consumer operating income to be between $100 million and $110 million compared to $71 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 40.8% and 54.9%. We expect our Consumer adjusted EBITDA to be between $172 million and $186 million compared to $144 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 19.4% and 29.2%. The expected increase in our Consumer operating income and our Consumer adjusted EBITDA was primarily driven by the aforementioned increases in net revenue, partially offset by corresponding increases in cost of sales and sales and marketing expenses.

**Enterprise**

For the 13-week period ended September 26, 2020, we expect our Enterprise net revenue to be between $329 million and $334 million compared to $340 million for the 13-week period ended September 28, 2019, which represents an estimated decrease of between 1.8% and 3.2%. The expected decrease in our Enterprise net revenue was primarily driven by the continued reorientation of our Enterprise business. We expect our Enterprise operating income (loss) to be between $20 million and $25 million compared to $(18 million) for the 13-week period ended September 28, 2019. We expect our Enterprise adjusted EBITDA to be between $79 million and $88 million compared to $66 million for the 13-week period ended September 28, 2019, which represents an estimated increase of between 19.7% and 33.3%. The expected improvement in our Enterprise operating income (loss) and our Enterprise adjusted EBITDA was primarily driven by reduced expenses related to the reorientation of our business as well as continuing initiatives to increase efficiencies and reduce costs.

**Non-GAAP Financial Measures**

The following table provides reconciliations of our preliminary estimates of adjusted EBITDA, Consumer adjusted EBITDA, and Enterprise adjusted EBITDA to our preliminary estimates of operating income (loss), Consumer operating income (loss), and Enterprise operating income (loss), respectively, for the 13-week period ended September 28, 2019.

<table>
<thead>
<tr>
<th>13-Week Period Ended September 28, 2019 (Actual)</th>
<th>13-Week Period Ended September 26, 2020 (Estimated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating income</td>
<td>$53</td>
</tr>
<tr>
<td>Add: Amortization</td>
<td>116</td>
</tr>
<tr>
<td>Add: Equity-based compensation(1)</td>
<td>7</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(2)</td>
<td>4</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(3)</td>
<td>6</td>
</tr>
</tbody>
</table>

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(1) Underlying the 4% operating margin in the year ended December 28, 2019.

(2) Underlying the 1% operating margin in the year ended December 28, 2019.

(3) Underlying the 1% operating margin in the year ended December 28, 2019.
<table>
<thead>
<tr>
<th>13-Week Period Ended</th>
<th>September 28, 2019 (Actual)</th>
<th>September 26, 2020 (Estimated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add: Restructuring and transition(4)</td>
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<td>—</td>
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<tr>
<td>Add: Management fees(5)</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Add: Transformation initiatives(6)</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>Add: Depreciation</td>
<td>15</td>
<td>13</td>
</tr>
<tr>
<td>Less: Other expense</td>
<td>—</td>
<td>(1)</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$ 210</td>
<td>$ 251</td>
</tr>
</tbody>
</table>

Operating income—Consumer

<table>
<thead>
<tr>
<th></th>
<th>Low</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add: Amortization</td>
<td>63</td>
<td>63</td>
</tr>
<tr>
<td>Add: Equity-based compensation(1)</td>
<td>1</td>
<td>1</td>
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<tr>
<td>Add: Management fees(5)</td>
<td>—</td>
<td>1</td>
</tr>
<tr>
<td>Add: Transformation initiatives(6)</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Add: Depreciation</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Adjusted EBITDA—Consumer</td>
<td>$ 144</td>
<td>$ 172</td>
</tr>
</tbody>
</table>

Operating income (loss)—Enterprise

<table>
<thead>
<tr>
<th></th>
<th>Low</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add: Amortization</td>
<td>53</td>
<td>44</td>
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<tr>
<td>Add: Equity-based compensation(1)</td>
<td>6</td>
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<tr>
<td>Add: Cash in lieu of equity awards(2)</td>
<td>4</td>
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<tr>
<td>Add: Acquisition and integration costs(3)</td>
<td>4</td>
<td>—</td>
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<tr>
<td>Add: Restructuring and transition(4)</td>
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</tr>
<tr>
<td>Add: Management fees(5)</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Add: Transformation initiatives(6)</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Add: Depreciation</td>
<td>10</td>
<td>9</td>
</tr>
<tr>
<td>Less: Other expense</td>
<td>—</td>
<td>(1)</td>
</tr>
<tr>
<td>Adjusted EBITDA—Enterprise</td>
<td>$ 66</td>
<td>$ 79</td>
</tr>
</tbody>
</table>

(1) Includes incremental equity-based compensation charges based on the midpoint of the IPO valuation range.

(2) As a result of the Sponsor Acquisition, cash awards were provided to certain employees who held Intel equity awards in lieu of equity in Foundation Technology Worldwide LLC. In addition, as a result of the Skyhigh acquisition, cash awards were provided to certain employees who held Skyhigh equity awards in lieu of equity in Foundation Technology Worldwide LLC and vest over multiple periods based on employee service requirements. As these rollover awards reflect one-time grants to former employees of the Predecessor Business and Skyhigh Networks in connection with these transactions, and the Company does not have a comparable cash-based compensation plan or program in existence, we believe this expense is not reflective of our ongoing results.

(3) Represents both direct and incremental costs in connection with business acquisitions, including acquisition consideration structured as cash retention, third party professional fees, and other integration costs.

(4) Represents both direct and incremental costs associated with our separation from Intel, including standing up our back office and costs to execute strategic restructuring events, including third-party professional fees and services, transition services provided by Intel, severance, and facility restructuring costs.

(5) Represents management fees paid to certain affiliates of our Sponsors and Intel pursuant to the Management Services Agreement. The Management Services Agreement will terminate in connection with this offering and we will be required to pay a one-time fee of $22 million to such parties.
(6) Represents costs incurred in connection with transformation of the business post-Intel separation. Also includes the cost of workforce restructurings involving both eliminations of positions and relocations to lower cost locations in connection with MAP and other transformational initiatives, strategic initiatives to improve customer retention, activation to pay and cost synergies, inclusive of duplicative run rate costs related to facilities and data center rationalization.

Consumer operating income and Enterprise operating income are the most directly comparable GAAP measure with respect to Consumer adjusted EBITDA and Enterprise adjusted EBITDA. However, we cannot reconcile our estimated range of adjusted EBITDA to net income (loss), the most directly comparable GAAP measure, without unreasonable efforts because of the unpredictable or unknown nature of certain significant items excluded from adjusted EBITDA and the resulting difficulty in quantifying the amounts thereof that are necessary to estimate net income (loss). Specifically, we are unable to estimate our income tax (expense) benefit for the period because we have not completed our evaluation of the impact of various events during the period on income tax (expense) benefit for the period. We expect the variability of these items could have a significant impact on our actual GAAP financial results. See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for a description of adjusted EBITDA, how we calculate this measure, and more information on our use and the limitations of adjusted EBITDA as a measure of our financial performance.

SUMMARY RISK FACTORS

An investment in our Class A common stock involves a high degree of risk. Any of the factors set forth under “Risk Factors” may limit our ability to successfully execute our business strategy. You should carefully consider all of the information set forth in this prospectus, and, in particular, you should evaluate the specific factors set forth under “Risk Factors” in deciding whether to invest in our Class A common stock. Among these important risks are the following:

- our ability to predict our results of operations, which may fluctuate significantly;
- the effect of the COVID-19 pandemic on our business;
- changing customer requirements or industry and market developments;
- the high level of competition in our industry;
- our ability to retain customers and to expand sales of our solutions to them;
- our reliance on third-party partners to facilitate the sale of our products and solutions;
- the importance of our relationships with our channel partners;
- the potential need to change pricing models to compete;
- actual or perceived defects, errors, or vulnerabilities in our solutions or an actual or perceived failure to identify, prevent, or block cyberattacks;
- a failure to adapt our product and service offerings to changing customer demands or a lack of customer acceptance of new or enhanced solutions;
- our leverage could adversely affect our ability to raise additional capital to fund our operations;
- our Sponsors’ and Intel’s significant influence over us and our status as a “controlled company” under the rules of the Exchange; and
- the other factors identified under the heading “Risk Factors” beginning on page 29 of this prospectus.
SPONSOR ACQUISITION

Through April 3, 2017, the Predecessor Business was operated as a part of a business unit of Intel. Also prior to April 3, 2017, McAfee, Inc., a Delaware corporation, then a wholly-owned subsidiary of Intel, was converted into a Delaware limited liability company, McAfee, LLC. Following such conversion, Intel contributed McAfee, LLC to Foundation Technology Worldwide LLC, a wholly-owned subsidiary of Intel. On April 3, 2017, Intel and its subsidiaries transferred assets and liabilities of the Predecessor Business not already held through Foundation Technology Worldwide LLC to Foundation Technology Worldwide LLC. Immediately thereafter on April 3, 2017, our Sponsors and certain of their co-investors acquired a majority stake in Foundation Technology Worldwide LLC, which we refer to, collectively, as the Sponsor Acquisition. Following the Sponsor Acquisition, our Sponsors and certain of their co-investors owned 51.0% of the common equity interests in Foundation Technology Worldwide LLC, with certain affiliates of Intel retaining the remaining 49.0% of the common equity interests. We have operated as a standalone company at all times following the Sponsor Acquisition.

SUMMARY OF THE REORGANIZATION TRANSACTIONS AND OUR STRUCTURE

Our business is conducted through Foundation Technology Worldwide LLC and its subsidiaries. Our existing equity owners consist of holders of LLC Units and MIUs of Foundation Technology Worldwide LLC. We refer to the holders of LLC Units following the closing of this offering (other than the Company the Management Owners, and our subsidiaries) as “Continuing LLC Owners.” We refer to those of our pre-IPO investors and certain of their affiliates who will receive shares of Class A common stock in connection with the Reorganization Transactions and who will not hold LLC Units as “Continuing Corporate Owners,” and together with the Continuing LLC Owners, as “Continuing Owners.” We refer to the holders of MIUs as well as members of management hold LLC Units following the closing of the offering or are to receive Class A common stock as “Management Owners.”

Following the Reorganization Transactions described under the heading “The Reorganization Transactions” elsewhere in this prospectus, the Continuing Owners will include Intel Americas, Inc., the Sponsors, and certain of their co-investors. Following the Reorganization Transactions and the completion of this offering, our Sponsors and Intel Americas, Inc. will control approximately 82.2% of the combined voting power of our outstanding common stock. McAfee Corp. was formed for the purpose of this offering and to date has engaged only in activities in contemplation of this offering.

This offering is being conducted through what is commonly referred to as an “Up-C” structure, which is often used by partnerships and limited liability companies when they decide to undertake an initial public offering. The Up-C structure can allow existing owners of a partnership (or limited liability company that is treated as a partnership for U.S. federal income tax purposes) to continue to realize the tax benefits associated with their ownership of an entity that is treated as a partnership for income tax purposes following an initial public offering, and provides potential tax benefits and associated cash flow to both the issuer corporation and the existing owners of the partnership (or limited liability company that is treated as a partnership for U.S. federal income tax purposes). One of these benefits is that future taxable income of Foundation Technology Worldwide LLC that is allocated to the Continuing LLC Owners and certain Management Owners will be taxed on a flow-through basis and therefore is not expected to be subject to corporate taxes at the level of Foundation Technology Worldwide LLC or the Company. Additionally, because the Continuing LLC Owners and Management Owners holding LLC Units will have certain rights to exchange their LLC Units for cash based upon the market price of our Class A common stock or, at our option, for shares of our Class A common stock, the Up-C structure also provides the Continuing LLC Owners and applicable Management Owners with potential liquidity that holders of interests in non-publicly traded limited liability companies are not typically afforded. See “Description of Capital Stock” and “Risk Factors—Risks Related to Our Organizational Structure.”
In connection with the Reorganization Transactions described under the heading “The Reorganization Transactions” elsewhere in this prospectus, the limited liability company agreement of Foundation Technology Worldwide LLC will be amended and restated, and McAfee Corp. will become the sole managing member of Foundation Technology Worldwide LLC. McAfee Corp. will issue to the Continuing LLC Owners and Management Owners holding LLC Units following the offering one share of our Class B common stock for each LLC Unit held by the Continuing LLC Owners or applicable Management Owners. The shares of Class B common stock have no economic rights but entitle the holder to one vote per share on matters presented to stockholders of McAfee Corp. McAfee Corp. will be the sole managing member of Foundation Technology Worldwide LLC, and the other members of Foundation Technology Worldwide LLC will take no part in the management of the Company’s business. Therefore, McAfee Corp. will control all aspects of the business of Foundation Technology Worldwide LLC.

The Continuing LLC Owners and Management Owners holding LLC Units following the offering will have the right, from time to time and subject to certain restrictions, to exchange one or more of their LLC Units for (1) either (i) cash based upon the market price of the shares of our Class A common stock, or (ii) at our option, shares of our Class A common stock on a one-for-one basis (and we will cancel a corresponding number of shares of Class B common stock by the exchanging member in connection therewith, to the extent the exchanging member has shares of Class B common stock), subject to customary conversion rate adjustments for stock splits, stock dividends, reclassifications, and other similar transactions and (2) payments of additional amounts pursuant to the tax receivable agreement. The holders of MIUs will have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A common stock, based on the value of such MIUs relative to their applicable distribution threshold.

Immediately following this offering, after giving effect to the Reorganization Transactions, McAfee Corp. will be a holding company, and its sole material asset held directly or through wholly-owned subsidiaries will be its equity interest in Foundation Technology Worldwide LLC. As the managing member of Foundation Technology Worldwide LLC, McAfee Corp. will operate and control all of the business and affairs of Foundation Technology Worldwide LLC and, through Foundation Technology Worldwide LLC and its subsidiaries, conduct our business. Accordingly, although we will have a minority economic interest in Foundation Technology Worldwide LLC, we will have the sole voting interest in, and control the management of, Foundation Technology Worldwide LLC. As a result, McAfee Corp. will consolidate Foundation Technology Worldwide LLC in its consolidated financial statements and will report a noncontrolling interest related to the LLC Units held by the Continuing LLC Owners in our consolidated financial statements. Following this offering and after giving effect to the Reorganization Transactions, McAfee Corp. will own directly or indirectly LLC Units representing 38.0% of the economic interest in Foundation Technology Worldwide LLC (or 38.3%, if the underwriters exercise in full their option to purchase additional shares of Class A common stock). The purchasers in this offering (i) will own shares of Class A common stock, representing approximately 8.6% of the combined voting power of all of McAfee Corp.’s shares of common stock (or approximately 9.9%, if the underwriters exercise in full their option to purchase additional shares of Class A common stock), (ii) will own 22.4% of the economic interest in McAfee Corp. (or 25.7%, if the underwriters exercise in full their option to purchase additional shares of Class A common stock), and (iii) through McAfee Corp.’s ownership of LLC Units, indirectly will hold (applying the percentages in the preceding clause (ii) to McAfee Corp.’s percentage economic interest in Foundation Technology Worldwide LLC) approximately 8.5% of the economic interest in Foundation Technology Worldwide LLC (or 9.9%, if the underwriters exercise in full their option to purchase additional shares of Class A common stock).
The diagram below depicts our organizational structure immediately following this offering, after giving effect to the Reorganization Transactions, assuming no exercise by the underwriters of their option to purchase additional shares of Class A common stock.

See “The Reorganization Transactions” elsewhere in this prospectus for a description of our structure and the Reorganization Transactions.
TPG. TPG is a leading global alternative asset firm founded in 1992 with more than $83 billion of assets under management as of June 30, 2020 and offices in Austin, Beijing, Fort Worth, Hong Kong, Houston, London, Luxembourg, Melbourne, Moscow, Mumbai, New York, San Francisco, Seoul, Singapore, and Washington, DC. TPG’s investment platforms are across a wide range of asset classes, including private equity, growth equity, real estate, and public equity. TPG aims to build dynamic products and options for its investors while also instituting discipline and operational excellence across the investment strategy and performance of its portfolio. TPG has extensive technology expertise with investments that have included Box, C3.ai, Checkmarx, Digital.ai, Domo, Ellucian, Expanse, GuardiCore, IQVIA, Kaseya, LLamasoft, Noodle.ai, Tanium, Transporeon, Wellsly, Wind River, and Zscaler.

Thoma Bravo. Thoma Bravo is a leading private equity firm with a 40+ year history, including more than $50 billion in capital commitments, and a focus on investing in software and technology companies. Thoma Bravo pioneered the buy-and-build investment strategy, and first applied this strategy to the software and technology industries 20+ years ago. Since then, the firm has acquired more than 260 software and technology companies representing over $78 billion of value. Thoma Bravo’s investment philosophy is centered around working collaboratively with existing management teams to help drive operating results and innovation. It executes through a partnership-driven approach supported by a set of management principles, operating metrics, and business processes. Thoma Bravo supports its companies by investing in growth initiatives and strategic acquisitions designed to drive long-term value.

CORPORATE INFORMATION

McAfee Corp. was formed in Delaware on July 19, 2019. We have no material assets other than our ownership of the LLC Units and have not engaged in any business activities except in connection with this offering and the Reorganization Transactions described above. Our principal executive offices are located at 6220 America Center Drive, San Jose, California 95002, and our telephone number is (866) 622-3911. Our Internet website is www.mcafee.com. The information on, or that can be accessed through, our website and the other websites that we present in this prospectus is not part of this prospectus, and you should not rely on any such information in making the decision whether to purchase shares of our Class A common stock.

Channels for Disclosure of Information

Investors, the media, and others should note that, following the completion of this offering, we intend to announce material information to the public through filings with the SEC, the investor relations page on our website (www.mcafee.com), press releases, public conference calls, and public webcasts.

The information disclosed by the foregoing channels could be deemed to be material information. As such, we encourage investors, the media, and others to follow the channels listed above and to review the information disclosed through such channels.

Any updates to the list of disclosure channels through which we will announce information will be posted on the investor relations page on our website.
# THE OFFERING

<table>
<thead>
<tr>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issuer in this offering</td>
<td>McAfee Corp.</td>
</tr>
<tr>
<td>Class A common stock offered by us</td>
<td>30,982,558 shares (or 32,213,999 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock).</td>
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<tr>
<td>Class A common stock offered by the selling stockholders</td>
<td>6,017,442 shares (or 10,336,901 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock).</td>
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<tr>
<td>Underwriters’ option to purchase additional shares of Class A common stock</td>
<td>5,550,000 shares</td>
</tr>
<tr>
<td>from us and the selling stockholders</td>
<td></td>
</tr>
<tr>
<td>Class A common stock to be outstanding after this offering</td>
<td>165,441,836 shares (or 166,672,377 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock).</td>
</tr>
<tr>
<td>Class B common stock to be outstanding after this offering</td>
<td>266,415,205 shares (or 264,700,940 shares upon the purchase by us directly or indirectly of 1,714,265 issued and outstanding LLC Units together with an equal number of shares of Class B common stock from certain Continuing LLC Owners, or 263,470,399 shares upon the purchase by us directly or indirectly of 2,944,806 issued and outstanding LLC Units together with an equal number of Class B common stock from certain Continuing LLC Owners if the underwriters exercise in full their option to purchase additional shares of Class A common stock). In connection with this offering, shares of our Class B common stock will be issued in equal proportion to new LLC Units held by the Continuing Owners. Each LLC Unit of Foundation Technology Worldwide LLC will be exchangeable for cash or (at our option) for one share of Class A common stock and we will cancel a share of Class B common stock held by the exchanging member in connection therewith (to the extent the exchanging member has shares of Class B common stock). See “The Reorganization Transactions—The Reorganization Transactions—Exchange Mechanics.”</td>
</tr>
</tbody>
</table>

Voting power held by holders of Class A common stock after giving effect to this offering by us (and the expected use of proceeds therefrom) and the selling stockholders 38.5%
Voting power held by holders of Class B common stock after giving effect to this offering by us (and the expected use of proceeds therefrom) and the selling stockholders

**Voting rights**
Following the Reorganization Transactions, holders of our Class A common stock and Class B common stock will vote together as a single class on all matters presented to stockholders for their vote or approval, except as otherwise required by law or as otherwise provided by our certificate of incorporation. Each share of Class A common stock and Class B common stock will entitle its holder to one vote per share on all such matters. See “Description of Capital Stock.”

**Use of proceeds**
We estimate that the net proceeds to us from this offering will be approximately $588 million, or approximately $612 million if the underwriters exercise in full their option to purchase additional shares of Class A common stock, at an assumed initial public offering price of $20.50 per share, the midpoint of the price range set forth on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses.

We intend to use the net proceeds from the sale of 29,268,293 shares of Class A common stock by the Company to purchase directly or indirectly an equal number of newly-issued LLC Units from Foundation Technology Worldwide LLC at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions. We intend to cause Foundation Technology Worldwide LLC to use such net proceeds to pay the unpaid expenses of this offering, which we estimate will be $12 million in the aggregate, and to use the remainder of such net proceeds as follows:

- approximately $525.0 million to repay all outstanding obligations with respect to our Second Lien Term Loan (as defined in “Description of Certain Indebtedness”);
- a final payment, which we estimate will be $22 million to pay certain affiliates of our Sponsors and Intel upon the termination of the Management Services Agreement which will terminate in connection with the completion of this offering; and
- the remainder for working capital and other general corporate purposes, including the acquisition of, or investment in complementary products, technologies, solutions, or businesses, although we have no present commitments or agreements to enter into any acquisitions or investments.

We intend to use the net proceeds from the sale of the remaining 1,714,265 shares of Class A common stock by the Company (or 2,944,806 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock by the Company) for working capital and other general corporate purposes, including the acquisition of, or investment in complementary products, technologies, solutions, or businesses, although we have no present commitments or agreements to enter into any acquisitions or investments.
Affiliates of TPG beneficially own in excess of 10% of our issued and outstanding common stock. Because TPG Capital BD, LLC, an affiliate of TPG, is an underwriter in this offering and its affiliates own in excess of 10% of our issued and outstanding common stock, TPG Capital BD, LLC is deemed to have a “conflict of interest” under Rule 5121 (“Rule 5121”) of the Financial Industry Regulatory Authority, Inc. (“FINRA”). Accordingly, this offering is being made in compliance with the requirements of Rule 5121. Pursuant to that rule, the appointment of a “qualified independent underwriter” is not required in connection with this offering as the member primarily responsible for managing the public offering does not have a conflict of interest, is not an affiliate of any member that has a conflict of interest and meets the requirements of paragraph (f)(12)(E) of Rule 5121. See “Underwriters (Conflicts of Interest).”

Following completion of this offering, we expect that Foundation Technology Worldwide LLC will initially pay a cash distribution to its members on a quarterly basis at an aggregate annual rate of approximately $150 million. McAfee Corp. is expected to receive a portion of any such distribution through the LLC Units it holds directly or indirectly through its wholly-owned subsidiaries on the record date for any such distribution declared by Foundation Technology Worldwide LLC, which is expected to equal the number of shares of Class A common stock outstanding on such date. McAfee Corp. expects to use the proceeds it receives from such quarterly distribution to declare a cash dividend on its shares of Class A common stock. McAfee Corp. expects to declare its first quarterly dividend in the fourth quarter of 2020, to be paid in the first quarter of 2021, and we expect such first quarterly dividend will be $0.085 per share of our Class A common stock. We intend to fund our initial dividend, as well as any future dividends, from distributions made by Foundation Technology Worldwide LLC from its available cash generated from operations. The timing, declaration, amount of, and payment of any such dividends will be made at the discretion of McAfee Corp.’s board of directors, subject to applicable laws, and will depend upon many factors, including the amount of the
distribution received by McAfee Corp. from Foundation Technology Worldwide LLC, our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions, and other factors that McAfee Corp.’s board of directors may deem relevant. Moreover, if, as expected, McAfee Corp. determines to initially pay a dividend following any quarterly distributions from Foundation Technology Worldwide LLC, there can be no assurance that McAfee Corp. will continue to pay dividends in the same amounts or at all thereafter. See “Dividend Policy.”

Immediately following this offering and after giving effect to the Reorganization Transactions, McAfee Corp. will be a holding company, and its principal asset (directly or through holding companies) will be its equity interest in Foundation Technology Worldwide LLC. If McAfee Corp. decides to pay any other dividend on our Class A common stock in the future, it would likely need to cause Foundation Technology Worldwide LLC to make distributions to McAfee Corp. and its wholly-owned subsidiaries in an amount sufficient to pay such dividend. If Foundation Technology Worldwide LLC makes such distributions to McAfee Corp. and its wholly-owned subsidiaries, the other holders of LLC Units will be entitled to receive pro rata distributions, as well as, in certain cases, the holders of MIUs.

Currently, the provisions of our Senior Secured Credit Facilities place certain limitations on the amount of cash dividends we can pay. See “Description of Certain Indebtedness.”

| Exchange rights of holders of LLC Units | In connection with the Reorganization Transactions and this offering, the limited liability company agreement of Foundation Technology Worldwide LLC will be amended and restated and will provide the ability (subject to certain limitations) to exchange one or more LLC Units for cash or, at our option, together with the corresponding number of shares of Class B common stock, as applicable, for shares of Class A common stock of McAfee Corp. on a one-for-one basis, subject to customary conversion rate adjustments for stock splits, stock dividends and reclassifications. The holders of MIUs will have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A common stock, based on the value of such MIUs relative to their applicable distribution threshold. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC.” |
| Tax receivable agreement | Prior to the completion of this offering, we will enter into a tax receivable agreement with certain of our Continuing Owners and certain Management Owners that provides for the payment by |
McAfee Corp. to such pre-IPO owners and certain of their affiliates of 85% of the benefits, if any, that McAfee Corp. is deemed to realize (calculated using certain assumptions) as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. The increases in existing tax basis and tax basis adjustments generated over time may increase (for tax purposes) depreciation and amortization deductions and, therefore, may reduce the amount of tax that McAfee Corp. would otherwise be required to pay in the future. Actual tax benefits realized by McAfee Corp. may differ from tax benefits calculated under the tax receivable agreement as a result of the use of certain assumptions in the tax receivable agreement, including the use of an assumed weighted-average state and local income tax rate to calculate tax benefits. This payment obligation is an obligation of McAfee Corp. and not of Foundation Technology Worldwide LLC. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Tax Receivable Agreement.”

Controlled Company

Upon the completion of this offering, our Sponsors and Intel and certain of its affiliates will control approximately 82.2% of the combined voting power of our outstanding common stock. As a result, we will be a “controlled company” under the Exchange corporate governance standards. Under these standards, a company of which more than 50% of the voting power is held by an individual, group, or another company is a “controlled company” and may elect not to comply with certain corporate governance standards.

Risk factors

You should read the “Risk Factors” section of this prospectus for a discussion of factors to consider carefully before deciding to invest in shares of our Class A common stock.

Exchange symbol

“MCFE”
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Unless otherwise indicated, the number of shares of Class A common stock to be outstanding after this offering is based on 134,459,278 shares of Class A common stock outstanding immediately before the offering and excludes the following, in each case as of immediately following the Reorganization Transactions:

- 266,415,205 shares of Class A common stock issuable upon exchange or redemption of LLC Units, together with corresponding shares of Class B common stock;
- 5,435,508 shares of Class A common stock that would be outstanding if all vested MIUs were exchanged for shares of Class A common stock, and 9,347,176 shares of Class A common stock that would be outstanding if all unvested MIUs were exchanged for shares of Class A common stock;
- 22,687,159 shares of Class A common stock issuable upon vesting of outstanding RSUs, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same;
- 500,164 shares of Class A common stock issuable upon exercise of vested option awards and 1,377,936 shares of Class A common stock issuable upon exercise of unvested option awards, which options will have an exercise price equal to the initial public offering price per share, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same;
- 45,070,943 shares of Class A common stock reserved for future issuance under our new 2020 equity incentive plan, without taking into account the “evergreen” provision of our new 2020 equity incentive plan, as described below; and
- 9,389,809 shares of Class A common stock authorized for sale under the Employee Stock Purchase Plan (“ESPP”) without taking into account the “evergreen” provision of our ESPP, as described below, which will become effective prior to the completion of this offering.

Unless otherwise indicated, this prospectus reflects and assumes the following:

- the price per share of Class A common stock sold in this offering will be $20.50, the midpoint of the price range set forth on the cover page of this prospectus;
- the consummation of the Reorganization Transactions;
- the adoption of our amended and restated certificate of incorporation and our amended and restated bylaws to be effective immediately prior to the completion of this offering; and
- no exercise by the underwriters of their option to purchase up to 5,550,000 additional shares of our Class A common stock in this offering.

The Company effected a 4-for-1 split of outstanding LLC Units on October 12, 2020, which unit split also applied to any outstanding equity-based awards and is reflected in all share, unit, per share, and per unit amounts presented in this prospectus.

Securities Outstanding at Assumed Offering Price

The number of (i) unvested RSUs outstanding and (ii) vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions described above will vary, depending on the initial public offering price in this offering. An increase in the assumed initial public offering price would result in (i) an increase in the number of unvested RSUs outstanding and (ii) a decrease in the number of vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions. See “Executive Compensation—Elements of Compensation—Compensation Changes Related to our IPO—Changes to Certain Equity Incentive Awards” and “—IPO Option Grants.”
For illustrative purposes only, the table below shows the number of (i) unvested RSUs outstanding and (ii) vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions at various initial public offering prices:

<table>
<thead>
<tr>
<th>Illustrative public offering price</th>
<th>Unvested RSUs</th>
<th>Vested Options</th>
<th>Unvested Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>$19.00</td>
<td>22,573,285</td>
<td>547,264</td>
<td>1,507,344</td>
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<td>$20.00</td>
<td>22,651,099</td>
<td>515,140</td>
<td>1,418,940</td>
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<td>$20.50</td>
<td>22,687,159</td>
<td>500,164</td>
<td>1,377,936</td>
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<tr>
<td>$21.00</td>
<td>22,721,502</td>
<td>486,084</td>
<td>1,338,896</td>
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<tr>
<td>$22.00</td>
<td>22,785,505</td>
<td>459,564</td>
<td>1,266,084</td>
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</table>
SUMMARY CONSOLIDATED AND COMBINED FINANCIAL AND OTHER DATA

The following table sets forth the summary consolidated and combined financial and other data of Foundation Technology Worldwide LLC for the periods presented and at the dates indicated below. Following this offering, Foundation Technology Worldwide LLC will be considered our legal predecessor. For accounting purposes, the terms “Predecessor” or “Predecessor Business” and “Successor” or “Successor Business” used below and throughout this prospectus refer to the periods prior and subsequent to the Sponsor Acquisition on April 3, 2017, respectively.

The summary combined statements of operations and cash flows data presented below for the period from January 1, 2017 to April 3, 2017 relate to the Predecessor Business and are derived from audited combined financial statements that are included elsewhere in this prospectus. The summary consolidated statements of operations and cash flows data for the period from April 4, 2017 to December 30, 2017 and fiscal 2018, and fiscal 2019 relate to the Successor Business and are derived from audited consolidated financial statements that are included elsewhere in this prospectus. The summary consolidated statements of operations and cash flows data for the 26-week periods ended June 29, 2019 and June 27, 2020, and the consolidated balance sheet data as of June 27, 2020, relate to the Successor Business and are derived from unaudited condensed consolidated financial statements that are included elsewhere in this prospectus. On April 3, 2017, our Sponsors and certain of their co-investors acquired a majority stake in Foundation Technology Worldwide LLC pursuant to the Sponsor Acquisition. Following the Sponsor Acquisition, our Sponsors and certain of their co-investors owned 51.0% of the common equity interest in Foundation Technology Worldwide LLC, with certain affiliates of Intel retaining the remaining 49.0% of the common equity interests.

Subsequent to the Sponsor Acquisition, we undertook various transformation and restructuring activities to improve cost synergies, customer retention and engagement, consumer customer conversion and acquisition strategies, and enterprise go-to-market and support strategies. These activities changed our operations and structure impacting the comparability of our operating results.

We adopted Accounting Standards Codification, or ASC, Topic 606, Revenue from Contracts with Customers, or ASC Topic 606, on December 31, 2017, using the modified retrospective transition method. Under this method, results for reporting periods beginning on December 31, 2017 are presented in accordance with ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with our historical accounting under ASC Topic 605, Revenue Recognition.

We maintain a 52- or 53-week fiscal year that ends on the last Saturday in December. Period ended April 3, 2017 is a 13-week period starting on January 1, 2017. Period ended December 30, 2017 is a 39-week fiscal period starting on April 4, 2017. Fiscal 2018 is a 52-week year starting on December 31, 2017 and ending on December 29, 2018. Fiscal 2019 is a 52-week year starting on December 30, 2018 and ending on December 28, 2019. 26-week period ended June 29, 2019 is a 26-week period starting on December 30, 2018 and ending on June 29, 2019. 26-week period ended June 27, 2020 is a 26-week period starting on December 29, 2019 and ending on June 27, 2020.

Selected historical consolidated financial data for McAfee Corp. has not been provided, as McAfee Corp. is a newly incorporated entity and has had no business transactions or other activities to date and no assets or liabilities during the periods presented below.

The unaudited condensed consolidated financial statements were prepared on a basis consistent with our audited consolidated financial statements and include all adjustments, consisting of normal and recurring adjustments that we consider necessary for a fair statement of the financial condition and results of operations as of and for such periods. Operating results for the periods presented are not necessarily indicative of the results that may
be expected in future periods, and operating results for the 26-week period ended June 27, 2020 are not necessarily indicative of results for the full year. The following information should be read in conjunction with “The Reorganization Transactions,” “Use of Proceeds,” “Capitalization,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Unaudited Pro Forma Consolidated Financial Information” and our audited consolidated financial statements and the related notes included elsewhere in this prospectus.
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- **Results of Operations Data**
- **Statements of Cash Flows Data**

#### Results of Operations Data

<table>
<thead>
<tr>
<th>(in millions except per unit and share data)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
<th>Successor June 29, 2020</th>
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<tr>
<td><strong>Net revenue</strong></td>
<td>$ 586</td>
<td>$ 1,496</td>
<td>$ 2,409</td>
<td>$ 1,635</td>
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<td><strong>Cost of sales(1)</strong></td>
<td>163</td>
<td>542</td>
<td>840</td>
<td>843</td>
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<td><strong>Gross profit</strong></td>
<td>423</td>
<td>948</td>
<td>1,569</td>
<td>1,792</td>
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<tr>
<td><strong>Operating expenses:</strong></td>
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<tr>
<td>Sales and marketing(1)</td>
<td>212</td>
<td>584</td>
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<td>770</td>
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<td>Research and development(1)</td>
<td>127</td>
<td>323</td>
<td>496</td>
<td>380</td>
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<tr>
<td>General and administrative</td>
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<td>157</td>
<td>253</td>
<td>272</td>
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<tr>
<td>Amortization of intangibles</td>
<td>40</td>
<td>167</td>
<td>232</td>
<td>222</td>
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<tr>
<td>Restructuring and transition charges</td>
<td>46</td>
<td>123</td>
<td>36</td>
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<tr>
<td><strong>Total operating expenses</strong></td>
<td>496</td>
<td>1,354</td>
<td>1,742</td>
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<td><strong>Operating income (loss)</strong></td>
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<td>(406)</td>
<td>(173)</td>
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<td>Interest expense and other, net</td>
<td>(1)</td>
<td>(159)</td>
<td>(307)</td>
<td>(385)</td>
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<td>Foreign exchange gain (loss), net</td>
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<td>(9)</td>
<td>30</td>
<td>(20)</td>
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<td>Income (loss) before income taxes</td>
<td>(71)</td>
<td>(574)</td>
<td>(450)</td>
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<td>Provision for income tax expense</td>
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<td>22</td>
<td>62</td>
<td>82</td>
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<td><strong>Net income (loss)</strong></td>
<td>(79)</td>
<td>(697)</td>
<td>(512)</td>
<td>(238)</td>
</tr>
<tr>
<td><strong>Net income (loss) per unit, basic</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income (loss) per unit, diluted</td>
<td>(1.64)</td>
<td>(1.37)</td>
<td>(0.61)</td>
<td>(0.39)</td>
</tr>
<tr>
<td><strong>Weighted-average units outstanding, diluted</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted-average units outstanding, basic</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
<td>375.9</td>
</tr>
<tr>
<td><strong>Pro forma net income (loss) per share data:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro forma net income (loss) per share, basic(2)</td>
<td>$ (0.45)</td>
<td>$ (0.42)</td>
<td>$ (0.42)</td>
<td>$ (0.42)</td>
</tr>
<tr>
<td>Pro forma net income (loss) per share, diluted(2)</td>
<td>(0.45)</td>
<td>(0.42)</td>
<td>(0.42)</td>
<td>(0.42)</td>
</tr>
<tr>
<td><strong>Pro forma weighted-average shares of Class A common stock outstanding, basic(2)</strong></td>
<td>159.5</td>
<td>161.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Pro forma weighted-average shares of Class A common stock outstanding, diluted(2)</strong></td>
<td>159.5</td>
<td>161.2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** The calculation of unaudited basic and diluted pro forma net income (loss) per share reflects certain pro forma adjustments in accordance with Article 11 of Regulation S-X. See “Unaudited Pro Forma Consolidated Financial Information.”

#### Statements of Cash Flows Data

**Net cash provided by (used in):**

- **Operating activities:** $ (65)
- **Investing activities:** (10) (39) (677) (63) (24) (33)
- **Financing activities:** (23) 87 459 (734) (407) (162)

(1) Includes equity-based compensation expense as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
<th>Successor June 29, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost of sales</strong></td>
<td>$ 2</td>
<td>$ —</td>
<td>$ 1</td>
<td>$ 1</td>
</tr>
<tr>
<td><strong>Sales and marketing</strong></td>
<td>9</td>
<td>3</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td><strong>Research and development</strong></td>
<td>8</td>
<td>2</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td><strong>General and administrative</strong></td>
<td>2</td>
<td>4</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total equity-based compensation expense</strong></td>
<td>$ 23</td>
<td>$ 8</td>
<td>$ 28</td>
<td>$ 25</td>
</tr>
</tbody>
</table>

(2) The calculation of unaudited basic and diluted pro forma net income (loss) per share reflects certain pro forma adjustments in accordance with Article 11 of Regulation S-X. See “Unaudited Pro Forma Consolidated Financial Information.”

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## Consolidated Balance Sheet Data

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of June 27, 2020</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Pro Forma(1)</td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$257</td>
<td>$120</td>
</tr>
<tr>
<td>Working capital(2)</td>
<td>(1,279)</td>
<td>(1,416)</td>
</tr>
<tr>
<td>Total assets</td>
<td>5,548</td>
<td>5,412</td>
</tr>
<tr>
<td>Current and long-term deferred revenue</td>
<td>2,265</td>
<td>2,265</td>
</tr>
<tr>
<td>Current and long-term debt, net of borrowing costs</td>
<td>4,703</td>
<td>4,193</td>
</tr>
<tr>
<td>Redeemable units</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Redeemable noncontrolling interests</td>
<td></td>
<td>5,538</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(1,354)</td>
<td>(1,288)</td>
</tr>
<tr>
<td>Total deficit</td>
<td>(2,282)</td>
<td>(7,274)</td>
</tr>
</tbody>
</table>

(1) Pro forma reflects the (i) effect of the Reorganization Transactions, (ii) issuance of 31.0 million shares of Class A common stock by us in this offering and the receipt of approximately $588 million in net proceeds from the sale of such shares, assuming an initial public offering price of $20.50 per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses, and (iii) application of the estimated proceeds of the offering, including the purchase directly or indirectly of 1,714,265 issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners. See “Use of Proceeds.”

(2) Working capital is comprised of current assets less current liabilities.

A $1.00 increase (decrease) in the assumed initial public offering price of $20.50 per share of Class A common stock, the midpoint of the price range set forth on the cover of this prospectus would increase (decrease) the net proceeds to us from this (excluding proceeds used to purchase outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners) offering by $28 million, assuming the number of shares of Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. An increase or decrease of 1,000,000 shares from the expected number of shares of Class A common stock to be sold by us in this offering would cause the net proceeds received by us to increase or decrease, respectively, by approximately $19 million, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same. Any increase or decrease in proceeds to the Company from the sale of Class A common stock due to a change in the initial public offering price or number of shares issued would increase or decrease, respectively, the amount of net proceeds contributed to Foundation Technology Worldwide LLC to be used by it for working capital and general corporate purposes.

### Non-GAAP Financial Measures

We believe that in addition to our results determined in accordance with GAAP, billings, adjusted operating income, adjusted operating income margin, adjusted EBITDA, adjusted EBITDA margin, adjusted net income, adjusted net income margin, and free cash flow are useful in evaluating our business, results of operations and financial condition. We believe that this non-GAAP financial information may be helpful to investors because it provides consistency and comparability with past financial performance and facilitates period to period comparisons of operations, as these eliminate the effects of certain variables from period to period for reasons that we do not believe reflect our underlying business performance. However, non-GAAP financial information is presented for supplemental informational purposes only and should not be considered in isolation or as a substitute for financial information presented in accordance with GAAP. Our presentation of these measures should not be construed as an inference that our future results will be unaffected by the types of items excluded.
See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for explanations of how we calculate these measures and for reconciliation to the most directly comparable financial measure stated in accordance with GAAP.

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
<th>Successor 26-Week Period Ended June 29, 2019</th>
<th>Successor 26-Week Period Ended June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
<td>$2,635</td>
<td>$1,291</td>
</tr>
<tr>
<td>Billings</td>
<td>1,992</td>
<td>2,717</td>
<td>2,820</td>
<td>1,303</td>
<td>35</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>(73)</td>
<td>(406)</td>
<td>(173)</td>
<td>126</td>
<td>35</td>
</tr>
<tr>
<td>Operating income (loss) margin</td>
<td>(12.5)%</td>
<td>(27.2)%</td>
<td>(7.2)%</td>
<td>4.8%</td>
<td>2.7%</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$(79)</td>
<td>$(607)</td>
<td>$(512)</td>
<td>$(236)</td>
<td>$(146)</td>
</tr>
<tr>
<td>Net income (loss) margin</td>
<td>(13.5)%</td>
<td>(40.7)%</td>
<td>(21.3)%</td>
<td>(9.0)%</td>
<td>(11.3)%</td>
</tr>
<tr>
<td>Adjusted operating income</td>
<td>9.9%</td>
<td>8.3%</td>
<td>19.9%</td>
<td>27.8%</td>
<td>26.4%</td>
</tr>
<tr>
<td>Adjusted operating income margin</td>
<td>9.9%</td>
<td>8.3%</td>
<td>19.9%</td>
<td>27.8%</td>
<td>26.4%</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>13.0%</td>
<td>11.4%</td>
<td>22.4%</td>
<td>30.3%</td>
<td>28.9%</td>
</tr>
<tr>
<td>Adjusted EBITDA margin</td>
<td>13.0%</td>
<td>11.4%</td>
<td>22.4%</td>
<td>30.3%</td>
<td>28.9%</td>
</tr>
<tr>
<td>Adjusted net income (loss)</td>
<td>8.4%</td>
<td>(7.0)%</td>
<td>5.9%</td>
<td>15.0%</td>
<td>12.6%</td>
</tr>
<tr>
<td>Adjusted net income (loss) margin</td>
<td>8.4%</td>
<td>(7.0)%</td>
<td>5.9%</td>
<td>15.0%</td>
<td>12.6%</td>
</tr>
<tr>
<td>Billings</td>
<td>$123</td>
<td>$480</td>
<td>$733</td>
<td>$341</td>
<td>$478</td>
</tr>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>$(65)</td>
<td>$316</td>
<td>$319</td>
<td>$496</td>
<td>$96</td>
</tr>
<tr>
<td>Net cash provided by (used in) investing activities</td>
<td>$(10)</td>
<td>$(39)</td>
<td>$(677)</td>
<td>$(63)</td>
<td>$(24)</td>
</tr>
<tr>
<td>Net cash provided by (used in) financing activities</td>
<td>$(23)</td>
<td>$87</td>
<td>$459</td>
<td>$(734)</td>
<td>$(407)</td>
</tr>
<tr>
<td>Free cash flow</td>
<td>(94)</td>
<td>277</td>
<td>257</td>
<td>435</td>
<td>74</td>
</tr>
</tbody>
</table>

**Billings**

We define billings as net revenue recognized in accordance with GAAP plus the change in deferred revenue from the beginning to the end of the period, excluding the impact of deferred revenue assumed through acquisitions during the period. We view billings as a key metric, as it includes changes in our deferred revenue during the period, which is an important indicator of future trends and is a significant percentage of future revenue.

**Adjusted Operating Income, Adjusted Operating Income Margin, Adjusted EBITDA, and Adjusted EBITDA Margin**

We regularly monitor adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin to assess our operating performance. We define adjusted operating income for the total Company as net income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense, interest expense and other, net, provision for income tax expense, foreign exchange (gain) loss, net, and other costs that we do not believe are reflective of our ongoing operations. We define adjusted operating income for our Consumer and Enterprise segments as segment operating income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense and other costs attributable to the segment that we do not believe are reflective of the segment’s ongoing operations. We present
this reconciliation of adjusted operating income (loss) to operating income for Consumer and Enterprise segments because operating income (loss) is the primary measure of profitability used to assess segment performance, and is therefore the most directly comparable GAAP financial measure for our operating segments. Adjusted operating income margin is calculated as adjusted operating income divided by net revenue. We define adjusted EBITDA as adjusted operating income, excluding the impact of depreciation expense and other non-operating costs. Adjusted EBITDA margin is calculated as adjusted EBITDA divided by net revenue. We believe presenting adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin provides management and investors consistency and comparability with our past financial performance and facilitates period to period comparisons of operations, as it eliminates the effects of certain variations unrelated to our overall performance. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted operating income and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- adjusted operating income and adjusted EBITDA do not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments, on our debt;
- adjusted operating income and adjusted EBITDA do not reflect income tax payments that may represent a reduction in cash available to us; and
- other companies, including companies in our industry, may calculate adjusted operating income and adjusted EBITDA differently, which reduce their usefulness as comparative measures.

Because of these limitations, you should consider adjusted operating income and adjusted EBITDA alongside other financial performance measures, including operating income (loss), net income (loss) and our other GAAP results. In evaluating adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.
Adjusted Net Income and Adjusted Net Income Margin

We regularly monitor adjusted net income, and adjusted net income margin to assess our operating performance. We define adjusted net income as net income (loss), excluding the impact of amortization of intangible assets, amortization of debt issuance costs, equity-based compensation expense, other costs, and certain non-recurring tax benefits and expenses that we do not believe to be reflective of our ongoing operations and the tax impact of these adjustments. Adjusted net income margin is calculated as adjusted net income divided by net revenue. Adjusted net income and adjusted net income margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although amortization is non-cash charge, the assets being amortized may have to be replaced in the future, and adjusted net income does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted net income does not reflect changes in, or cash requirements for, our working capital needs;
- other companies, including companies in our industry, may calculate adjusted net income differently, which reduce its usefulness as comparative measures.

Because of these limitations, you should consider adjusted net income alongside other financial performance measures, including operating income (loss), net income (loss) and our other GAAP results. In evaluating adjusted net income and adjusted net income margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted net income and adjusted net income margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted net income and adjusted net income margin. Adjusted net income and adjusted net income margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.

Free Cash Flow

We define free cash flow as net cash provided by operating activities less capital expenditures. We consider free cash flow to be a liquidity measure that provides useful information to management and investors about the amount of cash generated by the business that can be used for strategic opportunities, including investing in our business, making strategic acquisitions, and strengthening the balance sheet.

Our Operating Segments

We manage our business in two operating segments, Consumer and Enterprise. A significant portion of our operating segments’ operating expenses are allocated from shared resources based on the estimated utilization of services provided to or benefits received by the operating segments. See Note 6 to our unaudited interim condensed consolidated financial statements included elsewhere in this prospectus.
The table below summarizes our results of operations by segment for fiscal 2018 compared to fiscal 2019 and the 26-week periods ended June 29, 2019 and June 27, 2020. We believe adjusted EBITDA is useful in evaluating our business, but should not be considered in isolation or as a substitute for GAAP. See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for explanations of how we calculate these measures and for reconciliation to the most directly comparable financial measure stated in accordance with GAAP.

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Fiscal Year Ended</th>
<th>26-Week Period Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Net revenue - Consumer</td>
<td>$1,161</td>
<td>$1,303</td>
</tr>
<tr>
<td>Net revenue - Enterprise</td>
<td>1,248</td>
<td>1,332</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$2,409</td>
<td>$2,635</td>
</tr>
<tr>
<td>Consumer operating income - Consumer</td>
<td>(280)</td>
<td>(151)</td>
</tr>
<tr>
<td>Consumer operating income (loss) - Enterprise</td>
<td>(92)</td>
<td>(1)</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>$ (173)</td>
<td>$126</td>
</tr>
<tr>
<td>Adjusted EBITDA - Consumer</td>
<td>$431</td>
<td>$580</td>
</tr>
<tr>
<td>Adjusted EBITDA - Enterprise</td>
<td>109</td>
<td>219</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$540</td>
<td>$799</td>
</tr>
</tbody>
</table>

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RISK FACTORS

This offering and investing in shares of our Class A common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below together with all of the other information contained in this prospectus, including our consolidated financial statements and the related notes appearing at the end of this prospectus, before deciding to invest in shares of our Class A common stock. If any of the following risks actually occurs, our business, prospects, results of operations, and financial condition could suffer materially, the trading price of our Class A common stock could decline, and you could lose all or part of your investment. Please also see “Cautionary Note Regarding Forward-Looking Statements.” In addition, the impacts of the COVID-19 pandemic and any worsening of the economic environment may exacerbate the risks described below, any of which could have a material impact on us. This situation is changing rapidly and additional impacts may arise that we are not currently aware of.

Risks Related to Our Business and Industry

Our results of operations can be difficult to predict and may fluctuate significantly, which could result in a failure to meet investor expectations.

Our results of operations have in the past varied, and may in the future vary, significantly from period to period due to a number of factors, many of which are outside of our control, including the macroeconomic environment. These factors limit our ability to accurately predict our results of operations and include factors discussed throughout this “Risk Factors” section, including the following:

- the level of competition in our markets, including the effect of new entrants, consolidation, and technological innovation;
- macroeconomic conditions in our markets, both domestic and international, as well as the level of discretionary technology spending;
- fluctuations in demand for our solutions;
- disruptions in our business operations or target markets caused by, among other things, terrorism or other intentional acts, pandemics, such as the COVID-19 pandemic, riots, protests or political unrest, or earthquakes, floods, or other natural disasters;
- variability and unpredictability in the rate of growth in the markets in which we compete;
- technological changes in our markets;
- our ability to renew existing customers, acquire new customers, and sell additional solutions;
- execution of our business strategy and operating plan, and the effectiveness of our sales and marketing programs;
- our sales cycles, which may lengthen as the complexity of solutions and competition in our markets increases;
- the timing, size, and mix of orders from, and shipments to, enterprise customers;
- enterprise customers’ tendency to negotiate licenses and other agreements near the end of each quarter;
- product announcements, introductions, transitions, and enhancements by us or our competitors, which could result in deferrals of customer orders;
- the impact of future acquisitions or divestitures;
- changes in accounting rules and policies that impact our future results of operations compared to prior periods; and
- the need to recognize certain revenue ratably over a defined period or to defer recognition of revenue to a later period, which may impact the comparability of our results of operations across those periods.
Furthermore, a high percentage of our expenses, including those related to overhead, research and development, sales and marketing, and general and administrative functions are generally fixed in nature in the short term. As a result, if our net revenue is less than forecasted, we may not be able to effectively reduce such expenses to compensate for the revenue shortfall and our results of operations will be adversely affected. In addition, our ability to maintain or expand our operating margins may be limited given economic and competitive conditions, and we therefore could be reliant upon our ability to continually identify and implement operational improvements in order to maintain or reduce expense levels. There can be no assurance that we will be able to maintain or expand our current operating margins in the future.

The COVID-19 pandemic has affected how we are operating our business, and the duration and extent to which this will impact our future results of operations and overall financial performance remains uncertain.

The COVID-19 pandemic is having widespread, rapidly evolving, and unpredictable impacts on global society, economies, financial markets, and business practices. Federal, state and foreign governments have implemented measures to contain the virus, including social distancing, travel restrictions, border closures, limitations on public gatherings, work from home, and closure of non-essential businesses. To protect the health and well-being of our employees, partners, and third-party service providers, we have implemented work-from-home requirements, made substantial modifications to employee travel policies, and cancelled or shifted marketing and other corporate events to virtual-only formats for the foreseeable future. While we continue to monitor the situation and may adjust our current policies as more information and public health guidance become available, such precautionary measures could negatively affect our customer success efforts, sales and marketing efforts, delay and lengthen our sales cycles, or create operational or other challenges, any of which could harm our business and results of operations. In addition, the COVID-19 pandemic has disrupted the operations of many of our enterprise customers and channel partners, and may continue to disrupt their operations, for an indefinite period of time, including as a result of travel restrictions and/or business shutdowns, uncertainty in the financial markets, or other harm to their businesses and financial results, resulting in delayed purchasing decisions, extended payment terms, and postponed or cancelled projects, all of which could negatively impact our business and results of operations, including our revenue and cash flows. Further, if the COVID-19 pandemic has a substantial impact on our employees’, partners’, or third-party service providers’ health, attendance, or productivity, our results of operations and overall financial performance may be adversely impacted.

Beginning in March 2020, the U.S. and global economies have reacted negatively in response to worldwide concerns due to the economic impacts of the COVID-19 pandemic. These factors also may adversely impact consumer, enterprise, and government spending on technology as well as customers’ ability to pay for our products and services on an ongoing basis. Although we have not currently experienced a material increase in customer cancellations or a material reduction in our retention rate in 2020, we may experience such an increase in cancellations or reduction in retention rates in the future, especially in the event of a prolonged economic downturn as a result of the COVID-19 pandemic. For example, some businesses in industries particularly impacted by the COVID-19 pandemic, such as travel, hospitality, retail, and oil and gas, have significantly cut or eliminated capital expenditures at this time. Certain enterprise and government customers may also seek to renegotiate the payment terms or scope of the existing subscription or services agreements, which could adversely impact our revenues in future periods and may result in delays in accounts receivable collection. A prolonged economic downturn could adversely affect technology spending, demand for our offerings, and retention and renewal rates, any of which could have a negative impact on our financial condition, results of operations and cash flows. Any resulting instability in the financial markets could also adversely affect the value of our Class A common stock, our ability to refinance our indebtedness, and our access to capital.

The ultimate duration and extent of the impact from the COVID-19 pandemic depends on future developments that cannot be accurately forecasted at this time, such as the severity and transmission rate of the disease, the actions of governments, businesses and individuals in response to the pandemic, the extent and effectiveness of containment actions, the impact on economic activity and the impact of these and other factors.
on our employees, partners, and third-party service providers. This uncertainty also affects management’s accounting estimates and assumptions, which
could result in greater variability in a variety of areas that depend on these estimates and assumptions, including those related to investments,
receivables, retention rates, renewals, pricing, and sales cycles. For example, we have experienced growth and increased demand for our solutions in
recent quarters, particularly with respect to our Consumer business, which may be due in part to greater demand for devices or our solutions in response
to the COVID-19 pandemic. We cannot determine what, if any, portion of our growth in net revenue, the number of our Direct to Consumer customers,
or any other measures of our performance during the first half of fiscal 2020 compared to the first half of fiscal 2019 was the result of such responses to the
COVID-19 pandemic. However, if we are unable to successfully drive renewals of new subscriptions and retention of new customers in future
periods, including any such new subscriptions or new customers that may be related to the response to the COVID-19 pandemic, or if global conditions
and macroeconomic forces, including those related to the COVID-19 pandemic, reduce demand for solutions in the future, we may be unsuccessful in
sustaining our recent growth rates. In addition, the extent to which the COVID-19 pandemic will continue to drive demand for devices is uncertain, and
if demand for devices decreases, we may experience slower growth in future periods. These uncertainties may increase variability in our future results of
operations and adversely impact our ability to accurately forecast changes in our business performance and financial condition in future periods. If we
are not able to respond to and manage the impact of such events effectively or if global economic conditions do not improve, or deteriorate further, our
business, financial condition, results of operations, and cash flows could be adversely affected.

The cybersecurity market is rapidly evolving and becoming increasingly competitive in response to continually evolving cybersecurity threats
from a variety of increasingly sophisticated cyberattackers. If we fail to anticipate changing customer requirements or industry and market
developments, or we fail to adapt our business model to keep pace with evolving market trends, our financial performance will suffer.

The cybersecurity market is characterized by continual changes in customer preferences and requirements, frequent and rapid technological
developments and continually evolving market trends. We must continually address the challenges of dynamic, and accelerating market trends, such as
the emergence of new cybersecurity threats, the continued decline in the sale of new personal computers, and the rise of mobility and cloud-based
solutions, all of which make satisfying our customers’ diverse and evolving needs more challenging. In addition, many of our enterprise customers
operate in industries characterized by rapidly changing technologies and business plans, which require them to adapt quickly to increasingly complex
cybersecurity requirements.

The technology underlying our solutions is particularly complex because it must effectively and efficiently identify and respond to new and
increasingly sophisticated threats while meeting other stringent technical requirements in areas of performance, usability, and availability. Although our
customers expect new solutions and enhancements to be rapidly introduced to respond to new cybersecurity threats, product development requires
significant investment, the efficacy of new technologies is inherently uncertain, and the timing for commercial release and availability of new solutions
and enhancements is uncertain. We may be unable to develop new technologies to keep pace with evolving threats or experience unanticipated delays in
the availability of new solutions, and therefore fail to meet customer expectations. If we fail to anticipate or address the evolving and rigorous needs of
our customers, or we do not respond quickly to shifting customer expectations or demands by developing and releasing new solutions or enhancements
that can respond effectively and efficiently to new cybersecurity threats on an ongoing and timely basis, our competitive position, business, and financial
results will be harmed.

The introduction of new products or services by competitors, market acceptance of products or services based on emerging or alternative
technologies, and the evolution of new standards, whether formalized or otherwise, could each render our existing solutions obsolete or make it easier
for other products or services to compete with our solutions. In addition, modern cyberattackers are skilled at adapting to new technologies and
developing new methods of breaching customers. For example, ransomware attacks have increased in frequency
and complexity, and the costs associated with successful ransomware attacks have increased. We must continuously work to ensure our solutions protect against the increased volume and complexity of the cybersecurity threat landscape. Changes in the nature of advanced cybersecurity threats could result in a shift in cybersecurity spending and preferences away from solutions such as ours. In addition, any changes in compliance standards or audit requirements applicable to or enterprise and government customers that deemphasize the types of controls, monitoring, and analysis that our solutions provide would adversely impact demand for our solutions. If our solutions are not viewed by our customers as necessary or effective in addressing their cybersecurity needs, then our revenues may not grow as quickly as expected, or may decline, and our business could suffer.

We cannot be sure that we will accurately predict how the cybersecurity markets in which we compete or intend to compete will evolve. Failure on our part to anticipate changes in our markets and to develop solutions and enhancements that meet the demands of those markets will significantly impair our business, financial condition, results of operations, and cash flows.

**We operate in a highly competitive environment, and we expect competitive pressures to increase in the future, which could cause us to lose market share.**

The markets for our solutions are highly competitive, and we expect both the requirements and pricing competition to increase, particularly given the increasingly sophisticated attacks, changing customer preferences and requirements, current economic pressures, and market consolidation. Competitive pressures in these markets may result in price reductions, reduced margins, loss of market share and inability to gain market share, and a decline in sales, any one of which could seriously impact our business, financial condition, results of operations, and cash flows.

In the consumer cybersecurity market, we face competition from players, such as NortonLifeLock, Avast/AVG, Kaspersky, Trend Micro, ESET, and Microsoft, which expanded from desktop anti-malware into mobile, security, VPN, and identity protection among others. At the same time we compete with point-tool providers, such as Cujo and Dojo in the home IoT space or AnchorFree, ExpressVPN, and ProtonVPN in the network security space, across our full consumer offering. In the enterprise cybersecurity market, we compete both with larger integration providers, such as Symantec (a division of Broadcom), Palo Alto Networks, Sophos, Microsoft, Trend Micro, and Sentinel One in the endpoint, networking, and CASB space, as well as with point solutions Cylance (a division of Blackberry) focusing on a subset of the cybersecurity market. These competitors include Crowdstrike, Carbon Black (a division of VMware), and Tanium in the endpoint market, Netskope, and Bitglass in the CASB market, IBM and Cisco in network intrusion, Forcepoint, and Zscaler in the SWG market, and IBM, Splunk, Micro Focus, Dell, and LogRhythm in the security operations market.

In addition to competing with these and other vendors directly for sales to end-users of our products, we compete with several of them for the opportunity to have our products bundled with the product offerings of our strategic partners, including computer hardware OEMs, ISPs, MSSPs, and other distribution partners. Our competitors could gain market segment share from us if any of these strategic partners replace our solutions with those of our competitors or if these partners more actively promote our competitors’ offerings than ours. In addition, vendors who have bundled our products with theirs may choose to bundle their products with their own or other vendors’ software or may limit our access to standard product interfaces and inhibit our ability to develop products for their platform. We also face competition from many smaller companies that specialize in particular segments of the markets in which we compete, including Crowdstrike, VMware, Netskope, and Zscaler. In the future, further product development by these providers could cause our products and services to become redundant or lose market segment share, which could significantly impact our sales and financial results.

We face growing competition from network equipment, computer hardware manufacturers, large operating system providers, telecommunication companies, and other large or diversified technology companies. Examples of large, diversified competitors include Microsoft, International Business Machines Corporation, and Dell Technologies. Large vendors of hardware or operating system software increasingly incorporate cybersecurity...
functionality into their products and services, and enhance that functionality either through internal development or through strategic alliances or acquisitions. Similarly, telecommunications providers are increasingly investing in the enhancement of the cybersecurity functionality in the devices and services they offer. Additionally, large cloud platforms, such as Amazon Web Services (“AWS”), Google Cloud and Microsoft Azure, may expand or commence providing native cybersecurity functionality directly on the platform such that our current and potential customers forego purchasing cybersecurity solutions from us. Certain of our current and potential competitors may have competitive advantages such as longer operating histories, more extensive international operations, larger product development and strategic acquisition budgets, and greater financial, technical, sales, and marketing resources than we do. Such competitors also may have well-established relationships with our current and potential customers and extensive knowledge of our industry and the markets in which we compete and intend to compete. As a result, such competitors may be able to respond more quickly to new or emerging technologies and changes in customer requirements, or to devote greater resources to the development, marketing, sale, and support of their products. These competitors have made strategic acquisitions or established cooperative relationships among themselves or with other providers, thereby increasing their ability to provide a broader suite of products, and potentially causing customers to decrease purchases of, or defer purchasing decisions with respect to, our products and services. Additionally, some or all of our solutions may rely upon access to certain hardware or software interfaces. These competitors may limit our access to such interfaces or may provide greater or earlier access available to others. These actions could adversely affect the operations of our products relative to competitors or render our solutions inoperative.

Cybersecurity protection is also offered by certain of our competitors at prices lower than our prices or, in some cases, free of charge. Other companies bundle their own or our competitors’ lower-priced or free cybersecurity products with their own computer hardware or software product offerings in a manner that discourages users from purchasing our products and subscriptions. Our competitive position could be adversely affected to the extent that our current or potential customers perceive these cybersecurity products as replacing the need for our products or if they render our solutions unmarketable—even if these competitive products are inferior or more limited than our products and services. The expansion of these competitive trends could have a significant negative impact on our sales and financial results by causing, among other things, price reductions of our products, reduced profitability, and loss of market share.

To compete successfully, we must continue to develop new solutions and enhance existing solutions, effectively adapt to changes in the technology or rights held by our competitors, respond to competitive strategies, and effectively adapt to technological changes within the consumer and enterprise markets. If we are unsuccessful in responding to our competitors, our competitive position and our financial results could be adversely affected.

Our business depends substantially on our ability to retain customers and to expand sales of our solutions to them. If we are unable to retain our customers or to expand our product offerings, our future results of operations will be harmed.

For us to maintain or improve our results of operations in a market that is rapidly evolving and places a premium on market-leading solutions, it is important that we retain existing customers and that our customers expand their use of our solutions. Our customers have no obligation to renew their contracts with us upon their expiration. Even if they do renew with us, customers may not renew with a similar contract period or with the same or a greater amount of committed revenue to us. Retention rates may decline or fluctuate as a result of a number of factors, including but not limited to the level of our customers’ satisfaction or dissatisfaction with our solutions, our prices and the prices of competing products or services, mergers and acquisitions affecting our customers, mergers and acquisitions by our competitors, the effects of global economic conditions, new technologies, changes in our customers’ spending levels, and changes in how our customers perceive the cybersecurity threats. In addition, a significant portion of our renewals in our Consumer segment come from autorenewal arrangements incorporated within our solutions. Furthermore, any changes in the laws regarding autorenewal arrangements could adversely affect our ability to retain consumer customers and harm our financial condition and operating performance.
In addition, our ability to generate revenue and maintain or improve our results of operations partly depends on our ability to increase sales of and cross-sell our solutions to our existing customers. We expect our ability to successfully increase sales of and cross-sell our solutions will be one of the most significant factors influencing our growth. We may not be successful in cross-selling our solutions because our customers may find our additional solutions unnecessary or unattractive. Our failure to sell additional solutions to our existing and new customers could adversely affect our ability to grow our business.

Over the last several years, we have pursued a variety of strategic initiatives designed to optimize and reinforce our cybersecurity platform. If the benefits of these initiatives are less than we anticipate, or if the realization of such benefits is delayed, our business and results of operations may be harmed.

Over the last several years, we have pursued a variety of strategic initiatives designed to optimize and reinforce our cybersecurity platform, including investing in new routes to market and partnerships, refining our go-to-market strategies for our Consumer and Enterprise businesses, rationalizing our Enterprise portfolio to reorient our focus and resources to products that align with our device-to-cloud strategy, and adding new capabilities and products through several strategic acquisitions. The anticipated benefits of these initiatives may not be fully realized, if at all, until future periods. For example, as we continue to execute on the reorientation of our Enterprise business and refine our Enterprise go-to-market strategy, we currently expect our Enterprise net revenue to continue to decline in the near term, and we expect the performance of our Consumer segment to continue to have a greater impact on our consolidated Company performance. However, if we do not achieve the anticipated benefits from these and our other strategic initiatives, or if the achievement of such anticipated benefits is delayed, the performance of our Enterprise and Consumer segments could be harmed, and our financial condition, results of operations, and cash flows may be adversely affected.

We rely significantly on third-party partners to facilitate the sale of our products and solutions.

We sell a significant portion of our solutions through third-party intermediaries such as affiliates, retailers, ecommerce, PC OEMs, and other distribution channel partners (we refer to them collectively as “channel partners”). Three of our largest channel partners are Ingram Micro Inc., Arrow Electronics, Inc., and Tech Data Corporation, and accounted for 15%, 9%, and 8% of our net revenue, respectively, for the fiscal year 2018, 15%, 7%, and 6% of our net revenue, respectively, for fiscal 2019, and 15%, 3%, and 5% of our net revenue, respectively, for the 26-week period ended June 27, 2020. Our agreements with these channel partners typically provide that each partner agrees to sell and distribute our products within certain territories for one year. These agreements are nonexclusive and are non-transferable by our partners, and they typically automatically renew unless terminated by either party after providing prior written notice. If we lost a significant channel partner or if a significant channel partner becomes insolvent, our results of operations could be harmed. Although we provide support to these channel partners through our direct sales and marketing activities, we depend upon these channel partners to generate sales opportunities and to independently manage the sales process for opportunities with which they are involved. In order to increase our revenue, we expect we will need to maintain our existing channel partners and continue to train and support them, as well as add new channel partners and effectively train, support, and integrate them with our sales process. Additionally, the introduction of new solutions and our entry into any new markets may require us to develop appropriate channel partners and to train them to sell effectively. If we are unsuccessful in these efforts, our ability to grow our business will be limited and our business, financial condition, results of operations, and cash flows will be adversely affected.

Sales by our channel partners may vary significantly from period to period. Our channel partners operations may also be negatively impacted by other effects the COVID-19 pandemic is having on the global economy, such as increased credit risk of end customers and the uncertain credit markets. Our agreements with our channel partners are generally nonexclusive and may be terminated at any time without cause. Furthermore, our channel partners frequently market and distribute competing products and may, from time to time, place greater emphasis on the sale of these products due to pricing, promotions, and other terms offered by our competitors. Some of our channel partners may also experience financial difficulties, which could adversely impact our collection of the
related accounts receivable. These factors can make it difficult for us to forecast our financial results accurately and can cause our financial results to fluctuate unpredictably.

While we require that our channel partners comply with applicable laws and regulations, they could engage in behavior or practices that expose us to legal or reputational risk. We could be subject to claims and liability as a result of the activities, products, or services of our channel partners. Even if these claims do not result in liability to us, investigating and defending these claims could be expensive, time consuming, and result in adverse publicity that could negatively affect our business, results of operations or financial condition.

If we fail to manage our growing distribution channels successfully, these channels may fail to perform as we anticipate, which could reduce our sales, increase our expenses, and weaken our reputation and competitive position.

If we fail to maintain relationships with our channel partners, or if we must agree to significant adverse changes in the terms of our agreements with these partners, it may have an adverse effect on our ability to successfully and profitably market and sell our products and solutions.

We have entered into contracts with our channel partners to market and sell our products and solutions. Most of these contracts are on a non-exclusive basis. However, under contracts with some of our channel partners, we may be bound by provisions that restrict our ability to market and sell our solutions to potential customers. Our arrangements with some of these channel partners involve negotiated payments to them based on percentages of revenues that they generate. If the payments prove to be too high, we may be unable to realize acceptable margins, but if the payments prove to be too low, the channel partners may not be motivated to market and sell our solutions and, thus, produce a sufficient volume of revenues for us. The success of these contractual arrangements will depend in part upon the channel partners' own competitive, marketing, and strategic considerations, including the relative advantages of using alternative solutions being developed and marketed by them or our competitors. If any of these channel partners are unsuccessful in marketing our solutions or seeks to amend the financial or other terms of the contracts that we have with them, we will need to broaden our marketing efforts to increase focus on the solutions such channel partners sell and alter our distribution strategy, which may divert our planned efforts and resources from, and cause delays regarding, other projects. In addition, as part of the packages these channel partners market and sell, they may offer a choice to their customers between solutions that we supply and similar solutions offered by our competitors or by the channel partners directly. If our solutions are not chosen for inclusion in these packages, the revenues we earn from our channel partner relationships may decrease.

A significant portion of our Consumer segment revenue is derived from sales through our PC OEM partners that bundle our products with their products. Our reliance on this sales channel is significantly affected by our partners' sales of new products into which our products or services are bundled. Our revenue from sales through our PC OEM partners is affected primarily by the number of personal computers on which our products are bundled, the geographic mix of their sales, and the rate at which consumers purchase or subscribe to the bundled products. Our PC OEM partners are also in a position to exert competitive pricing pressure. The rate at which consumers purchase or subscribe to the bundled products is affected by other factors, including other terms with the OEM. The continued decline in the PC market as the market shifts towards mobility has increased competition for PC OEMs' business and gives PC OEMs leverage to demand financial concessions from us in order to secure their business. These agreements require a significant commitment of resources and capital. There is no guarantee we will have sufficient resources to maintain these agreements or secure new PC OEM partners. Even if we negotiate what we believe are favorable terms when we first establish a relationship with a PC OEM, at the time of the renewal of the agreement, we may be required to renegotiate our agreement with them on less favorable terms. Lower net prices for our products or other financial concessions would adversely impact our financial results. Further, acquiring high numbers of Consumer customers through our PC OEM partner channel may adversely impact our profitability, as we may see lower average prices from higher mix of new customers and under the PC OEM agreements we may see higher partner related spending during the period of high PC demand and high customer acquisition, until such customers renew with us upon subscription expiration. Any adverse changes in our relationship with our channel partners could have an adverse effect on our business and financial results.
We may need to change our pricing models to compete successfully.

The intense competition we face in the cybersecurity market, in addition to general economic and business conditions (including the economic downturn resulting from the COVID-19 pandemic), can result in downward pressure on the prices of our solutions. If our competitors offer significant discounts on competing products or services, or develop products or services that our customers believe are more valuable or cost-effective, we may be required to decrease our prices or offer other sales incentives in order to compete successfully. Additionally, if we increase prices for our solutions, demand for our solutions could decline as customers adopt less expensive competing products and our market share could suffer. If we do not adapt our pricing models to reflect changes in customer use of our products or changes in customer demand, our revenues could decrease.

Additionally, our business may be affected by changes in the macroeconomic environment. In addition, a weakening of economic conditions or significant uncertainty regarding the stability of financial markets could adversely impact our business, financial condition, results of operations, and cash flows, especially in the event of a prolonged economic downturn or a worsening of current conditions as a result of the COVID-19 pandemic. Impacts could include longer sales cycles, pressure to lower prices for our solutions or to delay or reduce any future price increase, extended billing or payment terms, decreased renewal rates, a reduction in the rate of adoption of our solutions by new customers, and a lower rate of current customers purchasing upgrades. Customers also may change the way in which they pay for solutions, such as buying solutions based upon consumption, which could require us to change our pricing model for some or all of our solutions, thereby reducing or delaying revenue. Finally, the increasing prevalence of cloud-based solutions and emerging security delivery models may unfavorably impact pricing in both our solutions that are not deployed via the cloud, which could reduce our revenues and profitability.

Any broad-based change to our pricing strategy could cause our revenues to decline or could delay future sales as our sales force implements and our customers adjust to the new pricing terms. We or our competitors may bundle products for promotional purposes or as a long-term go-to-market or pricing strategy or provide price guarantees to certain customers as part of our overall sales strategy. These practices could, over time, significantly limit our flexibility to change prices for existing solutions and to establish prices for new or enhanced products and services. Any such changes could reduce our margins and adversely affect our results of operations.

If our solutions have or are perceived to have defects, errors, or vulnerabilities, or if our solutions fail or are perceived to fail to detect, prevent, or block cyberattacks, including in circumstances where customers may fail to take action on attacks identified by our solutions, our reputation and our brand could suffer, which would adversely impact our business, financial condition, results of operations, and cash flows. Many of our solutions are complex and may contain design defects, vulnerabilities, or errors that are not detected before their commercial release. Our solutions also provide our customers with the ability to customize a multitude of settings, and it is possible that a customer could misconfigure our solutions or otherwise fail to configure our solutions in an optimal manner. Such defects, errors, and misconfigurations of our solutions could cause our solutions to be vulnerable to cybersecurity attacks, cause them to fail to perform the intended operation, or temporarily interrupt the operations of our customers. In addition, since the techniques used by adversaries change frequently and generally are not recognized until widely applied, there is a risk that our solutions would not be able to address certain attacks. Moreover, our solutions and infrastructure technology systems could be targeted by bad actors and attacks specifically designed to disrupt our business and undermine the perception that our solutions are capable of providing their intended benefits, which, in turn, could have a serious impact on our reputation. The risk of a cybersecurity attack has increased during the current COVID-19 pandemic as more individuals are working from home and utilizing home networks for the transmission of sensitive information. Any cybersecurity vulnerability or perceived cybersecurity vulnerability of our solutions or systems could adversely affect our business, financial condition, results of operations, and cash flows.
Changing, updating, enhancing, and creating new versions of our solutions may cause errors or performance problems in our products and solutions, despite testing and quality control. We cannot be certain that defects, errors, or vulnerabilities will not be found in any such changes, updates, enhancements, or new versions, especially when first introduced. Even if new or modified solutions do not have such problems, the solutions may have difficulties in installing, we may have difficulty providing any necessary training and support to customers, and our customers may not follow our guidance on appropriate training, support, and implementation for such new or modified solutions. In addition, changes in our technology may not provide the additional functionality or other benefits that were expected. Implementation of changes in our technology also may cost more or take longer than originally expected and may require more testing than initially anticipated. While new solutions are generally tested before they are used in production, we cannot be sure that the testing will uncover all problems that may occur in actual use.

If any of our customers are affected by a cybersecurity attack (such as becoming infected with malware) while using our solutions, such customers could be disappointed with our solutions or perceive that our solutions failed to perform their intended purpose, regardless of whether our solutions operated correctly, blocked, or detected the attack or would have blocked or detected the attack if configured properly. If any of our customers experience a security breach, such customers and the general public may believe that our solutions failed. Furthermore, if any customer publicly known to use any of our solutions is the subject of a cyberattack that becomes publicized, our other current or potential customers may choose to purchase alternative solutions from our competitors, or supplement our solution with our competitors’ products. Real or perceived security breaches of our customers could cause disruption or damage or other negative consequences and could result in negative publicity about us, reduced sales, damage to our reputation and competitive position, increased expenses, and customer relations problems.

Furthermore, our solutions may fail to detect or prevent malware, viruses, worms, or similar threats for any number of reasons, including our failure to enhance and expand our solutions to reflect market trends and new attack methods, new technologies and new operating environments, the complexity of our customers’ environment and the sophistication and coordination of threat actors launching malware, ransomware, viruses, intrusion devices, and other threats. In addition, from time to time, firms test our solutions against other security products and services. Our solutions may fail to detect or prevent threats in any particular test for a number of reasons, including misconfiguration. To the extent potential customers, industry analysts, or testing firms believe that the occurrence of a failure of our solutions to detect or prevent any particular threat is a flaw or indicates that our solutions do not provide significant value or are inferior to competing solutions, our reputation and business could be harmed. Failure to keep pace with technological changes in the cybersecurity industry and changes in the threat landscape could also adversely affect our ability to protect against security breaches and could cause us to lose customers.

We may also incur significant costs and operational consequences of investigating, remediating, eliminating, and putting in place additional tools and devices designed to prevent actual or perceived security breaches and other incidents, as well as the costs to comply with any notification obligations resulting from any security incidents.

Failure to adapt our product and service offerings to changing customer demands, or lack of customer acceptance of new or enhanced solutions, could harm our business and financial results.

Our success depends on developing new solutions and enhancing existing solutions to reflect market trends, new technologies, and new operating environments, and the rapidly evolving needs of our customers. For example, we must continue to expand our cybersecurity solutions to address the increasingly broad range of mobile devices, continuing growth in remote access to enterprises, and the proliferation of IP-connected embedded systems and devices, the “Internet of Things,” and the continued growth of hybrid, virtual and cloud-based environments. We also must continue to develop new and enhanced solutions capable of protecting against emerging technologies as they are being released and adopted by our customers. Our failure to continually
innovate and produce new and refreshed solutions to satisfy customers changing preferences, maintain compatibility with evolving operating systems, and effectively compete with other market offerings in a timely and cost-effective manner may harm our ability to renew contracts with existing customers and to create or increase demand for our solutions, which may adversely impact our results of operations. We must also continuously work to ensure that our products and services meet changing industry certifications and standards. We may invest in complementary or competitive businesses, products, or technologies to help us keep pace with market changes, but these investments may not result in products that are important to our customers or we may not realize the benefits of these investments.

Our future financial results will depend in part on whether our new or updated products and solutions receive sufficient customer acceptance. Achieving market acceptance for new or updated solutions is likely to require substantial marketing efforts and expenditure of significant funds to create awareness and demand by customers. In addition, deployment of new or updated solutions may require the use of additional resources for training our existing direct sales force and customer service personnel and for hiring and training additional salespersons and customer service personnel. Failure to achieve broad penetration in target markets with respect to new or updated solutions could have an adverse impact on our business, results of operations, or financial condition.

Our investments in new or enhanced solutions may not yield the benefits we anticipate.

The success of our business depends on our ability to develop new technologies and solutions, to anticipate future customer requirements and applicable industry standards, and to respond to the changing needs of our customers, competitive technological developments, and industry changes. Within our consumer business, we are presently investing in cybersecurity solutions to protect consumers’ PC and mobile devices, identity, privacy, family safety, web browsing, IoT, and smart home devices. For our enterprise customers, we are investing in developing a cybersecurity platform that addresses the entire threat defense life cycle, with solutions spanning endpoint security, cloud security, network security, and data and content protection, with unified management, threat intelligence, analytics and automation. We intend to continue to invest in these cybersecurity solutions by adding personnel and other resources to our business. We will likely recognize costs associated with these investments earlier than the anticipated benefits. If we do not achieve the anticipated benefits from these investments, or if the achievement of these benefits is delayed, our business, financial condition, results of operations, and cash flows may be adversely affected.

The process of developing new technologies is time consuming, complex, and uncertain, and requires the commitment of significant resources well in advance of being able to fully determine market requirements and industry standards. Furthermore, we may not be able to timely execute new technical product or solution initiatives for a variety of reasons such as errors in planning or timing, technical difficulties that we cannot timely resolve, or a lack of appropriate resources. Complex solutions like ours may contain undetected errors or compatibility problems, particularly when first released, which could delay or adversely impact market acceptance. We may also experience delays or unforeseen costs related to integrating products we acquire with products we develop, because we may be unfamiliar with errors or compatibility issues of products we did not develop ourselves. Any of these development challenges, or the failure to appropriately adjust our go-to-market strategy to accommodate new offerings, may result in delays in the commercial release of new solutions or may cause us to terminate development of new solutions prior to commercial release. Any such challenges could result in competitors bringing products or services to market before we do and a related decrease in our market segment share and net revenue. Our inability to introduce new solutions and enhancements in a timely and cost-effective manner, or the failure of these new solutions or enhancements to achieve market acceptance and comply with industry standards and governmental regulation, could seriously harm our business, financial condition, results of operations, and cash flows.
A portion of our revenue is generated by sales to government entities, which are subject to a number of uncertainties, challenges, and risks.

We currently sell many of our solutions to various government entities, and we may in the future increase sales to government entities. Sales to government entities are subject to a number of risks. Selling to government entities can be highly competitive, expensive, and time consuming, often requiring significant upfront time and expense without any assurance that we will complete a sale. In the event that we are successful in being awarded a government contract, such award may be subject to appeals, disputes, or litigation, including, but not limited to, bid protests by unsuccessful bidders. Government demand and payment for our solutions may be impacted by public sector budgetary cycles and funding authorizations, with funding reductions or delays adversely affecting public sector demand for our solutions. The majority of our sales to government agencies are completed through our network of channel partners, and government entities may have statutory, contractual, or other legal rights to terminate contracts with our channel partners for convenience or due to a default. For purchases by the U.S. federal government, the government may require certain products to be manufactured in the United States and other high cost manufacturing locations, and we may not manufacture all products in locations that meet government requirements, and as a result, our business and results of operations may suffer. Contracts with governmental entities may also include preferential pricing terms, including, but not limited to, “most favored customer” pricing. Additionally, we may be required to obtain special certifications to sell some or all of our solutions to government or quasi-government entities. Such certification requirements for our solutions may change, thereby restricting our ability to sell into the federal government sector until we have attained the revised certification. If our products and subscriptions are late in achieving or fail to achieve compliance with these certifications and standards, or our competitors achieve compliance with these certifications and standards, we may be disqualified from selling our products and subscriptions to such governmental entities, or be at a competitive disadvantage, which would harm our business, results of operations, and financial condition. There are no assurances that we will find the terms for obtaining such certifications to be acceptable or that we will be successful in obtaining or maintaining the certifications.

As a government contractor or subcontractor, we must comply with laws, regulations, and contractual provisions relating to the formation, administration, and performance of government contracts and inclusion on government contract vehicles, which affect how we and our partners do business with government agencies. As a result of actual or perceived noncompliance with government contracting laws, regulations, or contractual provisions, we may be subject to non-ordinary course audits and internal investigations which may prove costly to our business financially, divert management time, or limit our ability to continue selling our products and services to our government customers. These laws and regulations may impose other added costs on our business, and failure to comply with these or other applicable regulations and requirements, including non-compliance in the past, could lead to claims for damages from our channel partners, downward contract price adjustments or refund obligations, civil or criminal penalties, and termination of contracts and suspension or debarment from government contracting for a period of time with government agencies. Any such damages, penalties, disruption, or limitation in our ability to do business with a government would adversely impact, and could have a material adverse effect on, our business, results of operations, financial condition, public perception, and growth prospects.

Our business could be adversely affected if our employees cannot obtain and maintain required security clearances or we cannot maintain a required facility security clearance, or we do not comply with legal and regulatory obligations regarding the safeguarding of classified information.

A significant percentage of our U.S. government contract revenue is derived from contracts that require our employees to maintain various levels of security clearances, and may require us to maintain a facility security clearance, to comply with Department of Defense (“DoD”) requirements. The DoD has strict security clearance requirements for personnel who perform work in support of classified programs. In general, access to classified information, technology, facilities, or programs are subject to additional contract oversight and potential liability. In the event of a security incident involving classified information, technology, facilities, programs, or personnel
holding clearances, we may be subject to legal, financial, operational, and reputational harm. We are limited in our ability to provide specific information about these classified programs, their risks, or any disputes or claims relating to such programs. As a result, investors have less insight into our classified programs than our other businesses and therefore less ability to fully evaluate the risks related to our classified business or our business overall.

Obtaining and maintaining security clearances for employees involves a lengthy process, and it is difficult to identify, recruit, and retain employees who already hold security clearances. If our employees are unable to obtain security clearances in a timely manner, or at all, or if our employees who hold security clearances are unable to maintain their clearances or terminate employment with us, then a customer requiring classified work could terminate an existing contract or decide not to renew the contract upon its expiration. To the extent we are not able to obtain or maintain a facility security clearance, we may not be able to bid on or win new classified contracts, and existing contracts requiring a facility security clearance could be terminated.

If we are unable to attract, train, motivate, and retain senior management and other qualified personnel, our business could suffer.

Our success depends in large part on our ability to attract and retain senior management personnel, as well as technically qualified and highly skilled sales, consulting, technical, finance, and marketing personnel. It could be difficult, time consuming, and expensive to identify, recruit, and onboard any key management member or other critical personnel. Competition for highly skilled personnel is often intense, particularly in the markets in which we operate including Silicon Valley. If we are unable to attract and retain qualified individuals, our ability to compete in the markets for our products could be adversely affected, which would have a negative impact on our business and financial results. Our competitors may be successful in recruiting and hiring members of our management team or other key employees, including key employees obtained through our acquisitions, and it may be difficult for us to find suitable replacements on a timely basis, on competitive terms or at all.

Changes in management or other critical personnel may be disruptive to our business and might also result in our loss of unique skills, loss of knowledge about our business, and may result in the departure of other existing employees, customers or partners. We have experienced recent turnover in our senior management team, and further turnover in the future could adversely affect our business.

We operate in an industry with an overall shortage of skilled and experienced talent that generally experiences high employee attrition. We have experienced significant turnover over the last few years and expect that may continue. The loss of one or more of our key employees could seriously harm our business. If we are unable to attract, integrate, or retain the qualified and highly skilled personnel required to fulfill our current or future needs, our business, financial condition, results of operations, and cash flows could be harmed.

Effective succession planning is also important to the long-term success of our business. If we fail to ensure effective transfer of knowledge and smooth transitions involving key employees could hinder our strategic planning and execution. The loss of senior management or any ineffective transitions in management, especially in our sales organization, could significantly delay or prevent the achievement of our development and strategic objectives, which could adversely affect our business, financial condition, results of operations, and cash flows.

If our security measures are breached or unauthorized access to our data is otherwise obtained, our brand, reputation, and business could be harmed, and we may incur significant liabilities.

As a cybersecurity leader, we are a high-profile target for data breaches, cyberattacks, and other intentional disruptions of our systems and our solutions. Our networks and solutions may have vulnerabilities that may be targeted by hackers and could be targeted by attacks specifically designed to disrupt our business, access our network, source code or other data, and harm our reputation. Similarly, experienced computer programmers or other sophisticated individuals or entities, including malicious hackers, state-sponsored organizations, criminal
networks, and insider threats including actions by employees and third-party service providers, may attempt to penetrate our network security or the security of our systems and websites, and misappropriate proprietary information or cause interruptions of our solutions, including the operation of the global civilian cyber intelligence threat network. This risk has increased during the current COVID-19 pandemic as more individuals are working from home and utilizing home networks for the transmission of sensitive information. The techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems change frequently, often are not recognized until launched against a target, and may originate from less regulated or remote areas around the world. As a result, we may be unable to proactively prevent these techniques, implement adequate preventative or reactionary measures, react to or address any attack or incident in a timely manner or enforce the laws and regulations that govern such activities. Such attacks may go undetected for a period of time complicating our ability to respond effectively. In addition, it is possible that hardware failures, human errors (including being subject to phishing attacks, social engineering techniques, or similar methods) or errors in our systems could result in data loss or corruption, or cause the information that we collect to be incomplete or contain inaccuracies. We may not be able to correct any security flaws or vulnerabilities promptly, or at all. A breach of our network security and systems or other events that cause the loss or public disclosure of, or access by third parties to, our systems or data that we maintain or process, or the perception that any of these have occurred, could have serious negative consequences for our business, including possible fines, penalties and damages, reduced demand for our solutions, an unwillingness of our customers to use our solutions, harm to our brand and reputation, and time consuming and expensive litigation. In addition, such a security breach could impair our ability to operate our business, including our ability to provide subscription and support services to our customers. Additionally, our service providers may suffer or be perceived to suffer, data security breaches or other incidents that may compromise data stored or processed for us that may give rise to any of the foregoing. Any of these negative outcomes could adversely impact our business and results of operations.

Furthermore, while our errors and omissions insurance policies include liability coverage for certain of these matters, if we experience a widespread security breach or other incident, we could be subject to indemnity claims or other damages that exceed our insurance coverage. We also cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, including our financial condition, results of operations, and reputation.

**We operate globally and are subject to significant business, economic, regulatory, social, political, and other risks in many jurisdictions.**

Global or regional conditions may harm our financial results. We have operations in many countries and our business activities are concentrated in certain geographic areas including without limitation the Asia Pacific (“APAC”), Europe, Middle-East, and Africa (“EMEA”), and Latin American Region (“LAR”) regions. We derived 46.6% of our net revenue from international customers for fiscal 2019. As a result, our domestic and international operations and our financial results may be adversely affected by a number of factors outside of our control, including:

- global and local economic conditions;
- differing employment practices and labor issues;
- formal or informal imposition of new or revised export and/or import and doing-business regulations, including trade sanctions, taxes, and tariffs, which could be changed without notice;
- regulations or restrictions on the use, import, or export of encryption technologies that could delay or prevent the acceptance and use of encryption products and public networks for secure communications;
• compliance with evolving foreign laws, regulations, and other government controls addressing privacy, data protection, data localization, and data security;
• ineffective legal protection of our intellectual property rights in certain countries;
• increased uncertainties regarding social, political, immigration, and trade policies in the United States and abroad, such as those caused by recent U.S. legislation and the withdrawal of the United Kingdom (the "U.K.") from the European Union (the "E.U."), which is commonly referred to as "Brexit;"
• geopolitical and security issues, such as armed conflict and civil or military unrest, crime, political instability, human rights concerns, and terrorist activity;
• natural disasters, public health issues, pandemics (such as the COVID-19 pandemic), and other catastrophic events;
• inefficient infrastructure and other disruptions, such as supply chain interruptions and large-scale outages or unreliable provision of services from utilities, transportation, data hosting, or telecommunications providers;
• other government restrictions on, or nationalization of, our operations in any country, or restrictions on our ability to repatriate earnings from a particular country;
• seasonal reductions in business activity in the summer months in Europe and in other periods in other countries;
• costs and delays associated with developing software and providing support in multiple languages;
• greater difficulty in identifying, attracting, and retaining local qualified personnel, and the costs and expenses associated with such activities;
• longer payment cycles and greater difficulties in collecting accounts receivable; and
• local business and cultural factors that differ from our normal standards and practices, including business practices that we are prohibited from engaging in by U.S. Foreign Corrupt Practices Act of 1977 ("FCPA") and other anti-corruption laws and regulations.

Research and development risks. We employ engineers in a number of jurisdictions outside the United States. In many of these jurisdictions the laws relating to the protection of rights in technology and intellectual property are less strict than the laws in the United States or not enforced to the same extent as they are enforced in the United States. As a result, in some foreign jurisdictions we may be subject to heightened attempts to gain unauthorized access to our information technology systems or surreptitiously introduce software into our products. These attempts may be the result of hackers or others seeking to harm us, our products, or our customers. We have implemented various measures to manage our risks related to these disruptions, but these measures may be insufficient, and a system failure or security breach could negatively impact our business, financial condition, results of operations, and cash flows. The theft or unauthorized use or publication of our trade secrets and other confidential or proprietary business information as a result of such an incident could negatively impact our competitive position. In addition, we may incur additional costs to remedy the damages caused by these disruptions or security breaches.

Other operating risks. Additional risks of international business operations include the increased costs of establishing, managing, and coordinating the activities of geographically dispersed and culturally diverse operations (particularly sales and support and shared service centers) located on multiple continents in a wide range of time zones.

If we are unable to increase sales of our solutions to new customers, our future results of operations may be harmed.

An important part of our growth strategy involves continued investment in direct marketing efforts, channel partner relationships, our sales force, and infrastructure to add new customers. The number and rate at which new
customers may purchase our products and services depends on a number of factors, including those outside of our control, such as customers’ perceived need for our solutions, competition, general economic conditions, market transitions, product obsolescence, technological change, shifts in buying patterns, the timing and duration of hardware refresh cycles, financial difficulties and budget constraints of our current and potential customers, public awareness of security threats to IT systems, and other factors. These new customers, if any, may renew their contracts with us and purchase additional solutions at lower rates than we have experienced in the past, which could affect our financial results.

**Our ability to maintain customer satisfaction depends in part on the quality of our technical support services, and increased demands on those services may adversely affect our relationships with our customers and negatively impact our financial results.**

We offer technical support services with many of our solutions. We may be unable to respond quickly enough to accommodate short-term increases in customer demand for support services. We also may be unable to modify the format of our support services to compete with changes in support services provided by competitors or to successfully integrate support for our customers. Further customer demand for these services, without corresponding revenue, could increase costs and adversely affect our results of operations.

We have outsourced a substantial portion of our worldwide consumer support functions to third-party service providers. If these companies encounter financial difficulties, experience service disruptions, do not maintain sufficiently skilled workers and resources to satisfy our contracts or otherwise fail to perform at an acceptable level under these contracts, the level of support services to our customers may be significantly disrupted, which could materially harm our relationships with these customers.

**We derive revenue from the sale of security products, subscriptions, support and maintenance, professional services, or a combination of these items, which may decline. Certain of this revenue is recognized either over the technology-constrained life or over the term of the relevant service period. Therefore, downturns or upturns in these sales will not be immediately reflected in full in our results of operations.**

Our sales may decline and fluctuate as a result of a number of factors, including our customers’ level of satisfaction with our products and services, the prices of our products and services offered by our competitors, reductions in our customers’ spending levels, and other factors beyond our control. If our sales decline, our revenue and revenue growth may decline, and our business will suffer. We recognize revenue as control of the goods and services is transferred to our customer. For certain of our software licenses or hardware, this control is transferred over time with revenue recognized over the term of the technology constrained customer life, generally four to five years, or over the applicable contract term. These contracts typically have terms of one to three years. As a result, a majority of revenue we report each quarter is the recognition of deferred revenue from contracts entered into during previous quarters. Consequently, a decline in sales in any single quarter will not be fully or immediately reflected in revenue in that quarter but will continue to negatively affect our revenue in future quarters. Accordingly, the effect of significant downturns in sales is not reflected in full in our results of operations until future periods. Furthermore, it is difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from the majority of contracts must be recognized over the applicable future time period. Finally, any increase in the average term of these contracts or technology constrained life of our customers would result in revenue for such contracts being recognized over longer periods of time.

**The sudden and significant economic downturn or volatility in the economy in the United States and our other major markets could have a material adverse impact on our business, financial condition, results of operations, or cash flows.**

We operate globally and as a result our business and revenues are impacted by global macroeconomic conditions. In recent periods, investor and customer concerns about the global economic outlook, which have
significantly increased as a result of the COVID-19 pandemic, have adversely affected market and business conditions in general. In addition, a weakening of economic conditions could lead to reductions in demand for our solutions. Weakened economic conditions or a recession could reduce the amounts that customers are willing or able to spend on our products and solutions, particularly the customers of our Consumer segment, and could make it more difficult for us to compete against less expensive and free products for new customers. In addition, our business could be negatively impacted by increased competitive pricing pressure and a decline in our customers’ creditworthiness, which could result in us incurring increased bad debt expense. Additionally, in the United States and other parts of the world, volatile or uncertain economic conditions could lead customers to not expand, terminate, or not renew existing contracts with us, or not enter into new contracts with us. Furthermore, a high percentage of our expenses, including those related to overhead, research and development, sales and marketing, and general and administrative functions are generally fixed in nature in the short term. If we are not able to timely and appropriately adapt to changes resulting from a weak economic environment, it could have an adverse impact on our business, financial condition, results of operations, and cash flows.

*If our continued investment in the development and expansion of our cloud-based solutions is not successful, or if the cloud security market does not evolve as we anticipate, our ability to grow our business and results of operations may be harmed.*

Consumers and enterprise customers increasingly demand cloud-based solutions for their cybersecurity needs. As the market for cloud-based offerings grows, pricing and delivery models are evolving, and our competitors are rapidly developing and deploying cloud-based products and services to address these demands. We are investing significant resources in the development, acquisition, and expansion of our portfolio of cloud-based solutions, such as our MVISION Cloud, Cloud Workload Security, and Virtual Network Security Platform offerings. We expect to continue this investment, which may include increased internal research and development, strategic acquisitions, equipment purchases, and long-term leases or service agreements associated with acquiring space for the data centers that support such cloud-based solutions. We cannot be certain that we will be successful in growing sales of our cloud-based solutions or generate sufficient revenue to recoup these investments.

Moreover, growing our cloud-based solutions may require us to make operational and strategic shifts to our business model and expend significant resources in building the operational infrastructure necessary to support our cloud-based offerings. We may also be required to make adjustments to our sales infrastructure and compensation models and our go-to-market strategies in order to successfully compete in this market. Certain competitors that focus primarily or exclusively on cloud-based offerings, including smaller or emerging companies, may have a competitive advantage in the cloud-based security market due to their ability to devote resources to these products without the need to continue to support a broader suite of cybersecurity solutions. We cannot be certain that we will be able to compete successfully with competitors in the cloud security market.

The success of our investments in our cloud-based solutions will also depend to a significant extent on the continued growth in the market for cloud-based products and services that address consumer and enterprise security needs. The market for cloud-based security solutions is at an early stage, and it is difficult to predict important market trends, including the potential growth, if any, of the market for these solutions. To date, some organizations have been reluctant to use cloud-based solutions because they have concerns regarding the risks associated with the reliability or security of the delivery model associated with these solutions. If other cloud-based service providers experience or are perceived to have experienced security incidents, loss of customer data, disruptions in service delivery, or other problems, the market for cloud-based solutions as a whole, including our cloud-based offerings, may be negatively impacted. If the demand for our cloud-based offerings does not continue to grow for any of the reasons discussed above, our business, results of operations, and financial condition may be harmed.
If our sales force is unable to maintain its sales productivity, sales of our solutions, and the growth of our business and financial performance could be adversely affected.

We are substantially dependent on our sales force to obtain new enterprise customers, increase sales to existing enterprise customers, and retain current enterprise customers. There is significant competition for sales personnel with the skills and technical knowledge that we require. The growth of our business will depend on our success in recruiting, training, and retaining sufficient numbers of sales personnel to support our growth. Any failure to hire, train, and adequately incentivize our sales personnel to reach target productivity levels could negatively impact our growth and operating margins. In addition, new hires require significant training and may require a lengthy onboarding process before they achieve full productivity. Our recent hires and planned hires may not become productive as quickly as we expect, and we may be unable to hire or retain sufficient numbers of qualified individuals in the markets where we do business or plan to do business. If we are unable to recruit, train, and retain a sufficient number of productive sales personnel, sales of our solutions, and the growth of our business could be harmed.

If our solutions do not interoperate with our customers’ existing systems and devices in a manner which our customers expect, sales of our solutions could be adversely affected.

Our solutions must interoperate with our customers’ existing information technology systems, which often incorporate numerous products from third-party vendors. For example, our solutions must be compatible with new or otherwise evolving operating systems, Internet browsers, and hardware, while remaining compatible with existing and established operating systems, browsers, and hardware. Our products must interoperate with many or all of the products within our customers’ systems and devices in order to meet our customers’ requirements. This interoperability requires us to devote significant resources to ongoing product development and testing to maintain and improve the compatibility of our solutions and their performance within our customers’ systems.

Many of our enterprise customers’ systems also contain multiple generations of products that have been added over time as these systems have grown and evolved. These customers also have unique specifications, rapidly evolve, and utilize multiple protocol standards. They may also implement proprietary encryption protocols that our products are initially unable to recognize, decrypt, or otherwise manage. If we are unable to successfully manage and interpret new protocol standards and versions, if we encounter problematic network configurations or settings, or if we encounter proprietary encryption protocols, we may have to modify our solutions so that they interoperate with the information technology systems of our customers and operate effectively. It may be necessary for us to obtain a license to implement proprietary encryption or other protocols, and there can be no assurance that we will be able to obtain such a license.

In addition, certain of our competitors may take steps to limit the interoperability of our solutions with their own products and services. Operating system, Internet browser, and other adjacent IT providers may also develop or incorporate competitive security offerings into their products and may seek to limit the interoperability with those products. Consequently, we may suffer delays in the development of our solutions or our solutions may be unable to operate effectively. This could result in decreased demand for our solutions, decreased revenue, harm our reputation, and adversely affect our business, financial condition, results of operations, and cash flows.

Our solutions operate in a wide range of complex customer systems, networks, and configurations, which could result in product errors or bugs.

Due to the complexity of our solutions, and of the customer environments in which they are installed and operated, undetected errors, failures, or bugs may occur. This risk is heightened when products are first deployed or when new or updated versions are released. Our solutions are installed and used in computing environments with different operating systems, system management software, and equipment and networking configurations, which make pre-release testing of new or updated solutions for programming or compatibility errors challenging.
Errors, failures, or bugs may not be found in new or updated products until after they are released into the market. In the past, we have discovered errors, failures, and bugs in certain of our product offerings after their release and, in some cases, have experienced delayed or lost revenues as a result of these errors. For example, certain product updates have contained errors that caused them to falsely detect viruses or computer threats that did not actually exist or cause compatibility issues with certain customer networks. These defects can damage or impair the affected customer and may cause affected devices and systems to temporarily slow or even shut down. Any such errors, failures, or bugs in products released by us could result in negative publicity, damage to our brand, loss of or delay in market acceptance of our solutions, loss of competitive position, or litigation or other claims initiated by customers or others. Addressing any such problems in the future could require significant expenditures and could cause interruptions or delays in the operation or availability of our solutions, which could cause us to lose existing or potential customers and could adversely affect our results of operations.

We have lengthy sales cycles for some of our solutions for enterprises and governments, including renewal sales, which may result in delays in, or an inability to generate, revenues from these solutions.

Some of our solutions for enterprises and governments have long sales cycles, which could range from a few months to multiple years from initial contact with the customer to completion of implementation. How and when to implement, replace, or expand a cybersecurity system, or modify or add business processes, are important decisions for our customers, and some may be reluctant to change or modify existing procedures. Sales may be subject to delays due to customers’ internal procedures for deploying new technologies and processes, and implementation may be subject to delays based on the availability of internal customer resources or external support professionals needed. We may be unable to control many of the factors that will influence the timing of the buying decisions of customers and potential customers or the pace at which installation and training may occur, including any decision by our customers to delay or cancel implementation. If we experience longer sales, installation, and implementation cycles for our solutions, we may experience delays in generating, or a decreased ability to generate, revenue from these solutions, and may experience reduced renewals, which could adversely impact on our financial results.

We rely on payment cards to receive payments and are subject to payment-related risks.

We accept a variety of payment methods, including credit cards and debit cards, as payment for certain of our consumer solutions. Accordingly, we are, and will continue to be, subject to significant and evolving regulations and compliance requirements relating to payment card processing. This includes laws governing the collection, processing and storage of sensitive consumer information, as well as industry requirements such as the Payment Card Industry Data Security Standard ("PCI-DSS"). These laws and obligations may require us to implement enhanced authentication and payment processes that could result in increased costs and liability, and reduce the ease of use of certain payment methods. For certain payment methods, including credit and debit cards, we pay interchange and other fees, which may increase over time. We are also subject to payment card association operating rules and agreements, including PCI-DSS, certification requirements, and rules governing electronic funds transfers, which could change or be reinterpreted to make it difficult or impossible for us to comply. If we fail to comply with these rules or requirements, or if our data security systems are breached or compromised, we may be liable for losses incurred by card issuing banks or consumers, subject to fines and higher transaction fees, lose our ability to accept credit or debit card payments from our consumers, or process electronic fund transfers or facilitate other types of payments. Any failure to comply with these requirements could significantly harm our brand, reputation, business, and results of operations.

We face risks related to enterprise customer outsourcing to system integrators and similar service providers.

Some of our enterprise customers have outsourced some or all of the management of their information technology departments to large system integrators. Some customers have also outsourced portions of their cybersecurity operations to MSSPs. If this trend continues, our established customer relationships could be
We face risks associated with past and future investments, acquisitions, and other strategic transactions.

We may buy or make investments in complementary or competitive companies, products, and technologies, sell strategic businesses or other assets, or engage in other strategic transactions. For example, in fiscal 2018 we bolstered our consumer VPN offering through our acquisition of TunnelBear and expanded our investment in our cloud-based solutions through our acquisition of Skyhigh Networks. In fiscal 2019, we acquired Nanosec and Uplevel, and in the first half of fiscal 2020, we acquired Light Point Security, all to enhance certain of our enterprise product offerings. The consideration exchanged for an acquisition may be greater than the value we realize from the transaction. In addition, we and our Sponsors periodically evaluate our capital structure and strategic alternatives with advisors and other third parties in an effort to maximize value for our stockholders, including in the lead up to and through this offering. We cannot be certain when or if any of the discussions we have will lead to a proposal that we may find attractive, including with respect to the refinancing or repricing of some or all of our indebtedness, the sale of some or a significant portion of our assets, or other similar significant transactions. Whether in connection with such events or otherwise, we may also take other actions that impact our balance sheet and capital structure, including the payment of special dividends, the increase or decrease of regular dividends, repayment of debt, repurchases of our equity through privately negotiated transactions, as part of a tender offer, in the open market and/or through a share repurchase plan, including an accelerated share repurchase plan, or any other means permitted by law. In some cases these transactions could be with, or disproportionately benefit, one or more of our significant stockholders.

Future transactions could result in significant transactions-related charges, acceleration of some or all payments under our tax receivable agreement, disparate tax treatment for our stockholders, distraction for our management team, and potential dilution to our equity holders. In addition, we face a number of risks relating to such transactions, including the following, any of which could harm our ability to achieve the anticipated benefits of our past or future strategic transactions.

Technology and market risk. Cybersecurity technology is particularly complex because it must effectively and efficiently identify and respond to new and increasingly sophisticated threats while meeting other stringent technical requirements in areas of performance, usability, availability, and others. Our investments and acquisitions carry inherent uncertainty as to the efficacy of our technology roadmap. The decisions we make regarding customer requirements, market trends, market segments, and technologies may not be correct and we may not achieve the anticipated benefits of these transactions.

Integration or separation. Integration of an acquired company or technology is a complex, time consuming, and expensive process. The successful integration of an acquisition requires, among other things, that we integrate and retain key management, sales, research and development, and other personnel; integrate or separate the acquired products into or from our product offerings from both an engineering and sales and marketing perspective; integrate and support, or separate from, existing suppliers, distribution, and customer relationships; coordinate research and development efforts; and potentially consolidate, or prepare standalone, facilities and functions and back-office accounting, order processing, and other functions. If we do not successfully integrate an acquired company or technology, we may not achieve the anticipated benefits.

The geographic distance between sites, the complexity of the technologies and operations being integrated or separated, and disparate corporate cultures, may increase the difficulties of such integration or separation. Management’s focus on such operations may distract attention from our day-to-day business and may disrupt key research and development, marketing, or sales efforts. In addition, it is common in the technology industry for aggressive competitors to attract customers and recruit key employees away from companies during the integration phase of an acquisition.
Internal controls, policies, and procedures. Acquired companies or businesses are likely to have different standards, controls, contracts, procedures, and policies, making it more difficult to implement and harmonize company-wide financial, accounting, billing, information, and other systems. Acquisitions of privately held and/or non-U.S. companies are particularly challenging because their prior practices in these areas may not meet the requirements of GAAP and U.S. export regulations. Furthermore, we may assume liabilities associated with past practices and the Company’s compliance with legal and regulatory requirements in the jurisdictions in which they or we operate. Any acquisitions may require that we spend significant management time and attention establishing these standards, controls, contracts, procedures, and policies.

Key employees may be difficult to retain and assimilate. The success of many strategic transactions depends to a great extent on our ability to retain and motivate key employees. This can be challenging, particularly in the highly competitive market for technical personnel. Retaining key executives for the long term can also be difficult due to other opportunities available to them. Disputes that may arise out of earn-outs, escrows, and other arrangements related to an acquisition of a company in which a key employee was a principal may negatively affect the morale of the employee and make retaining the employee more difficult. It could be difficult, time consuming, and expensive to replace any key management members or other critical personnel that do not accept employment with the Company following any transaction or whose employment is subsequently terminated. In addition to retaining key employees, we must integrate them into our Company, or potentially re-direct their efforts, both of which can be difficult, time consuming, and costly. Changes in management or other critical personnel may be disruptive to our business and might also result in our loss of some unique skills and the departure of existing employees, customers, partners, vendors, and others.

We rely on third-party manufacturers to manufacture and produce our hardware products and to package certain of our software products, which subjects us to risks of product delivery delays and other supply risks.

We rely on a limited number of third parties to manufacture our hardware-based products and to replicate and package our boxed software products. Many of our products are manufactured and supplied by a single, although not the same, source. This reliance on third parties involves a number of risks that could have a negative impact on our business and financial results. Our reliance on these third-party manufacturers reduces our control over the manufacturing process and exposes us to risks, including reduced control over quality assurance, product costs, product supply, timing, and transportation risk. From time to time, we may be required to add new manufacturing partners to accommodate growth in orders or the addition of new products. It is time consuming and costly to qualify and implement new manufacturing partner relationships, and such additions increase the complexity of our supply chain management. If we lose, terminate, or fail to effectively manage our manufacturing partner relationships, or if any of our manufacturing partners experience production interruptions or shut-downs, including those caused by a natural disaster, epidemic, pandemic (such as the COVID-19 pandemic), capacity shortage, or quality-control problem, it would negatively affect sales of our product lines manufactured by that manufacturing partner and adversely affect our business and results of operations.

We rely on certain technology that we license from third parties, including software that is integrated with internally developed software and used with our products. Any loss of these licenses or any quality issues with third-party technology integrated with our products could have an adverse impact on our reputation and business.

We rely on certain technology that we license from third parties, including third-party commercial software and open source software, which is used with certain of our solutions. This third-party software may currently or could, in the future, infringe the intellectual property rights of third parties or the licensors may not have sufficient rights to the software they license us in all jurisdictions in which we may sell our products. The licensors of the third-party software we use may discontinue their offerings or change the terms under which their software is licensed. If we are unable to continue to license any of this software on terms we find acceptable, or if there are quality, security, or other substantive issues with any of this software, we may face
delays in releases of our solutions or we may be required to find alternative vendors or remove functionality from our solutions. In addition, our inability to obtain certain licenses or other rights might require us to engage in litigation regarding these matters, which could have a material adverse effect on our business, financial condition, results of operations, and cash flows.

We rely on third parties to support our information technology infrastructure and any service interruptions or other failures of our third-party providers or of our information technology infrastructure could result in disruption to our operations or adversely impact our business.

We engage third parties to provide variety of information technology products and services to support our information technology infrastructure. Any failure on the part of our third-party providers or of our information technology infrastructure to operate effectively, stemming from maintenance problems, upgrading or transitioning to new platforms, a breach in security or other unanticipated problems could result in interruptions to or delays in our operations or our products or services. In addition, we make significant investments in new information technology infrastructure, but the implementation of such investments could exceed estimated budgets and we may experience challenges that prevent new strategies or technologies from being realized according to anticipated schedules. If we are unable to effectively maintain our current information technology and processes or encounter delays, or fail to exploit new technologies, then the execution of our business plans may be disrupted. Our employees and other personnel require effective tools and techniques to perform functions integral to our business. Any failure to successfully provide such tools and systems, or ensure that our personnel have properly adopted them, could materially and adversely impact our ability to achieve positive business outcomes.

Some of our systems or data that we may maintain or process may not be adequately backed up, and our disaster recovery planning cannot account for all eventualities. The occurrence of a natural disaster, intentional sabotage, or other unanticipated problems could result in significant interruptions to our operations or the permanent loss of valuable data. In addition, the implementation of changes and upgrades to our information technology infrastructure and any errors, vulnerabilities, damage, or failure of our information technology infrastructure, could result in interruptions to our operations or products or services and non-compliance with certain laws or regulations, which may lead us to face fines or penalties, give rise to indemnification or other contractual claims against us by our customers or other third parties, and otherwise adversely impact our business.

Our use of open source software could negatively affect our ability to sell our solutions and subject us to possible litigation.

We use open source software in our solutions and our development and operating environments and expect to continue to use open source software in the future. Open source software is typically provided without assurances of any kind. Because the source code of open source software components included in our solutions is publicly available, in instances where our usage is publicly disclosed or known, it may be easier to identify exploits or vulnerabilities in such open source software components, making our solutions using such open source software components more vulnerable to third parties seeking to compromise, undermine, or circumvent our solutions. If open source software programmers do not continue to develop and enhance open source technologies, our development expenses could increase and our schedules could be delayed. In addition, we may face claims from others seeking to enforce the terms of open source licenses, including by demanding release of derivative works or our proprietary source code that was developed using or otherwise used in connection with such open source software. The terms of many open source licenses have not been interpreted by U.S. or foreign courts, and these licenses could be construed in a way that could impose other unanticipated costs, conditions, or restrictions on our ability to commercialize our products. These claims could also result in litigation, require us to purchase a costly license, require us to devote additional research and development resources to change our solutions, or stop or delay shipment of such solutions, any of which could have a negative effect on our business, financial condition, results of operations, and cash flows. In addition, if the license terms for the open source
software that we utilize change, we may be forced to reengineer our solutions or incur additional costs. Although we have policies designed to manage the use, incorporation, and updating of open source software into our products, we cannot be certain that we have in all cases incorporated open source software in our products in a manner that is consistent with the applicable open source license terms and inclusive of all available updates or security patches, and as a result we may be subject to claims for breach of contract or infringement by the applicable licensor, claims for breach of contract or indemnity by our partners or customers, or we or our partners or customers could be required to release our proprietary source code, pay damages, royalties, or license fees or other amounts, seek licenses, or experience quality control or security risks, any of which could require us to re-engineer our solutions, discontinue sales in the event re-engineering cannot be accomplished on a timely basis, or take other remedial action that may divert resources away from our development efforts, any of which could adversely affect our business.

If the protection of our proprietary technology is inadequate, we may not be able to adequately protect our innovations and brand.

Our success is dependent on our ability to create proprietary technology and to protect and enforce our intellectual property rights in that technology, as well as our ability to defend against adverse claims of third parties with respect to our technology and intellectual property rights. To protect our proprietary technology, we rely primarily on a combination of patent, copyright, trademark, and trade secret laws, as well as contractual provisions and operational and procedural confidentiality protections. The agreements that we enter into with our employees, contractors, partners, vendors, and end-users may not prevent unauthorized use or disclosure of our proprietary technology or infringement of our intellectual property rights and may not provide an adequate remedy in the event of unauthorized use or disclosure of our proprietary technology or infringement of our intellectual property rights, which may substantially harm our business. Furthermore, we cannot be assured that such agreements will be fully enforceable, or that they will not be breached by the counterparties, or that we will be able to detect, deter, or adequately address any such breach or threatened breach. As a provider of cybersecurity solutions, we may be an attractive target for computer hackers or other bad actors and may have a greater risk of unauthorized access to, and misappropriation of, our systems, technology, and proprietary information. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our products or obtain and use information that we regard as proprietary. Policing unauthorized use of our products and infringement of our rights is difficult. In addition, the laws of some foreign countries, including countries where we sell solutions or have operations, do not protect proprietary rights to as great an extent as do the laws of the United States. Our means of protecting our proprietary rights may not be adequate and third parties, including current and future competitors, may independently develop similar or superior technology, duplicate or reverse engineer aspects of our products, or design around our patented technology or otherwise infringe or circumvent our intellectual property rights.

As of June 27, 2020, we had approximately 1,340 issued U.S. patents, in addition to approximately 680 issued foreign patents and approximately 615 pending U.S. and foreign patent applications. There can be no assurance that any of our pending patent applications will issue or that the patent examination process will not result in our narrowing the claims applied for in our patent applications or that any current or future issued patents will not be later challenged, limited, or invalidated. Furthermore, there can be no assurance that we will be able to detect any infringement of our existing or future intellectual property rights or, if infringement is detected, that we will be successful in asserting claims or counterclaims, that our intellectual property rights will be enforceable, that any damages awarded to us will be sufficient to adequately compensate us for the infringement, that we will be able to obtain injunctive relief to prevent ongoing infringement, or that the costs of seeking enforcement will not outweigh any benefits.

There can be no assurance or guarantee that any products, services, or technologies that we are presently developing, or will develop in the future, will result in intellectual property that is subject to legal protection under the laws of the United States or a foreign jurisdiction or that produces a competitive advantage for us.
We may be sued by third parties for alleged infringement, misappropriation, or other violation of their proprietary rights, and it may be necessary for us to sue third parties to enforce and protect our proprietary rights, resulting in potential lengthy and expensive litigation.

From time to time, third parties may claim that we have infringed, misappropriated, or otherwise violated their intellectual property rights, including claims regarding patents, copyrights, trademarks, and trade secrets. Because of constant technological change in the segments in which we compete, the extensive patent coverage of existing technologies, and the rapid rate of issuance of new patents, we expect the trend of third-party claims to continue and that we will be required to defend against actual or threatened litigation of this type. The litigation process is subject to inherent uncertainties, so we may not prevail in litigation matters regardless of the merits of our position. Our participation in any litigation could cause us to incur substantial costs and could distract our management from the day-to-day operations of our business. In addition to the expense and distraction associated with litigation, adverse determinations could cause us to lose our proprietary rights, prevent us from manufacturing or selling our products, require us to obtain licenses to patents or other intellectual property rights that our products are alleged to infringe, misappropriate, or otherwise violate (which licenses may not be available on commercially reasonable terms or at all), or re-design or re-engineer our products to address actual or claimed infringement, misappropriation, or other violation and subject us to significant liabilities.

If we acquire technology to include in our products from third parties, our exposure to actions alleging infringement, misappropriation, or other violation may increase because we must rely upon these third parties to verify the origin and ownership of such technology. Our agreements with such third parties may not provide adequate protections or remedies, and we may not be able to compel such third parties to provide any available remedies in the case of such actions. Similarly, we face exposure to actions alleging infringement, misappropriation, or other violation if we hire or engage software engineers who were previously employed by competitors or other third parties and those employees or other personnel inadvertently or deliberately incorporate proprietary technology of third parties into our products despite efforts to prevent such infringement, misappropriation, or other violation.

From time to time, the U.S. Supreme Court, other U.S. federal courts and the U.S. Patent and Trademark Appeals Board, and their foreign counterparts, have made and may continue to make changes to the interpretation of patent, copyright, trademark, or other intellectual property laws in their respective jurisdictions. We cannot predict future changes to the interpretation of such existing laws or whether U.S. or foreign legislative bodies will amend such laws in the future. Any such changes may lead to uncertainties or increased costs and risks surrounding the prosecution, validity, enforcement, and defense of our issued patents and patent applications and other intellectual property, the outcome of third-party claims of infringement, misappropriation, or other violation of intellectual property brought against us and the actual or enhanced damages (including treble damages) that may be awarded in connection with any such current or future claims, and could have a material adverse effect on our business, financial condition, results of operations, and cash flows.

Our business is subject to the risks of product defects, warranty claims, product returns, and product liability.

Our solutions are highly complex and may contain design defects or errors that are not detected before their commercial release, particularly when first introduced or as new versions or upgrades are released. Despite testing by us and by current and potential customers, design defects or errors may not be found until after commencement of commercial shipments, resulting in customer dissatisfaction and loss of or delay in market acceptance and sales opportunities. These errors and quality problems could also cause us to incur significant repair or replacement costs, divert the attention of our engineering personnel from our product development efforts, and cause significant customer relations problems. We may also incur significant costs in connection with a product recall and any related indemnification obligations. We have experienced errors or quality problems in the past in connection with solutions and enhancements and expect that errors or quality problems will be found from time to time in the future. Any of these errors or other quality problems could adversely affect our results of operations.
Historically, the amount of warranty claims we have received has not been significant, but there is no guarantee that claims will not be significant in the future. Any errors, defects, or other problems with our products could negatively impact our customers and result in financial or other losses. While we typically seek by contract to limit our exposure to damages, liability limitation provisions in our standard terms and conditions of sale, and those of our channel partners, may not be enforceable under some circumstances or may not fully or effectively protect us from customer claims and related liabilities and costs, including indemnification obligations under our agreements with channel partners or customers. The sale and support of our solutions also entail the risk of product liability claims. In addition, even claims that ultimately are unsuccessful could require us to incur costs in connection with litigation and divert management’s time and other resources, and could seriously harm the reputation of our business and solutions.

Our third-party strategic alliances expose us to a range of business risks and uncertainties that are outside of our control and that could have a material adverse impact on our business and financial results.

We have entered, and intend to continue to enter, into strategic alliances with third parties to support our future growth plans. These relationships involve technology licensing, product integration, and co-marketing and co-promotion activities. For example, we have arrangements with operating system vendors that provide us with sufficient technological access to new and updated versions of their operating systems to enable us to develop and deploy interoperable products that are deeply integrated with their operating systems on our customers’ networks and devices. We also partner with certain Internet search providers to promote their offerings to our customers. We invest significant time, money, and resources to establish and maintain these strategic relationships, but we have no assurance that any particular relationship will continue for any specific period of time.

Furthermore, certain of these strategic partners currently offer, and may in the future offer, products, and services that compete with our own solutions in certain markets, and in the future these partners may impose limitations on, or terminate, our partnerships in order to improve their own competitive position. Generally, our agreements with these partners are terminable without cause with no or minimal notice or penalties. Any adverse change in our relationships with a significant strategic partner could limit or delay our ability to offer certain new or competitive solutions, increase our development costs, and reduce our revenue, any of which could have an adverse impact on our competitive position and our financial performance. In addition, we could be required to incur significant expenses to develop a new strategic partnership or to develop and implement an alternative plan to pursue the opportunity that we targeted with the former partner, which could adversely affect our business, financial condition, results of operations, and cash flows.

If we fail to successfully promote or protect our brand, our business, and competitive position may be harmed.

Due to the intensely competitive nature of our markets, we believe that building and maintaining our brand and reputation is critical to our success, and that the importance of positive brand recognition will increase as competition in our market further intensifies. Over our 30-year history, we have invested and expect to continue to invest substantial resources to promote and maintain our brand as a trusted cybersecurity provider, but there is no guarantee that our brand development strategies will enhance the recognition of our brand or lead to increased sales of our solutions.

In recent years, there has been a marked increase in the use of social media platforms, including blogs, chat platforms, social media websites, and other forms of internet-based communications that allow individuals access to a broad audience of consumers and other persons. The rising popularity of social media and other consumer-oriented technologies has increased the speed and accessibility of information dissemination and given users the ability to more effectively organize collective actions such as boycotts. Negative publicity, whether or not justified, can spread rapidly through social media. The dissemination of information via social media could harm
our brand or our business, regardless of the information’s accuracy. To the extent that we are unable to respond timely and appropriately to negative publicity, our reputation and brand could be harmed. This could include negative publicity related to our products or services or negative publicity related to actions by our executives, team members or other individuals or entities that may be perceived as being associated with us. Moreover, even if we are able to respond in a timely and appropriate manner, we cannot predict how negative publicity may affect our reputation and business. In addition, we and our employees use social media and other internet-based communications methods to communicate with our end-users, customers, partners, and the public in general. There is risk that the social media communications of us or our employees could be received negatively. Failure to use social media or other internet-based communication methods effectively could lead to a decline in our reputation. Further, laws and regulations, including associated enforcement priorities, rapidly evolve to govern social media platforms and other internet-based communications, any failure by us or third parties acting at our direction to abide by applicable laws and regulations in the use of social media or internet-based communications could adversely impact our reputation, financial performance or subject us to fines or other penalties. Other risks associated with the use of social media and internet based-communication include improper disclosure of proprietary information, negative comments about our brand, products, or services, exposure of personally identifiable information, fraud, hoaxes, or malicious dissemination of false information.

**If cybersecurity industry analysts publish unfavorable or inaccurate research reports about our business, our financial performance could be harmed.**

An increasing number of independent industry analysts and researchers regularly evaluate, compare, and publish reviews regarding the performance, efficiency, and functionality of cybersecurity products and services, including our own solutions. The market’s perception of our solutions may be significantly influenced by these reviews. We do not have any control over the content of these independent industry analysts and research reports, or the methodology they use to evaluate our solutions, which may be flawed or incomplete. Demand for our solutions could be harmed if these industry analysts publish negative reviews of our solutions or do not view us as a market leader. If we are unable to maintain a strong reputation, sales to new and existing customers and renewals could be adversely affected, and our financial performance could be harmed.

**Our failure to adequately maintain and protect personal information of our customers or our employees in compliance with evolving legal requirements could have a material adverse effect on our business.**

We collect, use, store, disclose, or transfer (collectively, “process”) personal information, including from employees and customers, in connection with the operation of our business. A wide variety of local and international laws and regulations apply to the processing of personal information. Data protection and privacy laws and regulations are evolving and being tested in courts and may result in increasing regulatory and public scrutiny and escalating levels of enforcement and sanctions. For example, in 2016, the E.U. adopted the General Data Protection Regulation (“GDPR”), which took effect on May 25, 2018. The GDPR imposes requirements that may limit how we are permitted to process data on behalf of ourselves and our clients, and we may be required to incur significant additional costs to comply with these requirements. Applicable laws, regulations and court decisions in the E.U. relating to privacy and data protection could also impact our ability to transfer personal data internationally. The GDPR specifies substantial maximum fines for failure to comply. Continued compliance with the GDPR and national laws in the E.U. may require significant changes to our products and practices to ensure compliance with applicable law.

A variety of data protection legislation also apply in the United States at both the federal and state level, including new laws that may impact our operations. For example, in June 2018, the State of California enacted the California Consumer Privacy Act of 2018 (“CCPA”), which went into effect on January 1, 2020, with enforcement by the state attorney general beginning July 1, 2020. The CCPA defines “personal information” in a broad manner and generally requires companies that process personal information of California residents to make new disclosures about their data collection, use, and sharing practices, allows consumers to opt-out of certain data sharing with third parties or sale of personal information, and provides a new cause of action for data breaches. Moreover, a new
privacy law, the California Privacy Rights Act ("CPRA") was recently certified by the California Secretary of State to appear on the ballot for the upcoming election on November 3, 2020. If this initiative is approved by California voters, the CPRA would significantly modify the CCPA, potentially resulting in further uncertainty and requiring us to incur additional expenditures to comply. Additionally, the Federal Trade Commission, and many state attorneys general are interpreting federal and state consumer protection laws to impose standards for the online collection, use, dissemination, and security of data. The burdens imposed by the CCPA and other similar laws that have been or may be enacted at the federal and state level may require us to modify our data processing practices and policies and to incur substantial expenditures in order to comply.

Global privacy and data protection legislation, enforcement, and policy activity are rapidly expanding and evolving, and may be inconsistent from jurisdiction to jurisdiction. On July 16 2020, the Court of Justice of the European Union, Europe’s highest court, held in the Schrems II case that the EU-U.S. Privacy Shield, a mechanism for the transfer of personal data from the E.U. to the U.S., was invalid, and imposed additional obligations in connection with the use of standard contractual clauses approved by the European Commission. The impact of this decision on the ability to lawfully transfer personal data from the E.U. to the U.S. is being assessed and guidance from European regulators and advisory bodies is awaited. It is possible that the decision will restrict the ability to transfer personal data from the E.U. to the U.S. and we may, in addition to other impacts, experience additional costs associated with increased compliance burdens, and we and our customers face the potential for regulators in the European Economic Area ("EEA") to apply different standards to the transfer of personal data from the EEA to the U.S., and to block, or require ad hoc verification of measures taken with respect to, certain data flows from the EEA to the U.S. We may experience reluctance or refusal by current or prospective European customers to use our products, and we may find it necessary or desirable to make further changes to our handling of personal data of EEA residents. The regulatory environment applicable to the handling of EEA residents’ personal data, and our actions taken in response, may cause us to assume additional liabilities or incur additional costs and could result in our business, operating results and financial condition being harmed. We and our customers may face a risk of enforcement actions by data protection authorities in the EEA relating to personal data transfers to us and by us from the EEA. Any such enforcement actions could result in substantial costs and diversion of resources, distract management and technical personnel and negatively affect our business, operating results and financial condition. Additionally, we may be or become subject to data localization laws mandating that data collected in a foreign country be processed only within that country. If any country in which we have customers were to adopt a data localization law, we could be required to expand our data storage facilities there or build new ones in order to comply. The expenditure this would require, as well as costs of compliance generally, could harm our financial condition.

Further, in June 2016, the U.K. voted to leave the E.U., which resulted in the U.K. exiting the E.U. on January 31, 2020, subject to a transition period ending December 31, 2020. Brexit could lead to further legislative and regulatory changes. The U.K. has implemented a Data Protection Act that substantially implements the GDPR, but it remains to be seen whether the U.K.’s withdrawal from the E.U. pursuant to Brexit will substantially impact the manner in which U.K. data protection laws or regulations will develop in the medium to longer term and how data transfers to and from the U.K. will be regulated.

Our actual or alleged failure to comply with any applicable laws and regulations or privacy-related contractual obligations, or to protect such data that we process, could result in litigation, regulatory investigations, and enforcement actions against us, including fines, orders, public censure, claims for damages by employees, customers, and other affected individuals, public statements against us by consumer advocacy groups, damage to our reputation and competitive position, and loss of goodwill (both in relation to existing customers and prospective customers), any of which could have a material adverse effect on our business, financial condition, results of operations, and cash flows. Evolving and changing definitions of personal information, personal data, and similar concepts within the E.U., the United States, and elsewhere, especially relating to classification of IP addresses, device identifiers, location data, household data, and other information we may collect, may limit or inhibit our ability to operate or expand our business, including limiting strategic partnerships that may involve the sharing of data. Additionally, if third parties that we work with, such as
vendors or developers, violate applicable laws or our policies, such violations may also place personal information at risk and have an adverse effect on our business. Even the perception of privacy concerns, whether or not valid, may harm our reputation, subject us to regulatory scrutiny and investigations, and inhibit adoption of our products by existing and potential customers.

**Our business operations and the use of our technology are subject to evolving legal requirements regarding privacy throughout the world.**

We currently operate our business in jurisdictions where we are subject to evolving data protection or privacy laws and regulations. Certain of our products and services involve the transmission data between jurisdictions. While we are continuously evaluating our products’ and services’ compliance with current regulatory and security requirements in the jurisdictions in which we operate these products and services, there can be no assurance that such requirements will not change or that we will not otherwise be subject to legal or regulatory actions. In addition, our products, when configured by our customers, may aggregate and examine data in a manner that may subject their use to privacy and data protection laws and regulations in those jurisdictions in which our customers operate.

Any failure or perceived failure by us or by our products or services to comply with these laws and regulations may subject us to legal or regulatory actions, damage our reputation, or adversely affect our ability to sell our products or services. Moreover, if these laws and regulations change, or are interpreted in a manner that is inconsistent with our data practices or the operation of our products and services, we may need to expend resources in order to change our business operations, data practices, or the manner in which our products or services operate. This could adversely affect our business, financial condition, results of operations, and cash flows.

**We are subject to governmental export and import controls that could subject us to liability or impair our ability to compete in international markets.**

Our solutions are subject to U.S. export controls, specifically the Export Administration Regulations and economic sanctions enforced by the Office of Foreign Assets Control. We incorporate standard encryption algorithms into certain of our solutions, which, along with the underlying technology, may be exported outside of the United States only with the required export authorizations, including by license, license exception, or other appropriate government authorizations, which may require the filing of a classification request or report. Furthermore, U.S. export control laws and economic sanctions prohibit the shipment of certain products and services to countries, governments, and persons targeted by U.S. sanctions, including embargoes. Even though we take precautions to ensure that we and our channel partners comply with all relevant regulations, any failure by us or our channel partners to comply with U.S. export requirements, U.S. customs regulations, U.S. economic sanctions, or other laws could have negative consequences, including reputational harm, government investigations, and substantial civil and criminal penalties (e.g., fines, incarceration for responsible employees and managers, and the possible loss of export or import privileges).

In addition, changes in our solutions or changes in export and import regulations may create delays in the introduction of our solutions into international markets, including as a consequence of new licensing requirements, prevent certain personnel from developing or maintaining our products, prevent our end-customers with international operations from deploying our products globally or, in some cases, prevent or delay the export or import of our solutions to certain countries, governments, or persons altogether. Any change in export or import regulations, economic sanctions or related legislation, shift in the enforcement or scope of existing regulations, or change in the countries, governments, persons, or technologies targeted by such regulations, could result in decreased use of our solutions by, or in our decreased ability to develop, export to, or sell our solutions to, existing or potential end-customers with international operations. Any decreased use of our solutions or limitation on our ability to develop, export to, or sell our solutions in international markets would likely adversely affect our business, financial condition, results of operations, and cash flows.
There is also significant uncertainty about the future relationship between the United States and various other countries, most significantly China, with respect to trade policies, treaties, government regulations, and tariffs. The current United States presidential administration is pursuing substantial changes to United States foreign trade policy with respect to China, Mexico, and other countries, including the possibility of imposing greater restrictions on international trade, restrictions on sales and technology transfers to certain Chinese corporations, and significant increases of tariffs on goods imported into the United States. Given the relatively fluid regulatory environment in China and the United States and uncertainty regarding how the United States or foreign governments will act with respect to tariffs, international trade agreements and policies, a trade war, further governmental action related to tariffs or international trade policies, or additional tax or other regulatory changes in the future could occur and could directly and adversely impact our financial results and results of operations.

Failure to comply with the U.S. Foreign Corrupt Practices Act, other applicable anti-corruption and anti-bribery laws, and applicable anti-money-laundering laws could subject us to penalties and other adverse consequences.

We currently conduct a substantial portion of our operations and sell our products and services in numerous countries outside of the United States, including in the APAC, EMEA, and LAR regions. Our global operations are subject to the FCPA, the U.K. Bribery Act 2010, and other anti-corruption, anti-bribery, anti-money laundering, and similar laws in the United States and other countries in which we conduct activities. The FCPA prohibits covered parties from offering, promising, authorizing, or giving anything of value, directly or indirectly, to a “foreign government official” with the intent of improperly influencing the official’s act or decision, inducing the official to act or refrain from acting in violation of lawful duty or obtaining or retaining an improper business advantage. In addition, other applicable anti-corruption laws prohibit bribery of domestic government officials as well as commercial bribery, which involves the giving or receiving improper payments to or from non-government parties.

While we have implemented policies, internal controls, and other measures reasonably designed to promote compliance with applicable anti-corruption, anti-bribery, and anti-money laundering laws and regulations, our employees, agents, and strategic partners may engage in improper conduct for which we might be held responsible. Any violations of these anti-corruption, anti-bribery laws and anti-money laundering laws and regulations, or even allegations of such violations, can lead to an investigation and/or enforcement action, which could disrupt our operations, involve significant management distraction, and lead to significant costs and expenses, including legal fees. If we, or our employees, agents, or strategic partners acting on our behalf, are found to have engaged in practices that violate these laws and regulations, we could suffer severe fines and penalties, profit disgorgement, injunctions on future conduct, securities litigation, bans on transacting government business, and other consequences that may have a material adverse effect on our business, financial condition, results of operations, and cash flows.

In addition, our brand and reputation, our sales activities, or the value of our business could be adversely affected if we become the subject of any negative publicity related to actual or potential violations of anti-corruption, anti-bribery, or anti-money-laundering laws and regulations.

We may be unable to raise additional capital on acceptable terms, or at all.

We believe that our available cash and cash equivalents, together with funds from this offering and generated from our operating activities and unused availability under our Revolving Credit Facility, will be sufficient to meet our near term working and other capital requirements. However, if cash is required for unanticipated needs, including in connection with a proposed acquisition of a company or technology, we may need additional capital. The development and marketing of new solutions and our investment in sales and marketing efforts require a significant commitment of resources. If the markets for our solutions develop at a slower pace than anticipated, we could be required to raise additional capital. We cannot guarantee that, should it
be required, sufficient debt or equity capital will be available to us under acceptable terms, if at all. If we were unable to raise additional capital when required, our business, financial condition, results of operations, and cash flows could be seriously harmed.

**We have experienced net losses in recent periods and may not maintain profitability in the future.**

We experienced net loss of $236 million for fiscal 2019 and net income of $31 million for the 26-week period ended June 27, 2020. While we have experienced revenue growth over these same periods, we may not be able to sustain or increase our growth or maintain profitability in the future or on a consistent basis. In recent years, we have changed our portfolio of products and invested in research and development to develop new products and enhance current solutions.

We also expect to continue to invest for future growth. We expect that to maintain profitability we will be required to increase revenues, manage our cost structure, and avoid significant liabilities. Revenue growth may slow, revenue may decline, or we may incur significant losses in the future for a number of possible reasons, increasing competition, a decrease in the growth of the markets in which we operate, or if we fail for any reason to continue to capitalize on growth opportunities. Additionally, we may encounter unforeseen operating expenses, difficulties, complications, delays, and other unknown factors that may result in losses in future periods. If these losses exceed our expectations or our revenue growth expectations are not met in future periods, our financial performance may be harmed.

**Foreign currency exchange rate fluctuations may adversely affect our financial performance.**

A significant portion of our transactions outside of the United States are denominated in foreign currencies. We remeasure revenues and costs from these transactions into U.S. dollars for reporting purposes. As a result, our future results of operations will continue to be subject to fluctuations in foreign currency rates. For example, Brexit resulted in an adverse impact to currency exchange rates, notably the British Pound Sterling which experienced a sharp decline in value compared to the U.S. dollar and other currencies. We may be positively or negatively affected by fluctuations in foreign currency rates in the future, especially if international sales continue to grow as a percentage of our total sales and foreign currency rates continue to experience increased volatility due to the COVID-19 pandemic. Additionally, fluctuations in currency exchange rates will impact our deferred revenue balance, which is a key financial metric at each period end. We may employ hedging techniques to mitigate this risk but hedging may be insufficient or the hedging may create losses. Furthermore, to the extent our customers or partners require us to enter into long-term contracts denominated in foreign currencies, our exposure to these risks would increase. If we are not able to successfully hedge against the risks associated with currency fluctuations, our financial condition, and results of operations could be adversely affected.

Further, we have a substantial amount of euro-denominated indebtedness. Fluctuations in the exchange rate between U.S. dollars and euros may have a material adverse effect on our ability to repay such indebtedness.

**Changes in tax laws or in their implementation may adversely affect our business and financial condition.**

Changes in tax law may adversely affect our business or financial condition. On December 22, 2017, the U.S. government enacted legislation commonly referred to as the Tax Cuts and Jobs Act, or the TCJA, which significantly reformed the Internal Revenue Code of 1986, as amended (the “Code”). The TCJA, among other things, contained significant changes to corporate taxation, including a reduction of the corporate tax rate from a top marginal rate of 35% to a flat rate of 21%, the limitation of the tax deduction for net interest expense to 30% of adjusted earnings (except for certain small businesses), the limitation of the deduction for net operating losses, or NOLs, arising in taxable years beginning after December 31, 2017 to 80% of current year taxable income and elimination of NOL carrybacks for losses arising in taxable years ending after December 31, 2017 (though any such NOLs may be carried forward indefinitely), the imposition of a one-time taxation of offshore earnings at
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reduced rates regardless of whether they are repatriated, the elimination of U.S. tax on foreign earnings (subject to certain important exceptions), the allowance of immediate deductions for certain new investments instead of deductions for depreciation expense over time, and the modification or repeal of many business deductions and credits.

As part of Congress’s response to the COVID-19 pandemic, the Families First Coronavirus Response Act, commonly referred to as the FFCR Act, was enacted on March 18, 2020, and the Coronavirus Aid, Relief, and Economic Security Act, commonly referred to as the CARES Act, was enacted on March 27, 2020. Both contain numerous tax provisions. In particular, the CARES Act retroactively and temporarily (for taxable years beginning before January 1, 2021) suspends application of the 80%-of-taxable-income limitation on the use of NOLs, which was enacted as part of the TCJA. It also provides that NOLs arising in any taxable year beginning after December 31, 2017 and before January 1, 2021 are generally eligible to be carried back up to five years. The CARES Act also temporarily (for taxable years beginning in 2019 or 2020) relaxes the limitation of the tax deductibility for net interest expense by increasing the limitation from 30% to 50% of adjusted taxable income.

Regulatory guidance under the TCJA, the FFCR Act and the CARES Act is and continues to be forthcoming, and such guidance could ultimately increase or lessen impact of these laws on our business and financial condition. It is also likely that Congress will enact additional legislation in connection with the COVID-19 pandemic, some of which could have an impact on our Company. In addition, it is uncertain if and to what extent various states will conform to the TCJA, the FFCR Act or the CARES Act.

Forecasting our estimated annual effective tax rate is complex and subject to uncertainty, and there may be material differences between our forecasted and actual tax rates.

Forecasts of our income tax position and effective tax rate are complex and subject to uncertainty because our income tax position for each year combines the effects of a mix of profits and losses earned by us and our subsidiaries in various tax jurisdictions with a broad range of income tax rates, as well as changes in the valuation of deferred tax assets and liabilities, the impact of various accounting rules and changes to these rules and tax laws, such as the U.S. federal income tax laws, including impacts of the TCJA, FFCR Act and CARES Act, arising from future interpretations of such legislation, the results of examinations by various tax authorities and the impact of any acquisition, business combination, or other reorganization or financing transaction. To forecast our global tax rate, we estimate our pre-tax profits and losses by jurisdiction and forecast our tax expense by jurisdiction. If our mix of profits and losses, our ability to use tax credits, or effective tax rates by jurisdiction is different than those estimated, our actual tax rate could be different than forecasted, which could have a material impact on our financial condition and results of operations.

As a multinational corporation, we conduct our business in many countries and are subject to taxation in many jurisdictions. The taxation of our business is subject to the application of multiple and conflicting tax laws and regulations as well as multinational tax conventions. Our effective tax rate is highly dependent upon the geographic distribution of our worldwide earnings or losses, the tax regulations in each geographic region, the availability of tax credits and carryforwards, and the effectiveness of our tax planning strategies. The application of tax laws and regulations is subject to legal and factual interpretation, judgment, and uncertainty. Tax laws themselves are subject to change as a result of changes in fiscal policy, changes in legislation, and the evolution of regulations and court rulings. Consequently, taxing authorities may impose tax assessments or judgments against us that could materially impact our tax liability and/or our effective income tax rate.

In addition, we are subject to examination of our income tax returns by the Internal Revenue Service (“IRS”) and other tax authorities. If tax authorities challenge the relative mix of our U.S. and international income, our future effective income tax rates could be adversely affected, including for future periods and retroactively. While we regularly assess the likelihood of adverse outcomes from such examinations and the adequacy of our provision for income taxes, there can be no assurance that such provision is sufficient and that a determination by a tax authority will not have an adverse effect on our business, financial condition, results of operations, and cash flows.

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Our global operations may expose us to increased tax risks.

We are generally required to account for taxes in each jurisdiction in which we operate. This process may require us to make assumptions, interpretations, and judgments with respect to the meaning and application of promulgated tax laws and related administrative and judicial interpretations. The positions that we take and our interpretations of the tax laws may differ from the positions and interpretations of the tax authorities in the jurisdictions in which we operate. An adverse outcome in any examination could have a significant negative impact on our cash position and net income. Although we have established reserves for examination contingencies in accordance with published guidance, there can be no assurance that the reserves will be sufficient to cover our ultimate liabilities.

Our provision for income taxes is subject to volatility and can be adversely affected by a variety of factors, including but not limited to: unanticipated decreases in the amount of revenue or earnings in countries with low statutory tax rates, changes in tax laws and the related regulations and interpretations (including various proposals currently under consideration), changes in accounting principles (including accounting for uncertain tax positions), and changes in the valuation of our deferred tax assets. Significant judgment is required to determine the recognition and measurement attributes prescribed in certain accounting guidance. This guidance applies to all income tax positions, including the potential recovery of previously paid taxes, which if settled unfavorably could adversely impact our provision for income taxes.

Our ability to use certain net operating loss carryforwards and certain other tax attributes may be limited.

Under Sections 382 and 383 of the Code, if a corporation undergoes an “ownership change,” the corporation’s ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes to offset its post-change income and taxes may be limited. In general, an “ownership change” occurs if there is a cumulative change in ownership of the relevant corporation by “5% shareholders” (as defined under U.S. income tax laws) that exceeds 50 percentage points over a rolling three-year period. Similar rules apply under state tax laws. If our corporate subsidiaries experience one or more ownership changes in connection with this offering and other transactions in our stock, then we may be limited in our ability to use our corporate subsidiaries’ net operating loss carryforwards and other tax assets to reduce taxes owed on the net taxable income that such subsidiaries earn. Any such limitations on the ability to use net operating loss carryforwards and other tax assets could adversely impact our business, financial condition, results of operations, and cash flows.

We may become involved in litigation, investigations, and regulatory inquiries and proceedings that could negatively affect us and our reputation.

From time to time, we are involved in various legal, administrative, and regulatory proceedings, claims, demands, and investigations relating to our business, which may include claims with respect to commercial, product liability, intellectual property, data privacy, consumer protection, breach of contract, employment, class action, whistleblower, and other matters. In the ordinary course of business, we also receive inquiries from and have discussions with government entities regarding the compliance of our contracting and sales practices with laws and regulations. Such matters can be costly and time consuming and divert the attention of our management and key personnel from our business operations. We have been and are currently, and expect to continue to be, subject to third-party intellectual property infringement claims by entities that do not have operating businesses of their own and therefore limit our ability to seek counterclaims for damages and injunctive relief. Plaintiffs may seek, and we may become subject to, preliminary or provisional rulings in the course of any such litigation, including potential preliminary injunctions requiring us to cease some or all of our operations. Similarly, if any litigation to which we are a party is resolved adversely, we may be subject to an unfavorable judgment that may not be reversed upon appeal. Any claims or litigation could cause us to incur significant expenses and, if successfully asserted against us, could require that we pay substantial damages (including, for example, treble damages if we are found to have willfully infringed patents and increased statutory damages if we are found to have willfully infringed copyrights), pay ongoing royalty payments, delay or prevent us from offering our...
products or services, or require that we comply with other unfavorable terms. In addition, we might be required to seek a license for the use of such intellectual property, which may not be available on commercially reasonable terms or at all. We may also decide to settle such matters on terms that are unfavorable to us.

**If we fail to comply with environmental requirements, our business, financial condition, results of operations, cash flows, and reputation could be adversely affected.**

Our operations and the sale of our solutions are subject to various federal, state, local, and foreign environmental and safety regulations, including laws adopted by the E.U., such as the Waste Electrical and Electronic Equipment Directive (“WEEE Directive”), and the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Directive (“E.U. RoHS Directive”), of certain metals from global hot spots. The WEEE Directive requires electronic goods producers to be responsible for marking, collection, recycling, and treatment of such products. Changes in the WEEE Directive of the interpretation thereof may cause us to incur additional costs or meet additional regulatory requirements, which could be material. Similar laws and regulations have been passed or are pending in China, South Korea, Norway, and Japan and may be enacted in other regions, including in the United States, and we are, or may in the future be, subject to these laws and regulations.

The E.U. RoHS Directive and similar laws of other jurisdictions limit the content of certain hazardous materials such as lead, mercury, and cadmium in the manufacture of electrical equipment, including our products. Currently, our products comply with the E.U. RoHS Directive requirements. However, if there are changes to this or other laws, or to their interpretation, or if new similar laws are passed in other jurisdictions, we may be required to reengineer our products or to use different components to comply with these regulations. This reengineering or component substitution could result in substantial costs to us or disrupt our operations or logistics.

We are also subject to environmental laws and regulations governing the management of hazardous materials, which we use in small quantities in our engineering labs. Our failure to comply with past, present, and future environmental and safety laws could result in increased costs, reduced sales of our products, substantial product inventory write-offs, reputational damage, penalties, third-party property damage, remediation costs, and other sanctions, any of which could harm our business, financial condition, results of operations, and cash flows. To date, our expenditures for environmental compliance have not had a material impact on our results of operations or cash flows, and although we cannot predict the future impact of such laws or regulations, they will likely result in additional costs and may increase penalties associated with violations or require us to change the content of our products or how they are manufactured, which could have a material adverse effect on our business, financial condition, results of operations, and cash flows. We also expect that our business will be affected by new environmental laws and regulations on an ongoing basis, which may be more stringent, imposing greater compliance costs and increasing risks and penalties associated with violations which could harm our business.

**Our business, financial condition, results of operations, or cash flows could be significantly hindered by the occurrence of a natural disaster, terrorist attack, pandemic, or other catastrophic event.**

Our business operations are susceptible to outages due to fire, floods, unusual weather conditions, power loss, telecommunications failures, terrorist attacks, pandemics, such as the COVID-19 pandemic, and other events beyond our control, and our sales opportunities may also be affected by such events. Natural disasters including tornados, hurricanes, floods and earthquakes may damage the facilities of our customers or those of their suppliers or retailers or their other operations, which could lead to reduced revenue for our customers and thus reduced sales. In addition, a substantial portion of our facilities, including our headquarters, are located in Northern California, an area susceptible to earthquakes. We do not carry earthquake insurance for earthquake-related losses. Despite our implementation of network security measures, our servers are vulnerable to computer viruses, break-ins, and similar disruptions from unauthorized tampering with our computer systems. We may not
carry sufficient business interruption insurance to compensate us for losses that may occur as a result of any of these events.

Additionally, our customers may face a number of potential business interruption risks that are beyond our respective control. For example, our customers depend on the continuous availability of our cloud-based offerings. Our cloud-based offerings are vulnerable to damage or interruption from a variety of sources, including damage or interruption caused by telecommunications or computer systems failure, fire, earthquake, power loss, cyberattack, human error, terrorist acts, and war. We use a variety of third-party data centers and do not control their operation. These facilities and networks may experience technical failures and downtime, may fail to distribute appropriate updates, or may fail to meet the increased requirements of a growing customer base, any of which could temporarily or permanently expose our customers’ networks, leaving their networks unprotected against the latest security threats, or, in the case of technical failures and downtime of a customer’s security operation center, all security threats. Depending upon how customers have configured their use of our products and services, network downtime within our data centers may also prevent certain customers from being able to access the Internet during the period of such network downtime.

To the extent that such events disrupt our business or the business of our current or prospective customers, or adversely impact our reputation, such events could adversely affect our business, financial condition, results of operations, and cash flows.

Risks Related to Our Indebtedness

Our substantial leverage could adversely affect our ability to raise additional capital to fund our operations, limit our ability to react to changes in the economy or our market, expose us to interest rate risk, and prevent us from timely satisfying our obligations.

As of June 27, 2020, our total debt outstanding under our Senior Secured Credit Facilities was approximately $4,781 million and additional unused borrowing capacity under our Revolving Credit Facility was approximately $496 million. For a description of our Senior Secured Credit Facilities and definitions of capitalized terms used in this section, see “Description of Certain Indebtedness.” We intend to cause Foundation Technology Worldwide to repay approximately $525.0 million of our Second Lien Term Loan with the proceeds from this offering. See “Use of Proceeds.” If we cannot generate sufficient cash flow from operations to service our debt, we may need to refinance our debt, dispose of assets, or issue equity to obtain necessary funds; we do not know whether we will be able to take any of such actions on a timely basis or on terms satisfactory to us or at all.

Our high degree of leverage could have important consequences, including:

• making it more difficult for us to make payments on the Senior Secured Credit Facilities and our other obligations;
• increasing our vulnerability to general economic and market conditions and to changes in the industries in which we compete;
• requiring a substantial portion of cash flow from operations to be dedicated to the payment of principal and interest on our indebtedness, thereby reducing our ability to use our cash flow to fund our operations, future working capital, capital expenditures, investments or acquisitions, future strategic business opportunities, or other general corporate requirements;
• restricting us from making acquisitions or causing us to make divestitures or similar transactions;
• limiting our ability to obtain additional financing for working capital, capital expenditures, debt service requirements, investments, acquisitions, and general corporate or other purposes;
• limiting our ability to adjust to changing market conditions and placing us at a competitive disadvantage compared to our competitors who are less highly leveraged; and
• increasing our cost of borrowing.
Borrowings under our Senior Secured Credit Facilities are at variable rates of interest and expose us to interest rate risk. If interest rates increase, our debt service obligations may increase even though the amount borrowed remains the same, and our net income and cash flows, including cash available for servicing our indebtedness, will correspondingly decrease.

**Restrictions imposed by our outstanding indebtedness and any future indebtedness may limit our ability to operate our business and to finance our future operations or capital needs or to engage in acquisitions or other business activities necessary to achieve growth.**

The terms of our outstanding indebtedness restrict us from engaging in specified types of transactions. These covenants restrict our ability to, among other things:

- incur additional indebtedness;
- create or incur liens;
- engage in consolidations, amalgamations, mergers, liquidations, dissolutions, or dispositions;
- pay dividends and distributions on, or purchase, redeem, defease, or otherwise acquire or retire for value, our capital stock;
- make acquisitions, investments, loans (including guarantees), advances, or capital contributions;
- create negative pledges or restrictions on the payment of dividends or payment of other amounts owed from subsidiaries;
- sell, transfer, or otherwise dispose of assets, including capital stock of subsidiaries;
- make prepayments or repurchases of debt that is contractually subordinated with respect to right of payment or security;
- engage in certain transactions with affiliates;
- modify certain documents governing debt that is subordinated with respect to right of payment;
- change our fiscal year; and
- change our material lines of business.

In addition, our First Lien Credit Agreement includes a financial covenant which requires that, at the end of each fiscal quarter, for so long as the aggregate principal amount of borrowings under the Revolving Credit Facility exceeds 35% of the aggregate commitments under the Revolving Credit Facility, our first lien net leverage ratio cannot exceed 6.30 to 1.00. Our ability to comply with this financial covenant can be affected by events beyond our control, and we may not be able to satisfy it. See “Description of Certain Indebtedness.” As a result of these restrictions, we may be:

- limited in how we conduct our business;
- unable to raise additional debt or equity financing to operate during general economic or business downturns;
- unable to compete effectively or to take advantage of new business opportunities; and/or
- limited in our ability to grow in accordance with, or otherwise pursue, our business strategy.

Our Senior Secured Credit Facilities also contain numerous affirmative covenants that will remain in effect as long as our Senior Secured Credit Facilities remain outstanding. We are also required to make mandatory prepayments of the obligations under our Senior Secured Credit Facilities in certain circumstances, including upon certain asset sales or receipt of certain insurance proceeds or condemnation awards, upon certain issuances of debt, and, annually, with a portion of our excess cash flow.
We cannot guarantee that we will be able to maintain compliance with these covenants or, if we fail to do so, that we will be able to obtain waivers from the lenders or investors and/or amend the covenants. Even if we comply with all of the applicable covenants, the restrictions on the conduct of our business could adversely affect our business by, among other things, limiting our ability to take advantage of financings, mergers, acquisitions, investments, and other corporate opportunities that may be beneficial to our business. Even if our Senior Secured Credit Facilities are terminated, any additional debt that we incur in the future could subject us to similar or additional covenants. See “Description of Certain Indebtedness.”

A breach of any of the covenants in the credit agreements governing our Senior Secured Credit Facilities could result in an event of default, which, if not cured or waived, could trigger acceleration of our indebtedness and an increase in the interest rates applicable to such indebtedness, and may result in the acceleration of or default under any other debt we may incur in the future to which a cross-acceleration or cross-default provision applies. The acceleration of the indebtedness under our Senior Secured Credit Facilities or under any other indebtedness could have a material adverse effect on our business, results of operations, and financial condition. In the event of any default under our existing or future credit facilities, the applicable lenders could elect to terminate borrowing commitments and declare all borrowings and loans outstanding, together with accrued and unpaid interest and any fees and other obligations, to be due and payable. In addition, we have granted a security interest in a significant portion of our assets to secure our obligations under our Senior Secured Credit Facilities. During the existence of an event of default under our Senior Secured Credit Facilities, the applicable lenders could exercise their rights and remedies thereunder, including by way of initiating foreclosure proceedings against any assets constituting collateral for our obligations under the Senior Secured Credit Facilities.

We may be unable to generate sufficient cash flow to satisfy our significant debt service obligations, which could have a material adverse effect on our business, financial condition, results of operations, and cash flows.

Our ability to make scheduled payments on or to refinance our debt obligations depends on our financial condition and operating performance, which are subject to prevailing economic and competitive conditions and to certain financial, business, legislative, regulatory, and other factors beyond our control. We may not be able to maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and/or interest on our indebtedness. If our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay investments, acquisitions, capital expenditures, and payments on account of other obligations, seek additional capital, restructure or refinance our indebtedness, or sell assets. These alternative measures may not be successful and may not permit us to meet our scheduled debt service obligations. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt could be at higher interest rates and could require us to comply with more onerous covenants, which could further restrict our business operations. In addition, we cannot assure you that we will be able to refinance any of our indebtedness on commercially reasonable terms, or at all.

If we are at any point unable to repay or otherwise refinance our indebtedness when due, or if any other event of default is not cured or waived, the applicable lenders could accelerate our outstanding obligations or proceed against the collateral granted to them to secure that indebtedness, which could force us into bankruptcy or liquidation. In the event the applicable lenders accelerate the repayment of our borrowings, we and our subsidiaries may not have sufficient assets to repay that indebtedness. Any acceleration of amounts due under the agreements governing our Senior Secured Credit Facilities or the exercise by the applicable lenders of their rights under the security documents would likely have a material adverse effect on our business.
We will require a significant amount of cash to service our indebtedness. The ability to generate cash or refinance our indebtedness as it becomes due depends on many factors, some of which are beyond our control.

We are a holding company, and as such have no independent operations or material assets other than our ownership of equity interests in our subsidiaries, and our subsidiaries’ contractual arrangements with customers, and we will depend on our subsidiaries to distribute funds to us so that we may pay our obligations and expenses. Our ability to make scheduled payments on, or to refinance our respective obligations under, our indebtedness and to fund planned capital expenditures and other corporate expenses will depend on the ability of our subsidiaries to make distributions, dividends or advances to us, which in turn will depend on our subsidiaries’ future operating performance, on economic, financial, competitive, legislative, regulatory, and other factors, and any legal and regulatory restrictions on the payment of distributions and dividends to which they may be subject. Many of these factors are beyond our control. We can provide no assurance that our business will generate sufficient cash flow from operations, that currently anticipated cost savings and operating improvements will be realized or that future borrowings will be available to us in an amount sufficient to enable us to satisfy our respective obligations under our indebtedness or to fund our other needs. In order for us to satisfy our obligations under our indebtedness and fund planned capital expenditures, we must continue to execute our business strategy. If we are unable to do so, we may need to reduce or delay our planned capital expenditures or refinance all or a portion of our indebtedness on or before maturity. Significant delays in our planned capital expenditures may materially and adversely affect our future revenue prospects. In addition, we can provide no assurance that we will be able to refinance any of our indebtedness on commercially reasonable terms or at all.

Despite our level of indebtedness, we and our subsidiaries may still be able to incur substantially more debt, including off-balance sheet financing, contractual obligations, and general and commercial liabilities. This could further exacerbate the risks to our financial condition described above.

We and our subsidiaries may be able to incur significant additional indebtedness in the future, including additional tranches of term loans and/or term loan increases, increases to our revolving commitments and/or additional revolving credit facilities as well as off-balance sheet financings, contractual obligations, and general and commercial liabilities. Although the terms of Senior Secured Credit Facilities contain restrictions on the incurrence of additional indebtedness, such restrictions are subject to a number of significant exceptions and qualifications and any additional indebtedness incurred in compliance with such restrictions could be substantial. These restrictions also will not prevent us from incurring obligations that do not constitute indebtedness. If we and our subsidiaries incur significant additional indebtedness or other obligations, the related risks that we face could increase.

If the financial institutions that are part of the syndicate of our Revolving Credit Facility fail to extend credit under our facility, our liquidity and results of operations may be adversely affected.

We have access to capital through our Revolving Credit Facility, which is governed by the First Lien Credit Agreement. Each financial institution which is part of the syndicate for our Revolving Credit Facility is responsible on a several, but not joint, basis for providing a portion of the loans to be made under our Revolving Credit Facility. If any participant or group of participants with a significant portion of the commitments in our Revolving Credit Facility fails to satisfy its or their respective obligations to extend credit under the facility and we are unable to find a replacement for such participant or participants on a timely basis (if at all), our liquidity may be adversely affected.

We may be adversely affected by the phase-out of, or changes in the method of determining, the London Interbank Offered Rate (“LIBOR”) or the Euro Interbank Offered Rate (“EURIBOR”), or the replacement of LIBOR and/or EURIBOR with different reference rates.

LIBOR is the basic rate of interest used in lending between banks on the London interbank market and is widely used as a reference for setting the interest rate on U.S. dollar-denominated loans globally. EURIBOR is a
basic rate of interest used in lending between Eurozone banks and is widely used as a reference for setting the interest rate on Euro-denominated loans globally. Our Senior Secured Credit Facilities use LIBOR and EURIBOR as reference rates such that the interest due to our creditors under those facilities is calculated using LIBOR or EURIBOR, as applicable.

On July 27, 2017, the U.K.’s Financial Conduct Authority (the authority that administers LIBOR) announced that it intends to phase out LIBOR by the end of 2021. It is unclear whether new methods of calculating LIBOR will be established such that it continues to exist after 2021, or if alternative rates or benchmarks will be adopted. Changes in the method of calculating LIBOR, or the replacement of LIBOR with an alternative rate or benchmark, may adversely affect interest rates and result in higher borrowing costs. This could materially and adversely affect our results of operations, cash flows, and liquidity. We cannot predict the effect of the potential changes to LIBOR or the establishment and use of alternative rates or benchmarks. We may need to renegotiate our Senior Secured Credit Facilities or incur other indebtedness, and changes in the method of calculating LIBOR, or the use of an alternative rate or benchmark, may negatively impact the terms of such renegotiated Senior Secured Credit Facilities or such other indebtedness. If changes are made to the method of calculating LIBOR or LIBOR ceases to exist, we may need to amend certain contracts and cannot predict what alternative rate or benchmark would be negotiated. This may result in an increase to our interest expense.

The European Money Markets Institute (the authority that administers EURIBOR) has undertaken a number of reforms in response to the EU Benchmark Regulation, which was first published in June 2016 and requires only benchmarks published by “authorized administrators” to be used in new financial contracts beginning on January 1, 2022. It is unclear whether new methods of calculating EURIBOR will be established such that it continues to exist after 2021, or if alternative rates or benchmarks will be adopted. Changes in the method of calculating EURIBOR, or the replacement of EURIBOR with an alternative rate or benchmark, may adversely affect interest rates and result in higher borrowing costs. This could materially and adversely affect our results of operations, cash flows, and liquidity. We cannot predict the effect of the potential changes to EURIBOR or the establishment and use of alternative rates or benchmarks. We may need to renegotiate our First Lien Credit Agreement or incur other indebtedness, and changes in the method of calculating EURIBOR, or the use of an alternative rate or benchmark, may negatively impact the terms of such renegotiated First Lien Credit Agreement or such other indebtedness. If changes are made to the method of calculating EURIBOR or EURIBOR ceases to exist, we may need to amend certain contracts and cannot predict what alternative rate or benchmark would be negotiated. This may result in an increase to our interest expense.

**We utilize derivative financial instruments to reduce our exposure to market risks from changes in interest rates on our variable rate indebtedness, including our Senior Secured Credit Facilities, and we will be exposed to risks related to counterparty credit worthiness or non-performance of these instruments.**

We have entered into interest rate swap instruments to limit our exposure to changes in variable interest rates. While our hedging strategy is designed to minimize the impact of increases in interest rates applicable to our variable rate debt, including our Senior Secured Credit Facilities, there can be no guarantee that our hedging strategy will be effective, and we may experience credit-related losses in some circumstances. See Note 15 to our audited consolidated financial statements and Note 11 to our unaudited consolidated financial statements included elsewhere in this prospectus.

**Risks Related to Our Organizational Structure**

**Our principal asset is our interest in Foundation Technology Worldwide LLC, and we are dependent upon Foundation Technology Worldwide LLC and its consolidated subsidiaries for our results of operations, cash flows, and distributions.**

Upon completion of this offering and the Reorganization Transactions, we will be a holding company and have no material assets other than our direct and indirect ownership of the LLC Units. As such, we have no
independent means of generating revenue or cash flow, and our ability to pay our taxes and operating expenses, including to satisfy our obligations under the tax receivable agreement, or declare and pay dividends in the future, if any, depend upon the results of operations and cash flows of Foundation Technology Worldwide LLC and its consolidated subsidiaries and distributions we receive from Foundation Technology Worldwide LLC. There can be no assurance that our subsidiaries will generate sufficient cash flow to distribute funds to us or that applicable state law and contractual restrictions will permit such distributions.

We anticipate that Foundation Technology Worldwide LLC will continue to be treated as a partnership (and not as a “publicly traded partnership,” within the meaning of Section 7704(b) of the Code, subject to tax as a corporation) for U.S. federal income tax purposes and, as such, generally will not be subject to any entity-level U.S. federal income tax. Instead, taxable income will be allocated to holders of Foundation Technology Worldwide LLC Units. Accordingly, we and our subsidiaries will be required to pay income taxes on our allocable share of any net taxable income of Foundation Technology Worldwide LLC. Further, Foundation Technology Worldwide LLC and its subsidiaries may, absent an election to the contrary, be subject to material liabilities pursuant to partnership audit rules enacted pursuant to the Bipartisan Budget Act of 2015 and related guidance if, for example, its calculations of taxable income are incorrect. Further, we will be responsible for the unpaid tax liabilities of the corporate entities we acquire as part of the Reorganization Transactions, including for the taxable year (or portion thereof) of such entities ending on the date of this Offering. To the extent that we need funds and Foundation Technology Worldwide LLC and its subsidiaries are restricted from making such distributions, under applicable law or regulation, or as a result of covenants in the credit agreements of Foundation Technology Worldwide LLC and its subsidiaries, we may not be able to obtain such funds on terms acceptable to us or at all and as a result could suffer an adverse effect on our liquidity and financial condition.

We will be required to pay certain Continuing Owners and certain Management Owners for certain tax benefits we may realize or are deemed to realize in accordance with the tax receivable agreement between us and such Continuing Owners and Management Owners, and we expect that the payments we will be required to make will be substantial.

The contribution by certain Continuing Owners and certain Management Owners to McAfee Corp. of certain corporate entities in connection with this offering (including the Reorganization Transactions) and future exchanges of LLC Units for cash or, at our option, for shares of our Class A common stock are expected to produce or otherwise deliver to us favorable tax attributes that can reduce our taxable income. Upon the completion of this offering, we will be a party to a tax receivable agreement, under which generally we will be required to pay to certain of our Continuing Owners and Management Owners (collectively, the “TRA Beneficiaries”) 85% of the applicable cash savings, if any, in U.S. federal, state, and local income tax that we actually realize or, in certain circumstances, are deemed to realize as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. We generally will retain the benefit of the remaining 15% of the applicable tax savings.

The payment obligations under the tax receivable agreement are obligations of McAfee Corp., and we expect that the payments we will be required to make under the tax receivable agreement will be substantial. Assuming no material changes in the relevant tax law and that we earn sufficient taxable income to realize all tax benefits that are subject to the tax receivable agreement, we expect that the reduction in tax payments for us associated with the tax attributes described above would aggregate to approximately $2,442.0 million over
20 years from the date of this offering based on an initial public offering price of $20.50 per share of our Class A common stock, which is the midpoint of the price range set forth on the front cover of this prospectus, and assuming all future sales of LLC Units in exchange for our Class A common stock would occur on the one-year anniversary of this offering at such price. In this scenario, we estimate that we would be required to pay the TRA Beneficiaries 85% of such amount, or $2,075.7 million, over the 20-year period from the date of this offering. The actual amounts may materially differ from these hypothetical amounts, as potential future reductions in tax payments for us and tax receivable agreement payments by us will be determined in part by reference to the market value of our Class A common stock at the time of the sale and the prevailing tax rates applicable to us over the life of the tax receivable agreement and will be dependent on us generating sufficient future taxable income to realize the benefit. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Tax Receivable Agreement.” Payments under the tax receivable agreement are not conditioned on the TRA Beneficiaries’ ownership of our shares after this offering.

The actual increase in tax basis, as well as the amount and timing of any payments under the tax receivable agreement, will vary depending upon a number of factors, including the timing of sales by the Continuing Owners and participating Management Owners, the price of our Class A common stock at the time of the sales, whether such sales are taxable, the amount and timing of the taxable income we generate in the future, the tax rates then applicable to us, and the portions of our payments under the tax receivable agreement constituting imputed interest. Payments under the tax receivable agreement are expected to give rise to certain additional tax benefits attributable to either further increases in basis or in the form of deductions for imputed interest. Any such benefits that we are deemed to realize under the terms of the tax receivable agreement are covered by the tax receivable agreement and will increase the amounts due thereunder. The tax receivable agreement will provide that interest, at a rate equal to LIBOR (or if LIBOR ceases to be published, a replacement rate with similar characteristics) plus 1%, will accrue from the due date (without extensions) of the tax return to which the applicable tax benefits relate to the date of payment specified by the tax receivable agreement. In addition, where we fail to make payment by the date so specified, the tax receivable agreement generally will provide for interest to accrue on the unpaid amount from the date so specified until the date of actual payment, at a rate equal to LIBOR (or if LIBOR ceases to be published, a replacement rate with similar characteristics) plus 5%, except under certain circumstances specified in the tax receivable agreement where we are unable to make payment by such date, in which case interest will accrue at a rate equal to LIBOR (or if LIBOR ceases to be published, a replacement rate with similar characteristics) plus 1%.

Payments under the tax receivable agreement will be based in part on our tax reporting positions. We will not be reimbursed for any payments previously made under the tax receivable agreement if such basis increases or other attributes or benefits are subsequently disallowed by a taxing authority. As a result, in certain circumstances, the payments we are required to make under the tax receivable agreement could exceed the benefits that we actually realize in respect of the attributes in respect of which the tax receivable agreement required us to make payment.

In addition, the tax receivable agreement will provide that in the case of a change of control of McAfee Corp. (as defined therein) or a material breach of our obligations (that is not timely cured) under the tax receivable agreement, or if, at any time, we elect an early termination of the tax receivable agreement, our payment obligations under the tax receivable agreement will accelerate and may significantly exceed the actual benefits we realize in respect of the tax attributes subject to the tax receivable agreement. We will be required to make a payment to the TRA Beneficiaries covered by such termination in an amount equal to the present value of future payments (calculated using a discount rate equal to the lesser of (i) 6.5% per annum and (ii) LIBOR (or if LIBOR ceases to be published, a replacement rate with similar characteristics) plus 1%, which may differ from our, or a potential acquirer’s, then-current cost of capital) under the tax receivable agreement, which payment would be based on certain assumptions, including those relating to our future taxable income. In certain cases, a sale or other disposition of a substantial portion of assets of Foundation Technology Worldwide LLC will be treated as a change of control transaction. In these situations, our obligations under the tax receivable agreement

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could have a substantial negative impact on our, or a potential acquirer’s, liquidity and could have the effect of delaying, deferring, modifying, or preventing certain mergers, asset sales, other forms of business combinations, or other changes of control. These provisions of the tax receivable agreement may result in situations where the TRA Beneficiaries have interests that differ from or are in addition to those of our other stockholders. In addition, we could be required to make payments under the tax receivable agreement that are substantial, significantly in advance of any potential actual realization of such further tax benefits, and in excess of our, or a potential acquirer’s, actual cash savings in income tax.

If we were to elect to terminate the tax receivable agreement immediately after this offering, based on an assumed initial public offering price of $20.50 per share of our Class A common stock (the midpoint of the range set forth on the cover page of this prospectus), we estimate that we would be required to pay approximately $2,524.4 million in the aggregate under the tax receivable agreement.

Finally, because we are a holding company with no operations of our own, our ability to make payments under the tax receivable agreement is dependent on the ability of our subsidiaries to make distributions to us. The First Lien Credit Agreement and Second Lien Credit Agreement restrict the ability of our subsidiaries to make distributions to us, which could affect our ability to make payments under the tax receivable agreement. To the extent that we are unable to make payments under the tax receivable agreement as a result of restrictions in the First Lien Credit Agreement and Second Lien Credit Agreement, such payments will be deferred and will accrue interest until paid, which could negatively impact our results of operations and could also affect our liquidity in periods in which such payments are made.

In certain circumstances, under its limited liability company agreement, Foundation Technology Worldwide LLC will be required to make tax distributions to us, the Continuing Owners and certain Management Owners and the distributions that Foundation Technology Worldwide LLC will be required to make may be substantial.

Funds used by Foundation Technology Worldwide LLC to satisfy its tax distribution obligations to the Continuing Owners and certain Management Owners will not be available for reinvestment in our business. Moreover, the tax distributions that Foundation Technology Worldwide LLC will be required to make may be substantial, and will likely exceed (as a percentage of Foundation Technology Worldwide LLC’s net income) the overall effective tax rate applicable to a similarly situated corporate taxpayer.

As a result of potential differences in the amount of net taxable income allocable to us and to the Continuing Owners and certain Management Owners, as well as the use of an assumed tax rate in calculating Foundation Technology Worldwide LLC’s tax distribution obligations to the Continuing Owners and the Management Owners, we may receive distributions significantly in excess of our tax liabilities and obligations to make payments under the tax receivable agreement. To the extent, as currently expected, we do not distribute such cash balances as dividends on shares of our Class A common stock and instead, for example, hold such cash balances or lend them to Foundation Technology Worldwide LLC, the Continuing Owners would benefit from any value attributable to such accumulated cash balances as a result of their ownership of Class A common stock following an exchange of their LLC Units for such Class A common stock. Our board of directors, in its sole discretion, will make any determination from time to time with respect to the use of any such excess cash so accumulated, which may include, among other uses, to acquire additional newly issued LLC Units from Foundation Technology Worldwide LLC at a per unit price determined by reference to the market value of the Class A common stock; to pay dividends, which may include special dividends, on its Class A common stock; to fund repurchases of its Class A common stock; to make payments under the tax receivable agreement; or any combination of the foregoing. We will have no obligation to distribute such cash (or other available cash other than any declared dividend) to our stockholders.
Our organizational structure, including the tax receivable agreement, confers certain benefits upon certain Continuing Owners and certain Management Owners, which benefits are not conferred on Class A common stockholders generally.

Our organizational structure, including the tax receivable agreement, confers certain benefits upon certain Continuing Owners and certain Management Owners, which benefits are not conferred on the holders of shares of our Class A common stock generally. In particular, we will enter into the tax receivable agreement with Foundation Technology Worldwide LLC and the TRA Beneficiaries, which will provide for the payment by us to the TRA Beneficiaries of 85% of the amount of tax benefits, if any, that we actually realize, or in some circumstances are deemed to realize, as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. See “Certain Relationships and Related Party Transactions—Tax Receivable Agreement” for additional information. Although we will generally retain 15% of the amount of such tax benefits, this and other aspects of our organizational structure may adversely impact the future trading market for the Class A common stock.

We will not be reimbursed for any payments made to the TRA Beneficiaries under the tax receivable agreement in the event that any purported tax benefits are subsequently disallowed by the IRS.

If the IRS or a state or local taxing authority challenges the tax basis adjustments and/or deductions that give rise to payments under the tax receivable agreement and the tax basis adjustments and/or deductions are subsequently disallowed, the recipients of payments under the agreements will not reimburse us for any payments we previously made to them. Any such disallowance would be taken into account in determining future payments under the tax receivable agreement and may, therefore, reduce the amount of any such future payments. Nevertheless, if the claimed tax benefits from the tax basis adjustments and/or deductions are disallowed, our payments under the tax receivable agreement could exceed our actual tax savings, and we may not be able to recoup payments under the tax receivable agreement that were calculated on the assumption that the disallowed tax savings were available.

Unanticipated changes in effective tax rates or adverse outcomes resulting from examination of our income or other tax returns could adversely affect our financial condition and results of operations.

We will be subject to income taxes in the United States, and our domestic and foreign tax liabilities will be subject to the allocation of expenses in differing jurisdictions. Our future effective tax rates could be subject to volatility or adversely affected by a number of factors, including:

• changes in the valuation of our deferred tax assets and liabilities;
• expected timing and amount of the release of any tax valuation allowances;
• tax effects of equity-based compensation;
• costs related to intercompany restructurings;
• changes in tax laws, regulations, or interpretations thereof; or
• lower than anticipated future earnings in jurisdictions where we have lower statutory tax rates and higher than anticipated future earnings in jurisdictions where we have higher statutory tax rates.
In addition, we may be subject to audits of our income, sales and other transaction taxes by U.S. federal, state, and local and foreign authorities. Outcomes from these audits could have an adverse effect on our financial condition and results of operations.

Risks Related to Our Class A Common Stock and this Offering

Our Sponsors and Intel will continue to have significant influence over us after this offering, including control over decisions that require the approval of stockholders, which could limit your ability to influence the outcome of matters submitted to stockholders for a vote.

We are currently controlled, and after this offering is completed will continue to be controlled, by our Sponsors and Intel. Upon completion of this offering, investment funds affiliated with our Sponsors will beneficially own 39.0% of the voting power of our outstanding Class A common stock and Class B common stock, on a combined basis (or 38.4% if the underwriters exercise in full their option to purchase additional shares), and Intel will beneficially own 43.2% of the voting power of our outstanding Class A common stock and Class B common stock, on a combined basis (or 42.6% if the underwriters exercise in full their option to purchase additional shares). As long as our Sponsors and Intel collectively own or control at least a majority of our outstanding voting power, they will have the ability to exercise substantial control and significant influence over our management and affairs and all corporate actions requiring stockholder approval, irrespective of how our other stockholders may vote, including the election and removal of directors and the size of our board of directors, any amendment of our certificate of incorporation or bylaws, or the approval of any merger or other significant corporate transaction, including a sale of substantially all of our assets. See “Description of Capital Stock.” The concentration of voting power limits your ability to influence corporate matters and, as a result, we may take actions that you do not view as beneficial. As a result, the market price of our Class A common stock could be adversely affected. Even if their collective ownership falls below 50%, our Sponsors and Intel will continue to be able to strongly influence or effectively control our decisions.

Additionally, the interests of our Sponsors and Intel may not align with the interests of our other stockholders. Our Sponsors and Intel may, in the ordinary course of their respective businesses, acquire and hold interests in businesses that compete directly or indirectly with us. Our Sponsors and Intel each may also pursue acquisition opportunities that may be complementary to our business, and, as a result, those acquisition opportunities may not be available to us.

Certain of our directors have relationships with our Sponsors and Intel, which may cause conflicts of interest with respect to our business.

Following this offering, three of our seven directors will be affiliated with our Sponsors and Intel. Our directors who are affiliated with our Sponsors or Intel have fiduciary duties to us and, in addition, have duties to our Sponsors and Intel. As a result, these directors may face real or apparent conflicts of interest with respect to matters affecting both us and our Sponsors, whose interests may be adverse to ours in some circumstances.

We previously identified a material weakness in our internal control over financial reporting in recent periods, which we concluded as of the end of the first quarter of fiscal 2020 had been fully remediated, and if we fail to maintain proper and effective internal control over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act in the future, our ability to produce accurate and timely consolidated financial statements could be impaired, which could harm our results of operations, our ability to operate our business, and investor confidence.

In connection with the audit of our consolidated financial statements for fiscal 2018 and fiscal 2019, we and our independent registered public accounting firm identified a number of errors in our revenue recognition process that were immaterial to our consolidated financial statements, which led us to conclude we had a material weakness in our internal control over financial reporting. A material weakness is a deficiency, or a combination
of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our consolidated financial statements will not be prevented or detected on a timely basis. We did not maintain effective controls specifically over the accuracy of our revenue accounting and reporting, due to the lack of effective review necessary to ensure accurate reporting of revenue and deferred revenue. Additionally, this material weakness could have resulted in a misstatement of the aforementioned account balances or disclosures for the periods during which the material weakness was ongoing that would have resulted in a material misstatement to the annual or interim consolidated financial statements for such periods that would not have been prevented or detected.

We have taken numerous steps designed to address the underlying causes of the material weakness, primarily through the hiring of additional accounting and finance personnel with responsibility for revenue accounting and reporting with relevant accounting and financial reporting experience, reorganizing reporting and supervisory roles among our finance and accounting personnel, enhancing our training programs within our accounting and finance department, and enhancing our internal review procedures. As of the end of the first quarter of fiscal 2020, we concluded that the aforementioned material weakness had been fully remediated. However, our current efforts to maintain an effective control environment may not be sufficient to prevent future material weaknesses or significant deficiencies from occurring or to promptly remediate any such future material weaknesses or significant deficiencies.

Upon becoming a public company, we will be required to comply with the SEC’s rules implementing Sections 302 and 404 of the Sarbanes-Oxley Act of 2002 (“Sarbanes-Oxley Act”), which will require management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of our controls over financial reporting. Although we will be required to disclose material changes made in our internal controls and procedures on at least a quarterly basis, we will not be required to make our first annual assessment of our internal controls over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act (including an auditor attestation on management’s internal controls report) until our annual report on Form 10-K for the fiscal year ending December 25, 2021.

To comply with the internal controls requirements of being a public company, we may need to undertake various actions as our business or applicable rules and regulations evolve, such as implementing new internal controls and procedures and hiring additional accounting or internal audit staff that have the requisite knowledge of U.S. GAAP. Testing and maintaining internal controls can be costly, challenging, and potentially divert our management’s attention from other matters that are important to the operation of our business.

If we identify future material weaknesses in our internal control over financial reporting, or if we are unable to comply with the demands that will be placed upon us as a public company, including the requirements of Section 404 of the Sarbanes-Oxley Act, in a timely manner, we may be unable to accurately report our consolidated financial results, or report them within the timeframes required by the SEC. We also could become subject to sanctions or investigations by the SEC or other regulatory authorities. In addition, if we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting, when required, investors may lose confidence in the accuracy and completeness of our financial reports, we may face restricted access to the capital markets, and our stock price may be adversely affected.

Moreover, no matter how well designed, internal control over financial reporting has inherent limitations. Therefore, internal control over financial reporting determined to be effective can provide only reasonable assurance with respect to financial statement preparation and may not prevent or detect all misstatements. Due to the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be incorrect, and that breakdowns can occur because of error or mistake. Further, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the internal controls. Additionally, projections of any evaluation of effectiveness

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to future periods are subject to the risk that controls may become inadequate due to changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. As such, we could lose investor confidence in the accuracy and completeness of our financial reports, which may have a material adverse effect on our reputation and stock price.

Upon the listing of our shares, we will be a “controlled company” under the Exchange’s rules and, as a result, will qualify for certain exemptions from certain corporate governance requirements; you will therefore not have the same protections afforded to stockholders of companies that are subject to these governance requirements.

Because our Sponsors and Intel will continue to collectively control a majority of the voting power of our outstanding Class A common stock and Class B common stock on a combined basis after completion of this offering, we will be a “controlled company” within the meaning of the Exchange’s corporate governance standards. Under these rules, a company of which more than 50% of the voting power for the election of directors is held by an individual, group, or another company is a “controlled company” and may elect not to comply with certain corporate governance requirements, including the requirements that, within one year of the date of the listing of our Class A common stock, we have:

- a board of directors that is composed of a majority of “independent directors,” as defined under rules;
- a compensation committee that is composed entirely of independent directors; and
- a nominating and corporate governance committee that is composed entirely of independent directors.

Following this offering, we expect to have a board of directors that is composed of a majority of independent directors. However, we may utilize some or all of the other exemptions applicable to “controlled companies.” Accordingly, for so long as we are a “controlled company,” you will not have the same protections afforded to stockholders of companies that are subject to all of the Exchange’s corporate governance requirements. Our status as a controlled company could make our Class A common stock less attractive to some investors or otherwise harm our stock price.

If you purchase shares of Class A common stock in this offering, you will suffer immediate and substantial dilution of your investment.

The initial public offering price of our Class A common stock is substantially higher than the net tangible book deficit per share of our Class A common stock. Therefore, if you purchase shares of our Class A common stock in this offering, you will pay a price per share that substantially exceeds our net tangible book deficit per share after this offering. Based on an assumed initial public offering price of $20.50 per share, the midpoint of the range set forth on the cover page of this prospectus, you will experience immediate dilution of $34.49 per share, representing the difference between our pro forma net tangible book deficit per share after giving effect to this offering and the initial public offering price. In addition, purchasers of Class A common stock in this offering will have contributed 49.3% of the aggregate price paid by all purchasers of our stock but will own only approximately 22.4% of our Class A common stock outstanding after this offering. See “Dilution” for more detail.

Your percentage ownership in us may be diluted by future issuances of capital stock, which could reduce your influence over matters on which stockholders vote.

Pursuant to our amended and restated certificate of incorporation and amended and restated bylaws as will be in effect upon the completion of this offering, our board of directors has the authority, without action or vote of our stockholders, to issue all or any part of our authorized but unissued shares of Class A common stock, including shares issuable upon the exercise of options, or shares of our authorized but unissued preferred stock. Issuances of Class A common stock or voting preferred stock would reduce your influence over matters on which our stockholders vote and, in the case of issuances of preferred stock, would likely result in your interest in us being subject to the prior rights of holders of that preferred stock.
An active, liquid trading market for our Class A common stock may not develop, which may limit your ability to sell your shares.

Prior to this offering, there was no public market for our Class A common stock. Although we intend to list shares of our Class A common stock on the Exchange under the symbol “MCFE”, an active trading market for our Class A shares may never develop or be sustained following this offering. The initial public offering price will be determined by negotiations among us, the selling stockholders, and the representatives (as defined herein) and may not be indicative of market prices of our Class A common stock that will prevail in the open market after the offering. A public trading market having the desirable characteristics of depth, liquidity, and orderliness depends upon the existence of willing buyers and sellers at any given time, such existence being dependent upon the individual decisions of buyers and sellers over which neither we nor any market maker has control. The failure of an active and liquid trading market to develop and continue would likely have a material adverse effect on the value of our Class A common stock. The market price of our Class A common stock may decline below the initial public offering price, and you may not be able to sell your shares of our Class A common stock at or above the price you paid in this offering, or at all. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

As a public company, we will become subject to additional laws, regulations, and stock exchange listing standards, which will impose additional costs on us and may strain our resources and divert our management’s attention.

Prior to this offering, we were a private company. After this offering, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the listing requirements of the Exchange, and other applicable securities laws and regulations. Compliance with these laws and regulations will increase our legal and financial compliance costs and make some activities more difficult, time consuming, or costly. We also expect that being a public company and being subject to new rules and regulations will make it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. However, the incremental costs that we incur as a result of becoming a public company could exceed our estimate. These factors may therefore strain our resources, divert management’s attention and affect our ability to attract and retain qualified board members. Moreover, the additional demands associated with being a public company may disrupt regular operations of our business by diverting the attention of some of our senior management team away from revenue producing activities.

Our results of operations and share price may be volatile, and the market price of our Class A common stock after this offering may drop below the price you pay.

Our quarterly results of operations are likely to fluctuate in the future as a publicly traded company. In addition, securities markets worldwide have experienced, and are likely to continue to experience, significant price and volume fluctuations. This market volatility, as well as general economic, market, or political conditions, could subject the market price of our shares to wide price fluctuations regardless of our operating performance. We and the underwriters will negotiate to determine the initial public offering price. You may not be able to resell your shares at or above the initial public offering price or at all. Our results of operations and the trading price of our shares may fluctuate in response to various factors, including:

- actual or anticipated changes or fluctuations in our results of operations and whether our results of operations meet the expectations of securities analysts or investors;
- actual or anticipated changes in securities analysts’ estimates and expectations of our financial performance;
- announcements of new solutions, commercial relationships, acquisitions, or other events by us or our competitors;
general market conditions, including volatility in the market price and trading volume of technology companies in general and of companies in the IT security industry in particular;

- changes in how current and potential customers perceive the effectiveness of our platform in protecting against advanced cyberattacks or other reputational harm;

- network outages or disruptions of our solutions or their availability, or actual or perceived privacy, data protection, or network information breaches;

- investors’ perceptions of our prospects and the prospects of the businesses in which we participate;

- sales of large blocks of our Class A common stock, including sales by our executive officers, directors, and significant stockholders;

- announced departures of any of our key personnel;

- lawsuits threatened or filed against us or involving our industry, or both;

- changing legal or regulatory developments in the United States and other countries;

- any default or anticipated default under agreements governing our indebtedness;

- adverse publicity about us, our products and solutions, or our industry;

- effects of public health crises, such as the COVID-19 pandemic;

- general economic conditions and trends; and

- other events or factors, including those resulting from major catastrophic events, war, acts of terrorism, or responses to these events.

These and other factors, many of which are beyond our control, may cause our results of operations and the market price and demand for our shares to fluctuate substantially. While we believe that results of operations for any particular quarter are not necessarily a meaningful indication of future results, fluctuations in our quarterly results of operations could limit or prevent investors from readily selling their shares and may otherwise negatively affect the market price and liquidity of our shares. In addition, in the past, when the market price of a stock has been volatile, holders of that stock have sometimes instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert the time and attention of our management from our business, which could significantly harm our profitability and reputation.

The Continuing Owners have the right to have their LLC Units exchanged for cash or (at our option) shares of Class A common stock and any disclosure of such exchange or the subsequent sale (or any disclosure of an intent to enter into such an exchange or subsequent sale) of such shares of Class A common stock may cause volatility in our stock price.

Immediately following the Reorganization Transactions, we will have an aggregate of 266,415,205 shares of Class A common stock that are issuable upon exchange of LLC Units that are held by the Continuing Owners. We will amend and restate the existing limited liability company agreement of Foundation Technology Worldwide LLC, to, among other things, appoint McAfee Corp. as the sole managing member of Foundation Technology Worldwide LLC (the “New LLC Agreement”). Under the New LLC Agreement, subject to certain restrictions set forth therein and as described elsewhere in this prospectus, including lock-up agreements or market standoff agreements with the underwriters, the Continuing Owners will be entitled to have their LLC Units exchanged for cash or (at our option) shares of our Class A common stock. The holders of MIUs will also have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A Common Stock, based on the value of such MIUs relative to their applicable distribution threshold.
We cannot predict the timing, size, or disclosure of any future issuances of our Class A common stock resulting from the exchange of LLC Units or the effect, if any, that future issuances, disclosure, if any, or sales of shares of our Class A common stock may have on the market price of our Class A common stock. Sales or distributions of substantial amounts of our Class A common stock, or the perception that such sales or distributions could occur, may cause the market price of our Class A common stock to decline.

A significant portion of our total outstanding shares are restricted from immediate resale but may be sold into the market in the near future. This could cause the market price of our Class A common stock to drop significantly, even if our business is doing well.

Sales of a substantial number of shares of our Class A common stock in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our Class A common stock. After this offering, we will have outstanding 430,142,775 shares of Class A common stock, based on the number of shares outstanding immediately following the Reorganization Transactions and including shares of Class A common stock into which outstanding LLC Units may be exchanged, and assuming no exercises of outstanding options after the Reorganization Transactions. All of our directors and officers and the holders of approximately 97.4% of our outstanding shares and options that are not being sold in this offering will be subject to a 180-day lock-up period provided under agreements executed in connection with this offering. These shares will, however, be able to be resold after the expiration of the lock-up agreements described in the “Shares Eligible for Future Sale” section of this prospectus. Additionally, certain holders representing 2.6% of our outstanding capital stock and options, have not entered into lock-up agreements with the underwriters and, therefore, are not subject to the restrictions described above. These holders are subject to market standoff agreements with us, pursuant to the New LLC Agreement and we will not waive any of the restrictions of such market standoff agreements during the period ending 180 days after the date of this prospectus without the prior written consent of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC on behalf of the underwriters.

We also intend to file a Form S-8 under the Securities Act of 1933, as amended (the “Securities Act”) to register all shares of Class A common stock that we may issue under our equity compensation plans. In addition, our Sponsors, Intel, and certain other holders of our equity interests have certain demand registration rights that could require us in the future to file registration statements in connection with sales of additional shares of our Class A common stock by such parties. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Stockholders Agreement.” Such sales could be significant. Once we register these shares, they can be freely resold in the public market, subject to legal or contractual restrictions, such as the lock-up agreements described in the “Underwriters (Conflicts of Interest)” section of this prospectus. As restrictions on resale end, the market price of our stock could decline if the holders of currently restricted shares sell them or are perceived by the market as intending to sell them.

We cannot guarantee the timing, amount, or payment of dividends on our Class A common stock.

Following completion of this offering, we expect that Foundation Technology Worldwide LLC will initially pay a cash distribution to its members on a quarterly basis at an aggregate annual rate of approximately $150 million. McAfee Corp. is expected to receive a portion of any such distribution through the LLC Units it holds directly or indirectly through its wholly-owned subsidiaries on the record date for any such distribution declared by Foundation Technology Worldwide LLC, which is expected to equal the number of shares of Class A common stock outstanding on such date. McAfee Corp. expects to declare its first quarterly dividend in the fourth quarter of 2020, to be paid in the first quarter of 2021, and we expect such first quarterly dividend will be $0.085 per share of our Class A common stock. We intend to fund our initial dividend, as well as any future dividends, from distributions made by Foundation Technology Worldwide LLC from its available cash generated from operations. If McAfee Corp. decides to pay any other dividend on shares of our Class A common stock in the future, it would likely need to cause Foundation Technology Worldwide LLC to make distributions to McAfee Corp. and its wholly-owned subsidiaries in an
amount sufficient to cover such dividend. If Foundation Technology Worldwide LLC makes such distributions to McAfee Corp. and its wholly-owned subsidiaries, the other holders of LLC Units will be entitled to receive pro rata distributions, as well as, in certain cases, the holders of MIUs. The timing, declaration, amount of, and payment of any such dividends will be made at the discretion of McAfee Corp.’s board of directors, subject to applicable laws, and will depend upon many factors, including the amount of the distribution received by McAfee Corp. from Foundation Technology Worldwide LLC, our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions, and other factors that McAfee Corp.’s board of directors may deem relevant. Currently, the provisions of our Senior Secured Credit Facilities place certain limitations on the amount of cash dividends we can pay. See “Description of Certain Indebtedness.” Moreover, if as expected McAfee Corp. determines to initially pay a dividend following any quarterly distributions from Foundation Technology Worldwide LLC, there can be no assurance that McAfee Corp. will continue to pay dividends in the same amounts or at all thereafter. See “Dividend Policy.” As a result, we cannot guarantee the timing, amount or payment of dividends on our Class A common stock.

If securities or industry analysts do not publish research or reports about our business, if they adversely change their recommendations regarding our shares, or if our results of operations do not meet their expectations, our share price and trading volume could decline.

The trading market for our shares will be influenced, in part, by the research and reports that industry or securities analysts publish about us or our business. We do not have any control over these analysts. Securities and industry analysts do not currently, and may never, publish research on our Company. If no securities or industry analysts commence coverage of our Company, the trading price of our shares would likely be negatively impacted. In the event securities or industry analysts initiated coverage, and one or more of these analysts cease coverage of our Company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our share price or trading volume to decline. Moreover, if one or more of the analysts who cover us downgrade our stock, or if our results of operations do not meet their expectations, our share price could decline.

A credit ratings downgrade or other negative action by a credit rating organization could adversely affect the trading price of the shares of our Class A common stock.

Credit rating agencies continually revise their ratings for companies they follow. The condition of the financial and credit markets and prevailing interest rates have fluctuated in the past and are likely to fluctuate in the future. In addition, developments in our business and operations could lead to a ratings downgrade for us or our subsidiaries. Any such fluctuation in the rating of us or our subsidiaries may impact our ability to access debt markets in the future or increase our cost of future debt which could have a material adverse effect on our operations, and financial condition, which in turn may adversely affect the trading price of shares of our Class A common stock.

Provisions of our corporate governance documents could make an acquisition of our Company more difficult and may prevent attempts by our stockholders to replace or remove our current management, even if beneficial to our stockholders.

In addition to our Sponsors’ and Intel’s beneficial ownership of a controlling percentage of our common stock, our certificate of incorporation and bylaws, and the Delaware General Corporation Law (the “DGCL”) contain provisions that could make it more difficult for a third party to acquire us, even if doing so might be beneficial to our stockholders. These provisions include a classified board of directors and the ability of our board of directors to issue preferred stock without stockholder approval that could be used to dilute a potential acquiror. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Because our board of directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt to replace current members of our management team. As a result, you may lose your ability to sell your stock for a price in excess of the prevailing market price due to these protective measures, and efforts by stockholders to change the direction or management of the Company may be unsuccessful. See “Description of Capital Stock.”
Pursuant to the stockholders agreement entered into in connection with this offering, TPG, Intel Americas, Inc. and its affiliates, and Thoma Bravo have also agreed to certain standstill provisions. See “Certain Relationships and Related Party Transactions—Stockholders Agreement.”

Our certificate of incorporation after this offering will designate courts in the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, and also provide that the federal district courts will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, each of which could limit our stockholders’ ability to choose the judicial forum for disputes with us or our directors, officers, stockholders, or employees.

Our certificate of incorporation will provide that, subject to limited exceptions, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for:

• any derivative action or proceeding brought on our behalf;
• any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders;
• any action asserting a claim against us arising pursuant to any provision of the General Corporation Law of the State of Delaware, our certificate of incorporation or our bylaws;
• any action to interpret, apply, enforce or determine the validity of our certificate of incorporation or bylaws;
• any other action asserting a claim against us that is governed by the internal affairs doctrine (each, a “Covered Proceeding”).

Our certificate of incorporation will also provide that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action against us or any of our directors, officers, employees or agents and arising under the Securities Act. However, Section 22 of the Securities Act provides that federal and state courts have concurrent jurisdiction over lawsuits brought the Securities Act may be brought, there is uncertainty as to whether a court would enforce such a provision. We note that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. This provision does not apply to claims brought under the Exchange Act.

Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and to have consented to these provisions. These provisions may limit a stockholder’s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage such lawsuits against us and our directors, officers and employees. Alternatively, if a court were to find these provisions of our certificate of incorporation inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business and financial condition.

Our certificate of incorporation after this offering will contain a provision renouncing our interest and expectancy in certain corporate opportunities, which could adversely impact our business.

Each of TPG, Intel Americas, Inc. and its affiliates, and Thoma Bravo, and the members of our board of directors who are affiliated with them, by the terms of our certificate of incorporation, will not be required to offer us any corporate opportunity of which they become aware and can take any such corporate opportunity for themselves or offer it to other companies in which they have an investment. We, by the terms of our certificate of incorporation, will expressly renounce any interest or expectancy in any such corporate opportunity to the extent permitted under applicable law, even if the opportunity is one that we or our subsidiaries might reasonably have
pursued or had the ability or desire to pursue if granted the opportunity to do so. Our certificate of incorporation will not be able to be amended to
eliminate our renunciation of any such corporate opportunity arising prior to the date of any such amendment.

TPG and Thoma Bravo are in the business of making investments in companies and any of TPG, Intel and Thoma Bravo may from time to time
acquire and hold interests in businesses that compete directly or indirectly with us. These potential conflicts of interest could have a material adverse
effect on our business, financial condition, results of operations or prospects if TPG, Intel Americas, Inc. and its affiliates, or Thoma Bravo allocate
attractive corporate opportunities to themselves or their affiliates instead of to us.
This prospectus contains forward-looking statements. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based on our current beliefs, expectations, and assumptions regarding the future of our business, future plans and strategies, and other future conditions. Forward-looking statements can be identified by words such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “predict,” “project,” “target,” “potential,” “will,” “would,” “could,” “should,” “continue,” “contemplate,” and other similar expressions, although not all forward-looking statements contain these identifying words.

We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements, and you should not rely on our forward-looking statements in making your investment decision. Actual results or events could differ materially from the plans, intentions, and expectations disclosed in the forward-looking statements we make. Important factors that could cause actual results and events to differ materially from those indicated in the forward-looking statements include, among others, the following:

- plans to develop and offer new products and services and enter new markets;
- our expectations with respect to the continued stability and growth of our customer base;
- anticipated trends, growth rates, and challenges in our business and in domestic and international markets;
- our financial performance, including changes in and expectations with respect to revenues, and our ability to maintain profitability in the future;
- investments or potential investments in new or enhanced technologies;
- market acceptance of our solutions;
- the success of our business strategy, including the growth in the market for cloud-based security solutions, acceptance of our own cloud-based solutions, and changes in our business model and operations;
- our ability to cross-sell and up-sell to our existing customers;
- our ability to maintain and expand our relationships with partners and on commercially acceptable terms, including our channel and strategic partners;
- the effectiveness of our sales force, distribution channel, and marketing activities;
- the growth and development of our direct and indirect channels of distribution;
- our response to emerging and future cybersecurity risks;
- our ability to continue to innovate and enhance our solutions;
- our ability to develop new solutions and bring them to market in a timely manner;
- our ability to prevent serious errors, defects, or vulnerabilities in our solutions;
- our ability to develop solutions that interoperate with our customers’ existing systems and devices;
- our ability to maintain, protect, and enhance our brand and intellectual property;
- our continued use of open source software;
- our ability to compete against established and emerging cybersecurity companies;
- risks associated with fluctuations in exchange rates of the foreign currencies in which we conduct business;
- past and future acquisitions, investments, and other strategic investments;
our ability to remain in compliance with laws and regulations that currently apply or become applicable to our business both domestically and internationally;

• the attraction, transition, and retention of management and other qualified personnel;

• economic and industry trend analysis;

• litigation, investigations, regulatory inquiries, and proceedings;

• the increased expenses associated with being a public company;

• our estimated total addressable market;

• the future trading prices of our Class A common stock;

• the impact of macroeconomic conditions on our business, including the impact of the COVID-19 on economic activity and financial markets;

• our expectation regarding the impact of the COVID-19 pandemic, including its geographic spread and severity, and the related responses by governments and private industry on our business and financial condition, as well as the businesses and financial condition of our customers and partners;

• the adequacy of our capital resources to fund operations and growth;

• our anticipated use of the net proceeds from this offering;

• our Sponsors’ and Intel’s significant influence over us and our status as a “controlled company” under the rules of the Exchange;

• risks relating to our corporate structure, tax rates, and tax receivable agreement; and

• the other factors identified under the heading “Risk Factors” appearing elsewhere in this prospectus.

The forward-looking statements in this prospectus represent our views as of the date of this prospectus. We undertake no obligation to update any forward-looking statements whether as a result of new information, future developments or otherwise.
THE REORGANIZATION TRANSACTIONS

Organizational Structure after Completion of this Offering

The diagram below depicts our organizational structure immediately following this offering, after giving effect to the Reorganization Transactions, assuming no exercise by the underwriters of their option to purchase additional shares of Class A common stock.

Immediately following this offering, after giving effect to the Reorganization Transactions, McAfee Corp. will be a holding company, and its sole material asset held directly or through wholly-owned subsidiaries will be its equity interest in Foundation Technology Worldwide LLC. As the managing member of Foundation Technology Worldwide LLC, McAfee Corp. will operate and control all of the business and affairs of Foundation Technology Worldwide LLC and, through Foundation Technology Worldwide LLC and its subsidiaries, conduct our business. Accordingly, although we will have a minority economic interest in Foundation Technology Worldwide LLC, we will have the sole voting interest in, and control the management of, Foundation Technology Worldwide LLC. As a result, McAfee Corp. will consolidate Foundation Technology.
Worldwide LLC in its consolidated financial statements and will report a noncontrolling interest related to the LLC Units and MIUs held by the Continuing Owners and certain Management Owners in our consolidated financial statements.

Our organizational structure will allow the Continuing LLC Owners and the Management Owners to retain their equity ownership in Foundation Technology Worldwide LLC, an entity that is intended to be classified as a partnership for U.S. federal income tax purposes, in the form of LLC Units and MIUs, respectively. Investors participating in this offering will, by contrast, hold equity in McAfee Corp., a Delaware corporation that is a domestic corporation for U.S. federal income tax purposes, in the form of shares of our Class A common stock. The Continuing LLC Owners, certain Management Owners, and McAfee Corp. will incur U.S. federal and applicable state and local income taxes on their allocable share of any taxable income of Foundation Technology Worldwide LLC (as allocated pursuant to the New LLC Agreement as it will be in effect at the time of this offering). In addition, pursuant to the Reorganization Transactions we will issue shares of our Class B common stock to the Continuing LLC Owners and the Management Owners holding LLC Units after the offering in an amount equal to the number of LLC Units held by each such Continuing LLC Owner or Management Owner. Shares of our Class B common stock will vote together with shares of our Class A common stock as a single class, except as otherwise required by law or pursuant to our amended and restated certificate of incorporation or amended and restated bylaws, as will be in effect following the completion of this offering. See “Description of Capital Stock—Class A Common Stock.” After completion of this offering, the Continuing LLC Owners and the Management Owners will beneficially own 66.0% in the aggregate of our outstanding Class A common stock and Class B common stock on a combined basis. As described in more detail below, each LLC Unit of Foundation Technology Worldwide LLC held by the Continuing LLC Owners or Management Owners can be exchanged (together with one share of our Class B common stock) for cash or, at our option, for one share of our Class A common stock.

Incorporation of McAfee Corp.

McAfee Corp. was incorporated in Delaware on July 19, 2019. McAfee Corp. has not engaged in any business or other activities except in connection with its incorporation. McAfee Corp.’s amended and restated certificate of incorporation will authorize two classes of common stock, Class A common stock and Class B common stock, each having the terms described in “Description of Capital Stock.”

Following this offering and the Reorganization Transactions, each Continuing LLC Owner and certain Management Owners will hold a number of shares of our Class B common stock equal to the number of LLC Units held by such Continuing LLC Owner or Management Owner, each of which provides its holder with no economic rights but entitles the holder to one vote on matters presented to McAfee Corp.’s stockholders. See “Description of Capital Stock—Common Stock.” Holders of Class A common stock and Class B common stock vote together as a single class on all matters presented to our stockholders for their vote or approval, except as otherwise required by applicable law.

The Reorganization Transactions

Reorganization

In connection with the closing of this offering, we will consummate the following transactions, which we refer to as the “Reorganization Transactions”:

- we will adopt the New LLC Agreement;
- we will amend and restate McAfee Corp.’s certificate of incorporation to, among other things, (i) provide for Class A common stock and Class B common stock and (ii) issue shares of Class B common stock to the Continuing Owners and the Management Owners who hold LLC Units, on a one-to-one basis with the number of LLC Units they own (except that Management Owners will not receive shares of Class B common stock in connection with their exchange of MIUs for LLC Units), for nominal consideration;
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- we will issue 134,459,278 shares of our Class A common stock to certain of the Continuing Owners in exchange for their contribution of LLC units or the equity of certain other entities, which pursuant to the Reorganization Transactions, became our holding entity subsidiaries and (ii) certain of the Management Owners in satisfaction of existing incentive awards; and

- McAfee Corp. will enter into (i) a tax receivable agreement with the TRA Beneficiaries and (ii) a stockholders agreement and a registration rights agreement with our Sponsors and Intel Americas, Inc. See “Certain Relationships and Related Party Transactions.”

Exchange Mechanics

In connection with this offering, we will adopt the New LLC Agreement, which will include exchange mechanics under which the Continuing LLC Owners and Management Owners holding LLC Units after the offering (or certain of their respective permitted transferees) will have the right, from time to time and subject to certain restrictions, to exchange their LLC Units for cash (based upon the market price of the shares of our Class A common stock) or, at our option, for shares of our Class A common stock on a one-for-one basis (and McAfee Corp. will cancel an equal number of shares of Class B common stock to the exchanging member), subject to customary conversion rate adjustments for stock splits, stock dividends, reclassifications and other similar transactions. The holders of MIUs will also have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A Common Stock, based on the value of such MIUs relative to their applicable distribution threshold.

Tax Receivable Agreement

The contribution by the Continuing Owners to McAfee Corp. of certain corporate entities in connection with this offering (including the Reorganization Transactions) and future exchanges of LLC Units for cash or, at our option, shares of our Class A common stock are expected to produce or otherwise deliver to us favorable tax attributes that can reduce our taxable income. Prior to the completion of this offering, we will enter into a tax receivable agreement, under which generally we will be required to pay to the TRA Beneficiaries 85% of the applicable cash savings, if any, in U.S. federal, state, and local income tax that we actually realize or, in certain circumstances, are deemed to realize as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. We generally will retain the benefit of the remaining 15% of the applicable tax savings.

Pursuant to the exchange mechanics described above, from time to time we may be required to acquire LLC Units of Foundation Technology Worldwide LLC from the holders thereof for cash or, at our option, shares of our Class A common stock. An exchange of LLC Units is intended to be treated as a purchase of such LLC Units for U.S. federal income tax purposes. Each of Foundation Technology Worldwide LLC and McAfee Finance 2, LLC, a subsidiary of Foundation Technology Worldwide LLC intended to be treated as a partnership for U.S. federal income tax purposes and through which Foundation Technology Worldwide LLC owns its interests in the assets of the McAfee business, intends to have an election under Section 754 of the Code in effect for taxable years in which such sales or exchanges of LLC Units occur. Pursuant to the Section 754 election, sales of LLC Units are expected to result in an increase in the tax basis of tangible and intangible assets of Foundation Technology Worldwide LLC and certain of its subsidiaries, including McAfee Finance 2, LLC. When we acquire LLC Units from the Continuing LLC Owners or applicable Management Owners, we expect...
that both the existing basis for certain assets and the anticipated basis adjustments will increase depreciation and amortization deductions allocable to us for tax purposes from Foundation Technology Worldwide LLC, and therefore reduce the amount of income tax we would otherwise be required to pay in the future to various tax authorities. This increase in tax basis may also decrease gain (or increase loss) on future dispositions of certain assets of Foundation Technology Worldwide LLC and its subsidiaries to the extent increased tax basis is allocated to those capital assets.

Stockholders Agreement

In connection with this offering, we intend to enter into a stockholders agreement with investment funds affiliated with our Sponsors, Intel Americas, Inc., and certain other stockholders. Pursuant to the stockholders agreement, we will be required to take all necessary action to cause the board of directors and its committees to include director candidates designated by TPG and Intel Americas, Inc. in the slate of director nominees recommended by the board of directors for election by our stockholders. These nomination rights are described in this prospectus in the sections titled “Management—Board Composition and Director Independence” and “Management—Board Committees.” The stockholders agreement will also provide that we will obtain customary director indemnity insurance. Pursuant to the stockholders agreement, each of TPG, Intel, and Thoma Bravo also agree to certain standstill provisions pursuant to which it is restricted from, among other things, acquiring our securities if that would result in it owning more than 49% of our outstanding voting power without our consent.

Registration Rights Agreement

We intend to enter into a registration rights agreement with our Sponsors, Intel Americas, Inc., certain other stockholders, and our Chief Executive Officer in connection with this offering. The registration rights agreement will provide our Sponsors and Intel certain registration rights whereby, at any time following our initial public offering and the expiration of any related lock-up period, our Sponsors and Intel can require us to register under the Securities Act shares of Class A common stock, including shares issuable to them upon exchange of their equity ownership in Foundation Technology Worldwide LLC.

This Offering

In connection with the completion of this offering, we will issue 30,982,558 shares of our Class A common stock to the purchasers in this offering (or 32,213,099 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock), assuming the shares are offered at $20.50 per share (the midpoint of the price range listed on the cover page of this prospectus), after deducting estimated underwriting discounts and commissions but before estimated offering expenses. We intend to use the net proceeds we receive to purchase (directly or indirectly through subsidiaries) (i) newly issued LLC Units from Foundation Technology Worldwide LLC and (ii) 1,714,265 issued and outstanding LLC Units and an equal number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock) at a purchase price per interest equal to the initial public offering price of Class A common stock, less estimated underwriting discounts and commissions. Assuming that the shares of Class A common stock to be sold in this offering are sold at $20.50 per share, which is the midpoint of the price range on the front cover of this prospectus, at the time of this offering, we will purchase 29,268,293 newly issued LLC Units from Foundation Technology Worldwide LLC for an aggregate of $567 million, collectively representing 6.8% of Foundation Technology Worldwide LLC’s outstanding LLC Units. Foundation Technology Worldwide LLC will use the proceeds contributed to it as described in the section titled “Use of Proceeds” and will bear or reimburse McAfee Corp. for all of the expenses of this offering. Accordingly, following this offering, we will hold (directly or indirectly through subsidiaries) a number of LLC Units that is equal to the sum of the number of shares of Class A common stock that we have issued to investors in this offering plus the number of shares of Class A common stock that we have issued to those of our pre-IPO investors and certain of their affiliates who will receive shares of Class A common stock in connection with the Reorganization Transactions as well as members of management who are to receive Class A common stock in satisfaction of existing incentive awards.
INDUSTRY AND MARKET DATA

This prospectus includes market data with respect to the computer software industry. In some cases we rely on and refer to market data and certain industry forecasts that were obtained from third-party surveys, market research, consultant surveys, publicly available information and industry publications and surveys, and in some cases, the information has been developed by us for purposes of this offering based on our existing data or data available from known sources or other proprietary research and analysis and is believed by us to have been prepared in a reasonable manner.

These sources of certain statistical data, estimates, and forecasts contained in this prospectus are the following independent industry publications or reports:

- eMarketer, Global Commerce 2020, Ecommerce Decelerates amid Global Retail Contraction but Remains a Bright Spot, June 2020;
- eMarketer, US Time Spent with Media 2020, Gains in Consumer Usage During the Year of COVID-19 and Beyond, April 2020;
- Frost & Sullivan, Total Addressable Market (TAM) for the Global Consumer Cyber Security and Privacy Market, August 31, 2020;
- IDC, New Media Market Model 1Q20 Deliverable, 12 June 2020;
- IDC, Public Cloud Services Spending Guide Forecast Pivot, June 2020;
- IDC, Total Addressable Market (TAM) Calculator, 2020;
- IDC, Worldwide Mobile Phone Forecast Update, 2020-2024, June 2020;
- RiskBased Security, 2019 Year End Data Breach QuickView Report, 2020; and
- Statista, Global Consumer Survey - Average for 5 Countries (US, Japan, Germany, Australia, United Kingdom), 2018 & 2019.

TRADEMARKS, TRADE NAMES, AND SERVICE MARKS

We own or have rights to trademarks, trade names, and service marks that we use in connection with the operation of our business, including "McAfee," the McAfee logo, "LightPoint Security," "NanoSec," "Skyhigh," "Skyhigh Networks," "TunnelBear," "Uplevel Security," and various other marks. Solely for convenience, the trademarks, trade names and service marks referred to in this prospectus are listed without the ®, SM, and ™ symbols, but we will assert our rights to our trademarks, trade names, and service marks to the fullest extent under applicable law.

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USE OF PROCEEDS

We estimate that the net proceeds to us from our issuance and sale of shares of Class A common stock in this offering will be approximately $588 million, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. This estimate assumes an initial public offering price of $20.50 per share, the midpoint of the price range set forth on the cover page of this prospectus.

If the underwriters exercise in full their option to purchase additional shares of Class A common stock, based on the same assumptions, we estimate our net proceeds will be approximately $612 million, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

A $1.00 increase (decrease) in the assumed initial public offering price of $20.50 per share of Class A common stock, the midpoint of the price range set forth on the cover of this prospectus would increase (decrease) the net proceeds to us from this offering (excluding proceeds used to purchase outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners) by $28 million, assuming the number of shares of Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. An increase or decrease of 1,000,000 shares from the expected number of shares of Class A common stock to be sold by us in this offering would cause the net proceeds received by us to increase or decrease, respectively, by approximately $19 million, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same. Any increase or decrease in proceeds to the Company from the sale of Class A common stock due to a change in the initial public offering price or number of shares issued would increase or decrease, respectively, the amount of net proceeds contributed to Foundation Technology Worldwide LLC to be used by it for working capital and general corporate purposes.

We intend to use the net proceeds from the sale of 29,268,293 shares of Class A common stock by the Company to purchase directly or indirectly an equal number of newly-issued LLC Units from Foundation Technology Worldwide LLC at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions. We intend to cause Foundation Technology Worldwide LLC to use such net proceeds to pay the unpaid expenses of this offering, which we estimate will be $12 million in the aggregate, and to use the remainder of such net proceeds as follows:

- approximately $525.0 million to repay all outstanding obligations with respect to our Second Lien Term Loan (as defined in “Description of Certain Indebtedness”);
- a final payment, which we estimate will be $22 million to pay certain affiliates of our Sponsors and Intel upon the termination of the Management Services Agreement which will terminate in connection with the completion of this offering; and
- the remainder for working capital and other general corporate purposes, including the acquisition of, or investment in complementary products, technologies, solutions, or businesses, although we have no present commitments or agreements to enter into any acquisitions or investments.

We intend to use the net proceeds from the sale of the remaining 1,714,265 shares of Class A common stock by the Company (or 2,944,806 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock) to purchase directly or indirectly 1,714,265 issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners (or 2,944,806 LLC Units and an equal number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock) at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions. See “The Reorganization Transactions—The Reorganization Transactions—Reorganization.”
The Second Lien Term Loan provided for by our Second Lien Credit Agreement matures on September 29, 2025. The borrowings under the Second Lien Credit Facility bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 8.50% or (2) a base rate plus an applicable margin of 7.50%. The Eurodollar rate applicable to the Second Lien Credit Facility is subject to a “floor” of 1.0%. As of June 27, 2020, the weighted average interest rate under the Second Lien Credit Facility was 9.8%.

Other than as discussed above, we do not have more specific plans for the net proceeds from this offering. Accordingly, our management will have significant flexibility in applying the net proceeds from this offering, and investors will be relying on the judgment of our management regarding the application of these net proceeds. As of the date of this prospectus, we intend to invest the net proceeds in short-term interest-bearing investment-grade securities, certificates of deposit, or government securities. The goal with respect to the investment of these net proceeds will be capital preservation and liquidity so that these funds are readily available to fund our operations.

The selling stockholders will receive approximately $117 million of net proceeds from their sale of shares of Class A common stock in this offering, based on an assumed initial public offering price of $20.50 per share, the midpoint of the price range set forth on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions. If the underwriters exercise in full their option to purchase additional shares of Class A common stock, based on the same assumptions, the selling stockholders will receive approximately $200 million of net proceeds, after deducting estimated underwriting discounts and commissions. We will not receive any proceeds from the sale of shares of Class A common stock by the selling stockholders.
DIVIDEND POLICY

Following completion of this offering, we expect that Foundation Technology Worldwide LLC will initially pay a cash distribution to its members on a quarterly basis at an aggregate annual rate of approximately $150 million. McAfee Corp. is expected to receive a portion of any such distribution through the LLC Units it holds directly or indirectly through its wholly-owned subsidiaries on the record date for any such distribution declared by Foundation Technology Worldwide LLC, which is expected to equal the number of shares of Class A common stock outstanding on such date. McAfee Corp. expects to use the proceeds it receives from such quarterly distribution to declare a cash dividend on its shares of Class A common stock. McAfee Corp. expects to declare its first quarterly dividend in the fourth quarter of 2020, to be paid in the first quarter of 2021, and we expect such first quarterly dividend will be $0.085 per share of our Class A common stock. We intend to fund our initial dividend, as well as any future dividends, from distributions made by Foundation Technology Worldwide LLC from its available cash generated from operations. Holders of shares of our Class B common stock are not entitled to participate in any dividends declared by McAfee Corp.’s board of directors in respect of such shares of Class A common stock. If McAfee Corp. decides to pay any other dividend on shares of our Class A common stock in the future, it would likely need to cause Foundation Technology Worldwide LLC to make distributions to McAfee Corp. and its wholly-owned subsidiaries in an amount sufficient to cover such dividend. If Foundation Technology Worldwide LLC makes such distributions to McAfee Corp. and its wholly-owned subsidiaries, the other holders of LLC Units will be entitled to receive pro rata distributions, as well as, in certain cases, the holders of MIUs. The timing, declaration, amount of, and payment of any such dividends will be made at the discretion of McAfee Corp.’s board of directors, subject to applicable laws, and will depend upon many factors, including the amount of the distribution received by McAfee Corp. from Foundation Technology Worldwide LLC, our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions, and other factors that McAfee Corp.’s board of directors may deem relevant. Currently, the provisions of our Senior Secured Credit Facilities place certain limitations on the amount of cash dividends we can pay. See “Description of Certain Indebtedness.” Moreover, if as expected McAfee Corp. determines to initially pay a dividend following any quarterly distributions from Foundation Technology Worldwide LLC, there can be no assurance that McAfee Corp. will continue to pay dividends in the same amounts or at all thereafter.

Foundation Technology Worldwide LLC declared cash distributions to its members during the three and six months ended June 27, 2020 in the aggregate amount of $81 million and $131 million, respectively. Foundation Technology Worldwide LLC paid a cash distribution to its members in September 2020 in an aggregate amount of $70 million and anticipates paying a cash distribution in October 2020 in aggregate amount of $75 million that will be distributed prior to this offering.
The following table sets forth our cash, cash equivalents and capitalization as of June 27, 2020 on an actual basis, as well as on a pro forma basis to reflect:

- the Reorganization Transactions;
- the issuance of 31.0 million shares of Class A common stock by us in this offering and the receipt of approximately $588 million in net proceeds from the sale of such shares, assuming an initial public offering price of $20.50 per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses; and
- the application of the estimated net proceeds from the offering, including the purchase directly or indirectly of 1,714,265 issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners, as described in “Use of Proceeds.”

The pro forma information set forth in the tables below is illustrative only and will be adjusted based on the initial public offering price and other terms of this offering determined at pricing. You should read this information together with our audited and unaudited consolidated and combined financial statements and related notes appearing elsewhere in this prospectus and the information set forth under the headings “Selected Consolidated and Combined Financial and Other Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

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<th>(in millions)</th>
<th>Actual</th>
<th>Pro-Forma Adjustments</th>
<th>Pro Forma(1)</th>
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<td>Cash and cash equivalents</td>
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<td>$ (137)</td>
<td>$ 120</td>
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<tr>
<td>Long-term debt:</td>
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<td></td>
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</tr>
<tr>
<td>First Lien USD Term Loan(2)</td>
<td>$ 3,048</td>
<td>$ —</td>
<td>$ 3,048</td>
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<tr>
<td>First Lien EUR Term Loan(3)</td>
<td>1,208</td>
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<td>1,208</td>
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<tr>
<td>Second Lien Term Loan(4)</td>
<td>525</td>
<td>(525)</td>
<td>—</td>
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<tr>
<td>Revolving Credit Facility</td>
<td>—</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>$ 4,781</td>
<td>(525)</td>
</tr>
<tr>
<td>Redeemable units</td>
<td>17</td>
<td>(17)</td>
<td>—</td>
</tr>
<tr>
<td>Redeemable noncontrolling interests</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Members’/Stockholders’ (deficit) equity:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Class A common stock, $0.001 par value per share, 1,500,000,000 shares authorized and 165,441,836 shares outstanding on a pro forma basis</td>
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<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Class B common stock, $0.001 par value per share, 300,000,000 shares authorized and 264,700,940 shares outstanding on a pro forma basis</td>
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<td>—</td>
<td>—</td>
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<tr>
<td>Additional paid in capital</td>
<td>(143)</td>
<td>88</td>
<td>(55)</td>
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<tr>
<td>Members’ equity</td>
<td>(785)</td>
<td>785</td>
<td>—</td>
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<tr>
<td>Accumulated deficit</td>
<td>(1,354)</td>
<td>67</td>
<td>(1,287)</td>
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<tr>
<td>Total members’/stockholders’ (deficit) equity</td>
<td>(2,282)</td>
<td>(4,992)</td>
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<tr>
<td>Total capitalization</td>
<td>$ 2,516</td>
<td>$ 4</td>
<td>$ 2,520</td>
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</table>

(1) Pro forma reflects the Reorganization Transactions and application of the estimated proceeds of the offering as described in “Use of Proceeds”.
(2) First Lien USD Term Loan of $3,048 million excludes discount and issuance costs of $49 million.
(3) First Lien EUR Term Loan of $1,208 million excludes discount and issuance costs of $14 million.
(4) Second Lien Term Loan of $525 million excludes discount and issuance costs of $15 million.
A $1.00 increase (decrease) in the assumed initial public offering price of $20.50 per share of Class A common stock, the midpoint of the price range set forth on the cover of this prospectus would increase (decrease) the net proceeds to us from this offering (excluding proceeds used to purchase outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners) by $28 million, assuming the number of shares of Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. An increase or decrease of 1,000,000 shares from the expected number of shares of Class A common stock to be sold by us in this offering would cause the net proceeds received by us to increase or decrease, respectively, by approximately $19 million, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same. Any increase or decrease in proceeds to the Company from the sale of Class A common stock due to a change in the initial public offering price or number of shares issued would increase or decrease, respectively, the amount of net proceeds contributed to Foundation Technology Worldwide LLC to be used by it for working capital and general corporate purposes.
DILUTION

The Continuing LLC Owners will maintain their LLC Units of Foundation Technology Worldwide LLC after the Reorganization Transactions. We have presented dilution in pro forma net tangible book value per share after this offering assuming that all of the holders of LLC Units (other than McAfee Corp.) exchanged their LLC Units for newly issued shares of Class A common stock on a one-for-one basis and the cancellation for no consideration of all of their shares of Class B common stock (which are not entitled to receive distributions or dividends, whether cash or stock from McAfee Corp.) in order to more meaningfully present the dilutive impact on the investors in this offering. We refer to the assumed exchange of all LLC Units for shares of Class A common stock as described in the previous sentence as the “Assumed Exchange.”

If you invest in our Class A common stock in this offering, your interest will be diluted to the extent of the difference between the initial public offering price per share of our Class A common stock in this offering and the pro forma net tangible book value per share of our Class A common stock after this offering. Dilution results from the fact that the initial public offering price per share of Class A common stock is substantially in excess of the net tangible book value per share of our Class A common stock attributable to the existing stockholders. Our pro forma net tangible book value per share represents the amount of our total tangible assets (total assets less intangible assets) less total liabilities, divided by the number of shares of Class A common stock issued and outstanding, after giving effect to the Assumed Exchange.

As of June 27, 2020, we had a pro forma net tangible book value of $(6,550) million, or $(16.33) per share of Class A common stock, based on 401.0 million shares of our Class A common stock outstanding as of June 27, 2020, after giving effect to the Assumed Exchange. Dilution is calculated by subtracting net tangible book value per share of our Class A common stock from the assumed initial public offering price per share of our Class A common stock.

Investors participating in this offering will incur immediate and substantial dilution. Without taking into account any other changes in such net tangible book value after June 27, 2020, after giving effect to the Reorganization Transactions, the Assumed Exchange and the sale of shares of our Class A common stock in this offering assuming an initial public offering price of $20.50 per share (the midpoint of the offering range shown on the cover of this prospectus), less the estimated underwriting discounts and commissions and estimated offering expenses, our pro forma as adjusted net tangible book value as of June 27, 2020 would have been approximately $(6,021) million, or $(13.99) per share of our Class A common stock. This amount represents an immediate increase in net tangible book value of $2.34 per share of our Class A common stock to the existing stockholders and immediate dilution in net tangible book value of $34.49 per share of our Class A common stock to investors purchasing shares of our Class A common stock in this offering. The following table illustrates this dilution on a per share basis:

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assumed initial public offering price per share</td>
<td>$20.50</td>
</tr>
<tr>
<td>Historical net tangible book value per share as of June 27, 2020, before giving effect to this offering</td>
<td>$(16.33)</td>
</tr>
<tr>
<td>Increase in net tangible book value per share attributable to investors purchasing shares in this offering</td>
<td>2.34</td>
</tr>
<tr>
<td>Less: Pro forma as adjusted net tangible book value per share, after giving effect to this offering</td>
<td>(13.99)</td>
</tr>
<tr>
<td>Dilution in pro forma as adjusted net tangible book value per share to investors in this offering</td>
<td>34.49</td>
</tr>
</tbody>
</table>

If the underwriters exercise their option in full to purchase additional shares, the pro forma as adjusted net tangible book per share of our Class A common stock after giving effect to this offering, the Reorganization Transactions and the Assumed Exchange would be $13.90 per share of our Class A common stock. This represents an increase in pro forma as adjusted net tangible book value of $0.10 per share of our Class A common stock to existing stockholders and dilution in pro forma as adjusted net tangible book of $34.39 per share of our Class A common stock to new investors.
Each $1.00 increase (decrease) in the assumed initial public offering price of $20.50 per share would decrease (increase) the pro forma as adjusted net tangible book value per share of our Class A common stock after giving effect to this offering, the Reorganization Transactions and the Assumed Exchange by $0.06 per share of our Class A common stock, assuming no change to the number of shares of our Class A common stock offered by us as set forth on the front cover page of this prospectus and after deducting the estimated underwriting discounts and estimated offering expenses. An increase (decrease) of 1,000,000 shares from the expected number of shares of Class A common stock to be sold by us in this offering would cause the net proceeds received by us to increase or decrease, respectively, by approximately $19 million, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same. Any increase or decrease in proceeds to the Company from the sale of Class A common stock due to a change in the initial public offering price or number of shares issued would increase or decrease, respectively, the amount of net proceeds contributed to Foundation Technology Worldwide LLC to be used by it for working capital and general corporate purposes.

The following table summarizes, as of June 27, 2020, on the pro forma as adjusted basis described above, the total number of shares of our Class A common stock purchased from us, the total consideration paid to us, and the average price per share of our Class A common stock paid by purchasers of such shares and by new investors purchasing shares of our Class A common stock in this offering.

<table>
<thead>
<tr>
<th>Shares purchased</th>
<th>Total consideration</th>
<th>Average price per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>Percent</td>
<td>Amount</td>
</tr>
<tr>
<td>(in millions)</td>
<td>(in millions)</td>
<td></td>
</tr>
<tr>
<td>Existing stockholders</td>
<td>399.1</td>
<td>93.2%</td>
</tr>
<tr>
<td>New investors</td>
<td>31.0</td>
<td>6.8%</td>
</tr>
<tr>
<td>Total</td>
<td>430.1</td>
<td>100%</td>
</tr>
</tbody>
</table>

Each $1.00 increase or decrease in the assumed initial public offering price of $20.50 per share would increase or decrease, as applicable, the total consideration paid by new investors by $28 million and increase or decrease, as applicable, the percent of total consideration paid by new investors by 4.9%, assuming the number of shares of Class A common stock we are offering, as set forth on the cover page of this prospectus, remains the same, after deducting estimated underwriting discounts and commissions. We may also increase or decrease the number of shares of Class A common stock we are offering. An increase or decrease of 1,000,000 in the number of shares of Class A common stock offered by us would increase or decrease, as applicable, total consideration paid by new investors by $21 million, assuming that the assumed initial public offering price remains the same, and after deducting estimated underwriting discounts and commissions.

Unless otherwise indicated, the number of shares of Class A common stock to be outstanding after this offering is based on 134,459,278 shares of Class A common stock outstanding immediately before the offering and excludes the following, in each case as of immediately following the Reorganization Transactions:

- 266,415,205 shares of Class A common stock issuable upon exchange or redemption of LLC Units, together with corresponding shares of Class B common stock;
- 5,435,508 shares of Class A common stock that would be outstanding if all vested MIUs were exchanged for shares of Class A common stock, and 9,347,176 shares of Class A common stock that would be outstanding if all unvested MIUs were exchanged for shares of Class A common stock;
- 22,687,159 shares of Class A common stock issuable upon vesting of outstanding RSUs, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same;
- 500,164 shares of Class A common stock issuable upon exercise of vested option awards and 1,377,936 shares of Class A common stock issuable upon exercise of unvested option awards, which options will
have an exercise price equal to the initial public offering price per share, assuming the assumed initial public offering price per share (the midpoint of the price range set forth on the cover page of this prospectus) remains the same;

• 45,070,943 shares of Class A common stock reserved for future issuance under our new 2020 equity incentive plan, without taking into account the “evergreen” provision of our new 2020 equity incentive plan, as described below;

• 9,389,809 shares of Class A common stock authorized for sale under the ESPP, without taking into account the “evergreen” provision of our ESPP, as described below which will become effective prior to the completion of this offering; and

• the price per share of Class A common stock sold in this offering will be $20.50.

Unless otherwise indicated, this prospectus reflects and assumes the following:

• the consummation of the Reorganization Transactions;

• the adoption of our amended and restated certificate of incorporation and our amended and restated bylaws to be effective immediately prior to the completion of this offering;

• no exercise by the underwriters of their option to purchase up to 5,550,000 additional shares of our Class A common stock in this offering.

The Company effected a 4-for-1 split of outstanding LLC Units on October 12, 2020, which unit split also applied to any outstanding equity-based awards and is reflected in all share, unit, per share, and per unit amounts presented in this prospectus.

Securities Outstanding at Assumed Offering Price

The number of (i) unvested RSUs outstanding and (ii) vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions described above will vary, depending on the initial public offering price in this offering. An increase in the assumed initial public offering price would result in (i) an increase in the number of unvested RSUs outstanding and (ii) a decrease in the number of vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions. See “Executive Compensation—Elements of Compensation—Compensation Changes Related to our IPO—Changes to Certain Equity Incentive Awards” and “—IPO Option Grants.”

For illustrative purposes only, the table below shows the number of (i) unvested RSUs outstanding and (ii) vested and unvested options to purchase shares of Class A common stock outstanding immediately following the Reorganization Transactions at various initial public offering prices:

<table>
<thead>
<tr>
<th>Illustrative public offering price</th>
<th>Unvested RSUs</th>
<th>Vested Options</th>
<th>Unvested Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>$19.00</td>
<td>22,573,285</td>
<td>547,264</td>
<td>1,507,344</td>
</tr>
<tr>
<td>$20.00</td>
<td>22,651,099</td>
<td>515,140</td>
<td>1,418,940</td>
</tr>
<tr>
<td>$20.50</td>
<td>22,687,159</td>
<td>500,164</td>
<td>1,377,936</td>
</tr>
<tr>
<td>$21.00</td>
<td>22,721,502</td>
<td>486,084</td>
<td>1,338,896</td>
</tr>
<tr>
<td>$22.00</td>
<td>22,785,505</td>
<td>459,564</td>
<td>1,266,084</td>
</tr>
</tbody>
</table>
UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma consolidated financial information reflects the impact of this offering, after giving effect to the Reorganization Transactions discussed in the section of this prospectus titled “The Reorganization Transactions.” The unaudited pro forma consolidated statements of operations data for fiscal 2019 and the 26-week period ended June 27, 2020, give effect to the Reorganization Transactions and this offering as if they had occurred on December 30, 2018. The unaudited pro forma consolidated balance sheet data as of June 27, 2020 give effect to the Reorganization Transactions and this offering as if they had occurred on June 27, 2020.

We derived the unaudited pro forma consolidated financial information set forth below by applying the pro forma adjustments to the consolidated financial statements of Foundation Technology Worldwide LLC and subsidiaries included elsewhere in this prospectus. The unaudited pro forma consolidated financial information reflects pro forma adjustments that are described in the accompanying notes and are based on available information and certain assumptions we believe are reasonable but are subject to change.

The unaudited pro forma consolidated financial information presented assumes no exercise by the underwriters of their option to purchase additional shares of Class A common stock from us.

The unaudited pro forma consolidated financial information is presented for informational purposes only and should not be considered indicative of the actual financial position or results of operations that would have been achieved had the Reorganization Transactions and this offering been consummated on the dates indicated and does not purport to be indicative of the financial condition or results of operations as of any future date or for any future period. You should read our unaudited pro forma consolidated financial information and the accompanying notes in conjunction with the historical consolidated financial statements and related notes included elsewhere in this prospectus, as well as the financial and other information appearing elsewhere in this prospectus, including information contained in the sections titled “Risk Factors,” “Selected Consolidated and Combined Financial and Other Data,” “Use of Proceeds,” “Capitalization,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

The unaudited pro forma consolidated statements of operations for the fiscal year ended December 28, 2019 and the 26-week period ended June 27, 2020 give effect to (i) the Reorganization Transactions described under “The Reorganization Transactions,” (ii) the creation or acquisition of certain tax assets in connection with this offering and the reorganization transactions and the consideration of related liabilities in connection with entering into the tax receivable agreement in connection with the Reorganization Transactions, and (iii) this offering and the expected use of the net proceeds from this offering as described under “Use of Proceeds,” as if each had occurred on December 30, 2018. The unaudited pro forma consolidated balance sheet as of June 27, 2020 gives effect to (i) the Reorganization Transactions described under “The Reorganization Transactions,” (ii) the creation or acquisition of certain tax assets in connection with this offering and the reorganization transactions and the consideration of related liabilities in connection with entering into the tax receivable agreement in connection with the Reorganization Transactions, and (iii) this offering and the expected use of the net proceeds from this offering as described under “Use of Proceeds,” as if each had occurred on June 27, 2020. See “Unaudited Pro Forma Financial Information.”

The historical consolidated financial position and results of operations of McAfee Corp. have not been presented in the accompanying unaudited pro forma consolidated financial information as McAfee Corp. is a newly incorporated entity formed on July 19, 2019, has had no business transactions or activities to date, and had no assets, liabilities, revenues, or expenses during the periods presented in this section.
## MCAFEE CORP.
### UNAUDITED PRO FORMA CONSOLIDATED BALANCE SHEET
### As of June 27, 2020

### (in millions)

<table>
<thead>
<tr>
<th></th>
<th>Historical Foundation Technology Worldwide LLC</th>
<th>Pro forma adjustments for the Reorganization Transactions</th>
<th>As adjusted before this offering</th>
<th>Pro forma adjustments</th>
<th>Pro forma McAfee Corp.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current assets:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 257</td>
<td>$(145)(b)</td>
<td>$ 112</td>
<td>$ 8(e)(f)</td>
<td>$ 120</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>281</td>
<td>—</td>
<td>281</td>
<td>—</td>
<td>281</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>209</td>
<td>—</td>
<td>209</td>
<td>—</td>
<td>209</td>
</tr>
<tr>
<td>Other current assets</td>
<td>71</td>
<td>—</td>
<td>71</td>
<td>—</td>
<td>71</td>
</tr>
<tr>
<td>Total current assets</td>
<td>818</td>
<td>(145)</td>
<td>673</td>
<td>8</td>
<td>681</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>162</td>
<td>—</td>
<td>162</td>
<td>—</td>
<td>162</td>
</tr>
<tr>
<td>Goodwill</td>
<td>2,431</td>
<td>—</td>
<td>2,431</td>
<td>—</td>
<td>2,431</td>
</tr>
<tr>
<td>Identified intangible assets, net</td>
<td>1,854</td>
<td>—</td>
<td>1,854</td>
<td>—</td>
<td>1,854</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>59</td>
<td>(3)(a)</td>
<td>56</td>
<td>4(a)</td>
<td>60</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>224</td>
<td>—</td>
<td>224</td>
<td>—</td>
<td>224</td>
</tr>
<tr>
<td>Total assets</td>
<td>$ 5,548</td>
<td>$(148)</td>
<td>$ 5,400</td>
<td>$ 12</td>
<td>$ 5,412</td>
</tr>
<tr>
<td><strong>Liabilities, redeemable units and equity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current liabilities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>$ 186</td>
<td>—</td>
<td>$ 186</td>
<td>—</td>
<td>$ 186</td>
</tr>
<tr>
<td>Long-term debt, current portion</td>
<td>43</td>
<td>—</td>
<td>43</td>
<td>—</td>
<td>43</td>
</tr>
<tr>
<td>Accrued marketing</td>
<td>99</td>
<td>—</td>
<td>99</td>
<td>—</td>
<td>99</td>
</tr>
<tr>
<td>Income taxes payable</td>
<td>13</td>
<td>—</td>
<td>13</td>
<td>—</td>
<td>13</td>
</tr>
<tr>
<td>Accrued compensation and benefits</td>
<td>132</td>
<td>—</td>
<td>132</td>
<td>—</td>
<td>132</td>
</tr>
<tr>
<td>Lease liabilities</td>
<td>25</td>
<td>—</td>
<td>25</td>
<td>—</td>
<td>25</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>1,599</td>
<td>—</td>
<td>1,599</td>
<td>—</td>
<td>1,599</td>
</tr>
<tr>
<td>Total current liabilities</td>
<td>2,097</td>
<td>—</td>
<td>2,097</td>
<td>—</td>
<td>2,097</td>
</tr>
<tr>
<td>Long-term debt, net</td>
<td>4,660</td>
<td>—</td>
<td>4,660</td>
<td>(510)(f)</td>
<td>4,150</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>167</td>
<td>(155)(a)</td>
<td>12</td>
<td>—</td>
<td>12</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>223</td>
<td>(a)</td>
<td>223</td>
<td>$ —</td>
<td>223</td>
</tr>
<tr>
<td>Deferred revenue, less current portion</td>
<td>666</td>
<td>—</td>
<td>666</td>
<td>$ —</td>
<td>666</td>
</tr>
<tr>
<td>Commitments and contingencies</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redeemable units</td>
<td>17</td>
<td>—</td>
<td>17</td>
<td>(17)(b)</td>
<td>—</td>
</tr>
<tr>
<td>Redeemable noncontrolling interests</td>
<td>—</td>
<td>5,538(c)(d)</td>
<td>5,538</td>
<td>—</td>
<td>5,538</td>
</tr>
<tr>
<td><strong>Equity:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive loss</td>
<td>(143)</td>
<td>96(c)</td>
<td>(47)(a)</td>
<td>(7)(c)</td>
<td>(54)</td>
</tr>
<tr>
<td>Members’ equity</td>
<td>(785)</td>
<td>785(b)(c)</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Class A common stock</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Class B common stock</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Additional paid in capital</td>
<td>—</td>
<td>(7,162)(a)</td>
<td>(7,162)</td>
<td>1,230(d)(0)(g)(b)</td>
<td>(5,392)</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(1,554)</td>
<td>750(c)(d)</td>
<td>(604)(a)</td>
<td>(684)(d)(e)(f)(g)(h)</td>
<td>(1,288)</td>
</tr>
<tr>
<td>Members’/stockholders’ (deficit) equity attributable to McAfee Corp.</td>
<td>(2,282)</td>
<td>(5,531)</td>
<td>(7,813)</td>
<td>539</td>
<td>(7,274)</td>
</tr>
<tr>
<td>Noncontrolling interests</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total equity</td>
<td>(2,282)</td>
<td>(5,531)</td>
<td>(7,813)</td>
<td>539</td>
<td>(7,274)</td>
</tr>
<tr>
<td>Total liabilities, redeemable units and equity</td>
<td>$ 5,548</td>
<td>$(148)</td>
<td>$ 5,400</td>
<td>$ 12</td>
<td>$ 5,412</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of this unaudited pro forma consolidated financial information.
<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Historical Foundation Technology Worldwide LLC</th>
<th>Pro forma adjustments for the Reorganization Transactions</th>
<th>As adjusted before this offering</th>
<th>Pro forma adjustments</th>
<th>Pro forma McAfee Corp.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$1,401</td>
<td>$1,401</td>
<td>$1,401</td>
<td>$1,401</td>
<td>$1,401</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>410</td>
<td>410</td>
<td>410</td>
<td>99(^{(a)})</td>
<td>419</td>
</tr>
<tr>
<td>Gross profit</td>
<td>991</td>
<td>991</td>
<td>991</td>
<td>(9)</td>
<td>982</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>348</td>
<td>—</td>
<td>348</td>
<td>24(^{(a)})</td>
<td>372</td>
</tr>
<tr>
<td>Research and development</td>
<td>186</td>
<td>—</td>
<td>186</td>
<td>26(^{(a)})</td>
<td>212</td>
</tr>
<tr>
<td>General and administrative</td>
<td>138</td>
<td>—</td>
<td>138</td>
<td>6(^{(a)})</td>
<td>144</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>110</td>
<td>—</td>
<td>110</td>
<td>—</td>
<td>110</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>9</td>
<td>—</td>
<td>9</td>
<td>—</td>
<td>9</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>791</td>
<td>—</td>
<td>791</td>
<td>56</td>
<td>847</td>
</tr>
<tr>
<td>Operating income</td>
<td>200</td>
<td>—</td>
<td>200</td>
<td>(65)</td>
<td>135</td>
</tr>
<tr>
<td>Interest (expense) income and other, net</td>
<td>(150)</td>
<td>—</td>
<td>(150)</td>
<td>28(^{(m)})</td>
<td>(122)</td>
</tr>
<tr>
<td>Foreign exchange loss, net</td>
<td>(6)</td>
<td>—</td>
<td>(6)</td>
<td>—</td>
<td>(6)</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>44</td>
<td>—</td>
<td>44</td>
<td>(37)</td>
<td>7</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>13</td>
<td>6(^{(i)})</td>
<td>19</td>
<td>(1)(^{(i)})</td>
<td>18</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>31</td>
<td>(6)</td>
<td>25</td>
<td>(36)</td>
<td>(11)</td>
</tr>
<tr>
<td>Net income (loss) attributable to noncontrolling interests</td>
<td>—</td>
<td>16(^{(j)})</td>
<td>16</td>
<td>(24)(^{(k)})</td>
<td>(8)</td>
</tr>
<tr>
<td>Net income (loss) attributable to McAfee Corp.</td>
<td>$31</td>
<td>$(22)</td>
<td>$9</td>
<td>$(12)</td>
<td>$(3)</td>
</tr>
<tr>
<td>Net loss per share data:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss per share:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic and diluted</td>
<td></td>
<td></td>
<td></td>
<td>(o)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Weighted average shares of Class A common stock outstanding:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic and diluted</td>
<td></td>
<td></td>
<td></td>
<td>(o)</td>
<td>161.2</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of this unaudited pro forma consolidated financial information.
# MCAFEE CORP.

UNAUDITED PRO FORMA CONSOLIDATED STATEMENT OF OPERATIONS

For the fiscal year ended December 28, 2019

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Historical Foundation Technology Worldwide LLC</th>
<th>Pro forma adjustments for the Reorganization Transactions</th>
<th>As adjusted before this offering</th>
<th>Pro forma adjustments</th>
<th>Pro forma McAfee Corp.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$2,635</td>
<td>—</td>
<td>$2,635</td>
<td>—</td>
<td>$2,635</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>843</td>
<td>—</td>
<td>843</td>
<td>4(^{(u)})</td>
<td>847</td>
</tr>
<tr>
<td>Gross profit</td>
<td>1,792</td>
<td>—</td>
<td>1,792</td>
<td>(4)</td>
<td>1,788</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>770</td>
<td>—</td>
<td>770</td>
<td>12(^{(u)})</td>
<td>782</td>
</tr>
<tr>
<td>Research and development</td>
<td>380</td>
<td>—</td>
<td>380</td>
<td>14(^{(o)})</td>
<td>394</td>
</tr>
<tr>
<td>General and administrative</td>
<td>272</td>
<td>—</td>
<td>272</td>
<td>2(^{(o)})</td>
<td>274</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>222</td>
<td>—</td>
<td>222</td>
<td>—</td>
<td>222</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>22</td>
<td>—</td>
<td>22</td>
<td>—</td>
<td>22</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>1,666</td>
<td>—</td>
<td>1,666</td>
<td>28</td>
<td>1,694</td>
</tr>
<tr>
<td>Operating income</td>
<td>126</td>
<td>—</td>
<td>126</td>
<td>(32)</td>
<td>94</td>
</tr>
<tr>
<td>Interest (expense) income and other, net</td>
<td>(295)</td>
<td>—</td>
<td>(295)</td>
<td>61(^{(t)})</td>
<td>(234)</td>
</tr>
<tr>
<td>Foreign exchange gain, net</td>
<td>20</td>
<td>—</td>
<td>20</td>
<td>—</td>
<td>20</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>(149)</td>
<td>—</td>
<td>(149)</td>
<td>29</td>
<td>(120)</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>87</td>
<td>(16)(^{(p)})</td>
<td>71</td>
<td>(1)(^{(p)})</td>
<td>70</td>
</tr>
<tr>
<td>Net (loss) income</td>
<td>(236)</td>
<td>16</td>
<td>(220)</td>
<td>30</td>
<td>(190)</td>
</tr>
<tr>
<td>Net (loss) income attributable to noncontrolling interests</td>
<td>—</td>
<td>(148)(^{(q)})</td>
<td>(148)</td>
<td>30(^{(t)})</td>
<td>(118)</td>
</tr>
<tr>
<td>Net (loss) income attributable to McAfee Corp.</td>
<td>$236</td>
<td>$16</td>
<td>$72</td>
<td>$—</td>
<td>$72</td>
</tr>
<tr>
<td>Net loss per share data:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss per share:</td>
<td>Basic and diluted</td>
<td>(v)</td>
<td>$ (0.45)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted average shares of Class A common stock outstanding:</td>
<td>Basic and diluted</td>
<td>(v)</td>
<td>159.5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of this unaudited pro forma consolidated financial information.
NOTES TO UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL STATEMENTS

PRO FORMA ADJUSTMENTS AND ASSUMPTIONS

The Company made the following pro forma adjustments and assumptions in the preparation of the unaudited pro forma consolidated balance sheet.

(a) McAfee Corp. is subject to U.S. federal and state income taxes and will file consolidated income tax returns for U.S. federal and certain state jurisdictions. These adjustments reflect the recognition of deferred taxes resulting from our status as a C corporation and include valuations allowances for tax assets not meeting the more likely than not recognition requirements. Temporary differences in the book basis as compared to the tax basis of our investment in Foundation Technology Worldwide LLC resulted in pro forma net deferred tax adjustments of $152 million and $4 million related to the Reorganization Transactions and the offering, respectively, as of June 27, 2020, which management determined as the more likely than not amount to be realized. The realizability of the deferred tax assets is subject to various estimates and assumptions. Therefore, the recognition of deferred tax assets, including any valuation allowances, and the resulting impact on the tax receivable agreement liability is subject to change.

Prior to the completion of this offering, we will enter into a tax receivable agreement with our pre-IPO owners that provides for the payment by McAfee Corp. to such pre-IPO owners of 85% of the benefits, if any, that McAfee Corp. is deemed to realize (calculated using certain assumptions) as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. The increases in existing tax basis and tax basis adjustments generated over time may increase (for tax purposes) depreciation and amortization deductions and, therefore, may reduce the amount of tax that McAfee Corp. would otherwise be required to pay in the future. Actual tax benefits realized by McAfee Corp. may differ from tax benefits calculated under the tax receivable agreement as a result of the use of certain assumptions in the tax receivable agreement, including the use of an assumed weighted-average state and local income tax rate to calculate tax benefits. This payment obligation is an obligation of McAfee Corp. and not of Foundation Technology Worldwide LLC. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Tax Receivable Agreement.”

As realizability of the tax benefit has not met the more likely than not recognition criteria, the associated liability under the Tax Receivable Agreement has not met the probable recognition criteria in the accompanying consolidated balance sheet as of June 27, 2020. Although the Tax Receivable Agreement liability has not been recorded, if the tax benefits had not been reduced by a valuation allowance, $290 million and $9 million would have been payable under the tax receivable agreement related to the Reorganization Transactions and the offering, respectively and assume: (1) only exchanges associated with this offering, (2) a share price equal to $20.50 per share (the midpoint of the estimated public offering price range set forth on the cover page of this prospectus), (3) no material changes in tax law, (4) no changes in the ability to utilize tax attributes and (5) no future tax receivable agreement and exchange agreement payments.
We anticipate that we will not immediately account for the income tax effects resulting from future taxable exchanges of LLC Units by Continuing LLC Owners for shares of our Class A common stock or cash by recognizing an increase in our deferred tax assets, based on enacted tax rates at the date of each exchange. We will evaluate the likelihood that we will realize the benefit represented by the deferred tax asset, and, to the extent that we estimate that it is more likely than not that we will realize the benefit, we will increase the carrying amount of the deferred tax asset with a reduction to our valuation allowance.

The amounts to be recorded for both the deferred tax assets and the liability for our obligations under the tax receivable agreement have been estimated. All of the effects of changes in any of our estimates after the date of the purchase will be included in net income. Similarly, the effect of subsequent changes in the enacted tax rates will be included in net income.

(b) Reflects the effect on cash and cash equivalents and accumulated deficit of cash distributions expected to be paid to the members of Foundation Technology Worldwide LLC in the amount of $145 million subsequent to June 27, 2020.

(c) As a C corporation, we will no longer record members’ equity in the consolidated balance sheet. To reflect the C corporation structure of our equity, we will separately present the value of our common stock, additional paid-in capital and accumulated deficit. As a result, we have reclassified the historical carrying value of the Foundation Technology Worldwide LLC equity accounts to accumulated other comprehensive loss, accumulated deficit, and noncontrolling interests based on the relative ownership percentages following the Reorganization Transactions and consummation of this offering. Following the Reorganization Transactions, but prior to this offering, the Continuing LLC Owners and McAfee Corp. will own 66.9% and 33.1%, respectively, of the LLC Units of Foundation Technology Worldwide LLC. Upon consummation of this offering, the Continuing LLC Owners and McAfee Corp. will own 62.0% and 38.0%, respectively, of the LLC Units of Foundation Technology Worldwide LLC.

(d) As a result of the Reorganization Transactions, the limited liability company agreement of Foundation Technology Worldwide LLC will be amended and restated to, among other things, designate McAfee Corp. as the sole managing member of Foundation Technology Worldwide LLC. As sole managing member, McAfee Corp. will exclusively operate and control the business and affairs of Foundation Technology Worldwide LLC. As the Continuing LLC Owners will control both McAfee Corp. and Foundation Technology Worldwide LLC following the Reorganization Transactions, we will consolidate Foundation Technology Worldwide LLC for accounting purposes, and Foundation Technology Worldwide LLC will be considered our predecessor for accounting purposes.

The Continuing Corporate Owners will receive shares of Class A common stock in exchange for their interests in Foundation Technology Worldwide LLC as a result of the Reorganization Transactions.

In addition, McAfee Corp. will issue to the Continuing LLC Owners one share of Class B common stock for each LLC Unit they hold, after adjustment to give effect to the four-for-one LLC Unit split to occur prior to this offering. The shares of Class B common stock have no rights to dividends or distributions, whether in cash or stock, but entitle the holder to one vote per share on matters presented to stockholders of McAfee Corp. The holders of MIUs will not receive any Class B common stock in respect of their MIUs.

In connection with the Reorganization Transactions, the following Class A and Class B shares will be issued:

<table>
<thead>
<tr>
<th></th>
<th>Continuing LLC Owners</th>
<th>Continuing Corporate Owners</th>
<th>Management Owners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A shares</td>
<td>13.8</td>
<td>111.6</td>
<td>9.1</td>
</tr>
<tr>
<td>Class B shares</td>
<td>261.8</td>
<td>—</td>
<td>4.6</td>
</tr>
</tbody>
</table>

The Continuing LLC Owners, from time to time following the offering, may exchange all or a portion of their LLC Units for newly issued shares of our Class A common stock on a one-for-one basis (or certain
Shares of our Class B common stock will be cancelled on a one-for-one basis upon the exchange of LLC Units of a Continuing LLC Owner for shares of our Class A Common Stock pursuant to the terms of the New LLC Agreement. The decision whether to tender LLC Units to Foundation Technology Worldwide LLC will be made solely at the discretion of the Continuing LLC Owners. Accordingly, the LLC Units owned by the Continuing LLC Owners are treated as redeemable noncontrolling interests for accounting purposes as the holders have the option to exchange their LLC Units for cash or for shares of Class A common stock. The pro forma adjustment of $5,538 million represents the fair value of redeemable noncontrolling interests in the consolidated financial statements of McAfee Corp. The adjustment of $7,162 million to additional paid-in capital represents the excess of the fair value over the ($1,624) million carrying value of the redeemable noncontrolling interests. The holders of MIUs will also have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A Common Stock (or certain cash amounts), based on the value of such MIUs relative to their applicable distribution threshold.

(e) Represents the expense of $22 million recognized at the time of this offering in connection with the termination of our management services agreement with certain affiliates of our Sponsors and Intel. In connection with this offering, the management services agreement will be terminated, and we do not plan to execute a new management services agreement. This pro forma adjustment relates solely to the management services agreement termination fee payable to certain affiliates of our Sponsors and Intel in connection with the offering.

(f) In connection with the offering, 29.3 million shares of Class A common stock will be issued and sold by the Company to purchase newly-issued LLC Units from Foundation Technology Worldwide LLC and 6.0 million shares of Class A common stock will be sold by the selling shareholders. We intend to use the net proceeds from the sale of the remaining 1.7 million shares of Class A common stock by the Company to purchase directly or indirectly 1.7 million issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions. The purchase of newly-issued LLC Units from Foundation Technology Worldwide LLC and purchase of LLC Units from the Continuing LLC Owners will decrease the percentage ownership allocated to the redeemable noncontrolling interest.

Following the Reorganization Transactions and the offering, McAfee Corp. will hold 165.4 million LLC Units, and the Continuing LLC Owners and Management Owners will hold 270.1 million LLC Units.

The following sets forth the estimated sources and uses of funds in connection with the Reorganization Transactions and this offering, assuming the issuance of shares of Class A common stock at a price of $20.50 per share (the midpoint of the estimated public offering price range set forth on the cover of this prospectus):

Sources:

• $600 million gross cash proceeds to us from the sale of Class A common stock by the Company.

Uses:

• We intend to use the net proceeds of $567 million from the sale of 29.3 million shares of Class A common stock by the Company to purchase directly or indirectly an equal number of newly-issued LLC Units from Foundation Technology Worldwide LLC at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions of $33 million;

• We intend to use the net proceeds of $33 million from the sale of the remaining 1.7 million shares of Class A common stock by the Company to purchase directly or indirectly 1.7 million issued and outstanding LLC Units and an equal number of shares of Class B common stock from certain Continuing LLC Owners at a purchase price per unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions of $2 million;
we intend to cause Foundation Technology Worldwide LLC to pay the unpaid expenses of this offering, which we estimate will be $12 million in the aggregate, of which $6 million in costs will be capitalized and $6 million will be expensed as incurred, including costs associated with the Secondary Offering;

as described in “Use of Proceeds,” we intend to cause Foundation Technology Worldwide LLC to use $525 million of net offering proceeds to repay our outstanding Second Lien Secured Term Loan in full (as defined in “Description of Certain Indebtedness”). The related impact to the pro forma consolidated balance sheet reflects the reduction in the net carrying value of our long-term debt from such repayment offset by a $15 million write-off of previously capitalized deferred issuance costs and original issuance discount, as if such repayment had occurred on June 27, 2020;

we intend to make a $22 million payment to certain affiliates of our Sponsors and Intel upon the termination of the management services agreement which will terminate in connection with the completion of this offering; and

we intend to use the remainder of the net proceeds from the offering for working capital and other general corporate purposes, including the acquisition of or investment in, complementary products, technologies, solutions, or business, although we have no present commitments or agreements to enter into any acquisitions or investments.

(g) Represents the equity-based compensation expense of $74 million recognized at the time of this offering related to the 2017 Management Incentive Plan and the MEPUs and CRSUs that vest in connection with this offering, the incremental equity-based compensation expense of $121 million recognized for the additional expense associated with the modification and replacement of unvested MEPU, CRSU, and RSU awards at the date of this offering with McAfee Corp. restricted stock units settleable in Class A common stock and options to purchase Class A common stock, and $2 million in expense recognition for unvested MIUs associated with the satisfaction of IPO-based performance vesting conditions at the date of this offering. As discussed in the notes to the unaudited pro forma statements of operations, additional expense for the modified and replaced awards and MIUs will be recorded in periods following this offering in accordance with the vesting provisions of those awards. The total equity-based compensation adjustment of $197 million has been recorded as an increase to additional paid-in capital and an adjustment to accumulated deficit.

(h) Represents the pro forma adjustment to reclassify $17 million of MIUs subject to repurchase in April 2021, contingent upon the satisfaction of certain terms and conditions. The MIUs would no longer be repurchased upon a sale of the company or an IPO prior to the repurchase date. The MIU interests in Foundation Technology Worldwide LLC would no longer redeemable upon consummation of this offering; therefore, they have been reclassified to additional paid-in capital.

The Company made the following pro forma adjustments and assumptions in the preparation of the unaudited pro forma consolidated statement of operations for the 26-week period ended June 27, 2020:

(i) McAfee Corp. will be subject to U.S. federal income taxes, in addition to state and local taxes, with respect to its allocable share of any net taxable income of Foundation Technology Worldwide LLC. As a result, the unaudited pro forma consolidated statement of operations reflects an adjustment to our provision for income taxes to reflect the anticipated McAfee Corp. taxes using a blended rate of 25%, adjusted for valuation allowances, which was calculated using the current U.S. federal income tax rate and the highest statutory rates apportioned to each state and local jurisdiction.

(j) The LLC Units of Foundation Technology Worldwide LLC owned by the Continuing LLC Owners will be considered redeemable noncontrolling interests in the consolidated financial statements of McAfee Corp. The pro forma adjustment reflects the allocation of Foundation Technology Worldwide LLC net income to the redeemable noncontrolling interests. Immediately following the Reorganization Transactions but disregarding the effect of this offering, the redeemable noncontrolling interests held by the Continuing LLC...
Owners will have 66.9% economic ownership of Foundation Technology Worldwide LLC, and as such, 66.9% of Foundation Technology Worldwide LLC’s net income will be attributable to the redeemable noncontrolling interests. The remaining economic ownership of Foundation Technology Worldwide LLC will be held directly or indirectly by McAfee Corp. following the Reorganization Transactions.

(k) Upon consummation of this offering, the redeemable noncontrolling interests’ ownership of Foundation Technology Worldwide LLC will be diluted to 62.0%, and, therefore, net income will be attributable to the redeemable noncontrolling interests based on their 62.0% ownership interest, and to McAfee Corp., which directly or indirectly owns the remaining 38.0% of the LLC Units of Foundation Technology Worldwide LLC, based on its 38.0% interest. The redeemable noncontrolling interests in McAfee Corp. will be diluted in connection with the offering as a result of the newly-issued LLC Units acquired from Foundation Technology Worldwide LLC with the net proceeds from the offering.

(l) For the 26-week period ended June 27, 2020, Foundation Technology Worldwide LLC recognized expenses totaling $4 million related to management fees paid to certain affiliates of our Sponsors and Intel. In connection with this offering, this management services agreement will be terminated, and we do not plan to execute a new management services agreement. This pro forma adjustment removes this expense from the Foundation Technology Worldwide LLC historical financial statements as such amounts will not be incurred following this offering.

(m) As described in “Use of Proceeds,” we intend to cause Foundation Technology Worldwide LLC to use $525 million of the net offering proceeds to repay in full our outstanding Second Lien Secured Term Loan. The related impact to the pro forma consolidated statements of operations reflects changes to interest expense as if the repayment had occurred on December 30, 2018, including the impact on amortization of deferred issuance costs and original issuance discount as if these had been written off on December 30, 2018 in connection with such repayment. Such adjustment reflects a reduction in interest expense of $28 million for the 26-week period ended June 27, 2020 based on a weighted-average effective interest rate of approximately 9.8%.

(n) Represents the incremental equity-based compensation expense of $69 million recognized for the additional expense associated with the modification and replacement of unvested MEPU, CRSU, and RSU awards at the date of this offering with McAfee Corp. restricted stock units settleable in Class A common stock and options to purchase Class A common stock and additional expense for MIUs associated with the satisfaction of IPO-based performance vesting conditions at the date of this offering. Additional expense for the modified and replacement awards will be recorded in periods following this offering in accordance with the vesting provisions of those awards.

(o) The pro forma net loss per share is calculated using the treasury stock method, using only the shares of Class A common stock. The shares of Class B common stock have no rights to dividends or distributions, whether in cash or stock, and therefore are excluded from this calculation. Cash distributions are expected to be paid to the members of Foundation Technology Worldwide LLC in the amount of $145 million subsequent to June 27, 2020. Additionally, cash distributions in the amount of $383 million were declared and paid to the members of Foundation Technology Worldwide LLC during the twelve months preceding the initial public offering. When distributions declared or paid prior to an initial public offering exceed net income during the twelve months preceding the initial public offering, pro forma earnings per share and pro forma weighted-average shares outstanding are required to reflect the number of newly issued shares in the offering that would be required to fund the portion of distributions in excess of net income. Additionally, we intend to cause Foundation Technology Worldwide LLC to use a portion of the net proceeds of the offering to repay the 2nd Lien Term loan. Pro forma earnings per share would be necessary to pay the distributions and the number of shares whose proceeds would be necessary to repay the 2nd Lien Term loan. As a result, the pro forma net loss per share for the six months ended June 27, 2020 give effect to the deemed issuance of 31 million shares of Class A common stock whose proceeds would be necessary to fund
the portion of distributions in excess of net income during the twelve months preceding the initial public offering and to repay the 2nd Lien Term loan. Excluding the deemed issuance of 31 million shares of Class A common stock, pro forma basic and diluted net loss per share would have been $0.02 per share for the six months ended June 27, 2020 and pro forma basic and diluted weighted-average shares of Class A common stock outstanding would have been 130.2 million shares for the six months ended June 27, 2020.

<table>
<thead>
<tr>
<th>Numerator:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pro forma net loss</td>
<td>$ (11)</td>
</tr>
<tr>
<td>— Noncontrolling interests</td>
<td>(8)</td>
</tr>
<tr>
<td>Pro Forma net loss attributable to McAfee Corp.</td>
<td>$ (3)</td>
</tr>
<tr>
<td>— Numerator adjustments for diluted EPS</td>
<td>0</td>
</tr>
<tr>
<td>Pro Forma net loss attributable to McAfee Corp. for diluted EPS</td>
<td>$ (3)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Denominator:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pro Forma Class A shares outstanding:</td>
<td></td>
</tr>
<tr>
<td>— FTW exchanged shares</td>
<td>130.2</td>
</tr>
<tr>
<td>— Secondary offering</td>
<td>1.7</td>
</tr>
<tr>
<td>— Incremental Class A shares sold in this offering</td>
<td>29.3</td>
</tr>
<tr>
<td>Pro Forma weighted average shares outstanding—basic</td>
<td>161.2</td>
</tr>
<tr>
<td>Effect of dilutive securities:</td>
<td></td>
</tr>
<tr>
<td>— Incremental units attributable to LLC Units and equity awards</td>
<td>0</td>
</tr>
<tr>
<td>Pro Forma weighted average shares outstanding—diluted</td>
<td>161.2</td>
</tr>
<tr>
<td>Net loss per share—basic</td>
<td>$ (0.02)</td>
</tr>
<tr>
<td>Net loss per share—diluted</td>
<td>$ (0.02)</td>
</tr>
</tbody>
</table>

(1) 269.1 million LLC Units and 15.2 million unvested MIUs and unvested equity award units were excluded from dilution because their effects would have been anti-dilutive for the six months ended June 27, 2020.

The Company made the following pro forma adjustments and assumptions in the preparation of the unaudited pro forma consolidated statement of operations for the fiscal year ended December 28, 2019:

(p) McAfee Corp. will be subject to U.S. federal income taxes, in addition to state and local taxes, with respect to its allocable share of any net taxable income of Foundation Technology Worldwide LLC. As a result, the unaudited pro forma consolidated statement of operations reflects an adjustment to our provision for income taxes to reflect the anticipated McAfee Corp. taxes using a blended rate of 25%, which was calculated using the current U.S. federal income tax rate and the highest statutory rates apportioned to each state and local jurisdiction and adjusted for valuation allowances.

(q) The LLC Units of Foundation Technology Worldwide LLC owned by the Continuing LLC Owners will be considered redeemable noncontrolling interests in the consolidated financial statements of McAfee Corp. The pro forma adjustment reflects the allocation of Foundation Technology Worldwide LLC net income to the redeemable noncontrolling interests. Immediately following the Reorganization Transactions but disregarding the effect of this offering, the redeemable noncontrolling interests held by the Continuing LLC Owners will have 66.9% economic ownership of Foundation Technology Worldwide LLC, and as such, 66.9% of Foundation Technology Worldwide LLC’s net income will be attributable to the redeemable noncontrolling interests. The remaining economic ownership of Foundation Technology Worldwide LLC will be held, directly or indirectly, by McAfee Corp. following the Reorganization Transactions.

(r) Upon consummation of this offering, the redeemable noncontrolling interests’ ownership of Foundation Technology Worldwide LLC will be diluted to 62.0%, and, therefore, net income will be attributable to the
redeemable noncontrolling interests based on their 62.0% ownership interest, and to McAfee Corp., which indirectly owns the remaining 38.0% of the LLC Units of Foundation Technology Worldwide LLC, based on its 38.0% interest. The redeemable noncontrolling interests in McAfee Corp. will be diluted in connection with the offering as a result of the newly-issued LLC Units acquired from Foundation Technology Worldwide LLC with the net proceeds from the offering.

(s) For the year ended December 28, 2019, Foundation Technology Worldwide LLC recognized expenses totaling $8 million related to management fees paid to certain affiliates of our Sponsors and Intel. In connection with this offering, this management services agreement will be terminated and we do not plan to execute a new management services agreement. This pro forma adjustment removes this expense from the Foundation Technology Worldwide LLC historical financial statements as such amounts will not be incurred following this offering.

(t) As described in “Use of Proceeds,” we intend to cause Foundation Technology Worldwide LLC to use $525 million of the net offering proceeds to repay in full our outstanding Second Lien Term Loan. The related impact to the pro forma consolidated statements of operations reflects changes to interest expense as if the repayment had occurred on December 30, 2018, including the impact on amortization of deferred issuance costs and original issuance discount as if these had been written off on December 30, 2018 in connection with such repayment. Such adjustment reflects a reduction in interest expense of $61 million for the year ended December 28, 2019 based on a weighted-average effective interest rate of approximately 11%.

(u) Represents the incremental equity-based compensation expense of $40 million recognized for the additional expense associated with the modification and replacement of unvested MEPU, CRSU, and RSU awards at the date of this offering with McAfee Corp. restricted stock units settleable in Class A common stock and options to purchase Class A common stock and additional expense for MIUs associated with the satisfaction of IPO-based performance vesting conditions at the date of this offering. Additional expense for the modified and replacement awards will be recorded in periods following this offering in accordance with the vesting provisions of those awards.

(v) The pro forma net loss per share is calculated using the treasury stock method, using only the shares of Class A common stock. The shares of Class B common stock have no rights to dividends or distributions, whether in cash or stock, and therefore are excluded from this calculation. Cash distributions of $528 million were declared or paid to the members of Foundation Technology Worldwide LLC during the twelve months preceding the initial public offering. When distributions declared or paid prior to an initial public offering exceed net income during the twelve months preceding the initial public offering, pro forma earnings per share and pro forma weighted-average shares outstanding are required to reflect the number of newly issued shares in the offering that would be required to fund the portion of distributions in excess of net income. Additionally, we intend to cause Foundation Technology Worldwide LLC to use a portion of the net proceeds of the offering to repay the 2nd Lien Term Loan. Pro forma earnings per share give effect to the number of shares whose proceeds would be necessary to pay the distributions and the number of shares whose proceeds would be necessary to repay the 2nd Lien Term Loan.
As a result, the pro forma net loss per share for the fiscal year ended December 28, 2019 gives effect to the deemed issuance of 31 million shares of Class A common stock whose proceeds would be necessary to fund the portion of distributions in excess of net income during the twelve months preceding the initial public offering and to repay the 2nd Lien Term loan. Excluding the deemed issuance of 31 million shares of Class A common stock, pro forma basic and diluted net loss per share would have been $0.56 per share for the fiscal year ended December 28, 2019 and pro forma basic and diluted weighted-average shares of Class A common stock outstanding would have been 128.5 shares for the fiscal year ended December 28, 2019.

<table>
<thead>
<tr>
<th>Year ended December 28, 2019</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Numerator:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro forma net loss</td>
<td>$ (190)</td>
<td></td>
</tr>
<tr>
<td>— Noncontrolling interests</td>
<td>(118)</td>
<td></td>
</tr>
<tr>
<td>Pro Forma net loss attributable to McAfee Corp.</td>
<td>$ (72)</td>
<td></td>
</tr>
<tr>
<td>— Numerator adjustments for diluted EPS</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Pro Forma net loss attributable to McAfee Corp. for diluted EPS</td>
<td>$ (72)</td>
<td></td>
</tr>
<tr>
<td><strong>Denominator:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro Forma Class A shares outstanding:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— FTW exchanged shares</td>
<td>128.5</td>
<td></td>
</tr>
<tr>
<td>— Secondary offering</td>
<td>1.7</td>
<td></td>
</tr>
<tr>
<td>— Incremental Class A shares sold in this offering</td>
<td>29.3</td>
<td></td>
</tr>
<tr>
<td>Pro Forma weighted average shares outstanding—basic</td>
<td>159.5</td>
<td></td>
</tr>
<tr>
<td>Effect of dilutive securities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— Incremental units attributable to equity awards</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Pro Forma weighted average shares outstanding—diluted</td>
<td>159.5</td>
<td></td>
</tr>
<tr>
<td>Net loss per share—basic</td>
<td>$(0.45)</td>
<td></td>
</tr>
<tr>
<td>Net loss per share—diluted</td>
<td>$(0.45)</td>
<td></td>
</tr>
</tbody>
</table>

(1) 266.9 million LLC Units and 13.9 million unvested MIUs and unvested equity award units were excluded from dilution because their effects would have been anti-dilutive for the fiscal year ended December 28, 2019.
SELECTED CONSOLIDATED AND COMBINED FINANCIAL AND OTHER DATA

The following selected consolidated financial and other data of Foundation Technology Worldwide LLC should be read in conjunction with “The Reorganization Transactions,” “Use of Proceeds,” “Capitalization,” “Unaudited Pro Forma Consolidated Financial Information,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and our audited and unaudited consolidated and combined financial statements and the related notes included elsewhere in this prospectus. Following this offering, Foundation Technology Worldwide LLC will be considered our legal predecessor. The terms “Predecessor” and “Predecessor Business” and “Successor” and “Successor Business” used below and throughout this prospectus refer to the periods prior and subsequent to the Sponsor Acquisition on April 3, 2017, respectively.

The selected historical financial data in the following tables for the fiscal years ended and as of December 26, 2015 and December 31, 2016 relate to the Predecessor Business and are derived from audited financial statements that are not included in this prospectus. The selected historical combined financial data in the following tables for the period from January 1, 2017 to April 3, 2017, relate to the Predecessor Business and are derived from the audited combined financial statements that are included elsewhere in this prospectus. The selected historical financial data in the following tables as of December 30, 2017 relate to the Successor Business and are derived from audited financial statements that are not included in this prospectus. The selected historical consolidated financial data in the following tables for the period from April 4, 2017 to December 30, 2017, fiscal 2018 and fiscal 2019 and as of December 29, 2018 and December 28, 2019 relate to the Successor Business and are derived from audited consolidated financial statements that are included elsewhere in this prospectus. The selected historical consolidated financial data in the following tables as of June 29, 2019 relate to the Successor Business and are derived from our unaudited consolidated balance sheet not included in this prospectus. The selected historical consolidated financial data in the following tables for the 26-week period ended June 29, 2019 and June 27, 2020, and the unaudited consolidated balance sheet data as of June 27, 2020, relates to the Successor Business and is derived from unaudited consolidated financial statements that are included elsewhere in this prospectus.

We maintain a 52- or 53-week fiscal year that ends on the last Saturday in December. Period ended April 3, 2017 is a 13-week period starting on January 1, 2017. Period ended December 30, 2017 is a 39-week fiscal period starting on April 4, 2017. Fiscal 2018 is a 52-week year starting on December 31, 2017 and ending on December 29, 2018. Fiscal 2019 is a 52-week year starting on December 30, 2018 and ending on December 28, 2019. 26-week period ended December 29, 2019 is a 26-week period starting on December 30, 2018 and ending on June 29, 2019. 26-week period ended June 27, 2020 is a 26-week period starting on December 29, 2019 and ending on June 27, 2020.

We adopted Accounting Standards Codification, or ASC, Topic 606, Revenue from Contracts with Customers, or ASC Topic 606, on December 31, 2017 using the modified retrospective transition method. Under this method, results for reporting periods beginning on December 31, 2017 are presented in accordance with ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with our historical accounting under ASC Topic 605, Revenue Recognition.
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Selected historical consolidated financial data for McAfee Corp. has not been provided, as McAfee Corp. is a newly incorporated entity and has had no business transactions or other activities to date and no assets or liabilities during the periods presented below.

The unaudited condensed consolidated financial statements were prepared on a basis consistent with our audited financial statements and include all adjustments, consisting of normal and recurring adjustments that we consider necessary for a fair statement of the financial condition and results of operations as of and for such periods. Operating results for the periods presented are not necessarily indicative of the results that may be expected in future periods, and operating results for the 26-week period ended June 27, 2020 are not necessarily indicative of results for the full year.

Results of Operations Data

<table>
<thead>
<tr>
<th>(in millions except per unit and share data)</th>
<th>Fiscal Year Ended December 26, 2015</th>
<th>Fiscal Year Ended December 31, 2016</th>
<th>Period from January 1 to April 1, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
<th>Period from April 4 to June 29, 2020</th>
<th>26-Week Period Ended June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$2,271</td>
<td>$2,387</td>
<td>$2,586</td>
<td>$1,490</td>
<td>$2,409</td>
<td>$2,635</td>
<td>$1,231</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>$563</td>
<td>$596</td>
<td>$663</td>
<td>$517</td>
<td>$566</td>
<td>$623</td>
<td>$401</td>
</tr>
<tr>
<td>Gross profit</td>
<td>$1,708</td>
<td>$1,791</td>
<td>$1,923</td>
<td>$973</td>
<td>$873</td>
<td>$912</td>
<td>$830</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing(1)</td>
<td>$950</td>
<td>$890</td>
<td>$121</td>
<td>$584</td>
<td>$815</td>
<td>$770</td>
<td>$383</td>
</tr>
<tr>
<td>Research and development(1)</td>
<td>$526</td>
<td>$499</td>
<td>$127</td>
<td>$323</td>
<td>$406</td>
<td>$300</td>
<td>$193</td>
</tr>
<tr>
<td>General and administrative(1)</td>
<td>$175</td>
<td>$206</td>
<td>$51</td>
<td>$157</td>
<td>$253</td>
<td>$272</td>
<td>$123</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>$200</td>
<td>$193</td>
<td>$40</td>
<td>$167</td>
<td>$232</td>
<td>$222</td>
<td>$113</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>$50</td>
<td>$55</td>
<td>$66</td>
<td>$123</td>
<td>$36</td>
<td>$22</td>
<td>$15</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>$1,901</td>
<td>$1,843</td>
<td>$1,496</td>
<td>$1,354</td>
<td>$1,742</td>
<td>$1,666</td>
<td>$827</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>$(193)</td>
<td>$(52)</td>
<td>$(73)</td>
<td>$(406)</td>
<td>$(173)</td>
<td>$(126)</td>
<td>$45</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>$(23)</td>
<td>$(0)</td>
<td>$(1)</td>
<td>$(159)</td>
<td>$(387)</td>
<td>$(295)</td>
<td>$(143)</td>
</tr>
<tr>
<td>Gain on divestiture</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>$(216)</td>
<td>$(29)</td>
<td>$(3)</td>
<td>$(5)</td>
<td>$(30)</td>
<td>$(20)</td>
<td>$(1)</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>$(216)</td>
<td>$(33)</td>
<td>$(73)</td>
<td>$(157)</td>
<td>$(450)</td>
<td>$(149)</td>
<td>$(107)</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>$56</td>
<td>$64</td>
<td>$8</td>
<td>$33</td>
<td>$62</td>
<td>$87</td>
<td>$39</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$(272)</td>
<td>$(95)</td>
<td>$(79)</td>
<td>$(160)</td>
<td>$(512)</td>
<td>$(236)</td>
<td>$(148)</td>
</tr>
<tr>
<td>Net income (loss) per unit, basic</td>
<td>$(1.64)</td>
<td>$(1.37)</td>
<td>$(0.60)</td>
<td>$(1.64)</td>
<td>$(1.37)</td>
<td>$(0.60)</td>
<td>$(0.59)</td>
</tr>
<tr>
<td>Net income (loss) per unit, diluted</td>
<td>$(1.64)</td>
<td>$(1.37)</td>
<td>$(0.60)</td>
<td>$(1.64)</td>
<td>$(1.37)</td>
<td>$(0.60)</td>
<td>$(0.59)</td>
</tr>
<tr>
<td>Weighted-average units outstanding, basic</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
<td>376.6</td>
<td>375.9</td>
<td>377.9</td>
<td>388.1</td>
</tr>
<tr>
<td>Weighted-average units outstanding, diluted</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
<td>376.6</td>
<td>375.9</td>
<td>377.9</td>
<td>388.1</td>
</tr>
</tbody>
</table>

Pro forma net income (loss) per share data:

Pro forma net loss per share, basic(2) $ (0.45) $ (0.45)

Pro forma net loss per share, diluted(2) $ (0.45) $ (0.45)

Pro forma weighted-average shares of Class A common stock outstanding, basic(2) 159.5 161.2

Pro forma weighted-average shares of Class A common stock outstanding, diluted(2) 159.5 161.2

Statements of Cash Flows Data

Net cash provided by (used in):

Operating activities  $ 404  $ 211  $ (65)  $ 316  $ 319  $ 406  $ 96  $ 288

Investing activities  $(52)  $ 4  $(10)  $(39)  $(677)  $(63)  $(24)  $(33)

Financing activities  $(371)  $(164)  $(23)  $ 87  $ 459  $(734)  $(407)  $(162)

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(1) Includes equity-based compensation expense as follows:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fiscal Year Ended</td>
<td>Fiscal Year Ended</td>
<td>Period from January 1 to April 3, 2017</td>
<td>Fiscal Year Ended</td>
<td>Period from April 4 to December 30, 2017</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>$9</td>
<td>$11</td>
<td>$3</td>
<td>$1</td>
<td>$1</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>45</td>
<td>40</td>
<td>9</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Research and development</td>
<td>37</td>
<td>34</td>
<td>8</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>General and administrative</td>
<td>7</td>
<td>10</td>
<td>3</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Total equity-based compensation expense</td>
<td>$98</td>
<td>$95</td>
<td>$23</td>
<td>$8</td>
<td>$28</td>
</tr>
</tbody>
</table>

(2) The calculation of unaudited basic and diluted pro forma net income (loss) per share reflects certain pro forma adjustments in accordance with Article 11 of Regulation S-X. See "Unaudited Pro Forma Consolidated Financial Information.”

Consolidated Balance Sheet Data

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>As of December 26, 2015</td>
<td>As of December 31, 2016</td>
<td>As of December 30, 2017</td>
<td>As of December 29, 2018</td>
<td>As of December 28, 2019</td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$96</td>
<td>$146</td>
<td>$371</td>
<td>$408</td>
<td>$167</td>
</tr>
<tr>
<td>Working capital</td>
<td>(1,031)</td>
<td>(990)</td>
<td>(58)</td>
<td>(86)</td>
<td>(1,292)</td>
</tr>
<tr>
<td>Total assets</td>
<td>5,781</td>
<td>5,531</td>
<td>5,893</td>
<td>6,359</td>
<td>5,788</td>
</tr>
<tr>
<td>Current and long-term deferred revenue</td>
<td>1,721</td>
<td>1,769</td>
<td>1,693</td>
<td>2,107</td>
<td>2,292</td>
</tr>
<tr>
<td>Current and long-term debt, net of borrowing costs</td>
<td>—</td>
<td>—</td>
<td>3,671</td>
<td>4,108</td>
<td>4,712</td>
</tr>
<tr>
<td>Redeemable Units</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>—</td>
<td>—</td>
<td>(607)</td>
<td>(1,148)</td>
<td>(1,385)</td>
</tr>
<tr>
<td>Total equity (deficit)</td>
<td>3,178</td>
<td>3,015</td>
<td>3,232</td>
<td>3,135</td>
<td>3,427</td>
</tr>
</tbody>
</table>

Non-GAAP Financial Measures

We believe that in addition to our results determined in accordance with GAAP, billings, adjusted operating income, adjusted operating income margin, adjusted EBITDA, adjusted EBITDA margin, adjusted net income, adjusted net income margin, and free cash flow are useful in evaluating our business, results of operations and financial condition. We believe that this non-GAAP financial information may be helpful to investors because it provides consistency and comparability with past financial performance and facilitates period to period comparisons of operations, as these eliminate the effects of certain variables from period to period for reasons that we do not believe reflect our underlying business performance. However, non-GAAP financial information is presented for supplemental informational purposes only and should not be considered in isolation or as a substitute for financial information presented in accordance with GAAP. Our presentation of these measures should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation. Other companies in our industry may calculate these measures differently, which may limit their usefulness as a comparative measure.

We believe that these non-GAAP financial measures as presented in the below tables, when taken together with the corresponding GAAP financial measures, provide meaningful supplemental information regarding our performance by excluding certain items that may not be indicative of our business, results of operations, or outlook.
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**Total Company**

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period</td>
</tr>
<tr>
<td>January 1 to</td>
<td>April 4 to December 30,</td>
<td>December 29,</td>
<td>June 29,</td>
</tr>
<tr>
<td>April 3, 2017</td>
<td>2017</td>
<td>2018</td>
<td>June 27, 2020</td>
</tr>
</tbody>
</table>

| (in millions, except percentages) | | | |
| Net revenue | $ 586 | $ 1,490 | $ 2,409 | $ 2,635 | $ 1,291 | $ 1,401 |
| Billings | 589 | 1,992 | 2,717 | 2,820 | 1,303 | 1,374 |
| Operating income (loss) | (73) | (406) | (173) | 126 | 35 | 200 |
| Operating income (loss) margin | (12.5)% | (27.2)% | (7.2)% | 4.8% | 2.7% | 14.3% |
| Net income (loss) | $ (79) | $ (607) | $ (512) | $ (236) | $ (146) | $ 31 |
| Net income (loss) margin | (13.5)% | (40.7)% | (21.3)% | (9.0)% | (11.3)% | 2.2% |
| Adjusted operating income | $ 58 | $ 123 | $ 480 | $ 733 | $ 341 | $ 476 |
| Adjusted operating income margin | 9.9% | 8.3% | 19.9% | 27.8% | 26.4% | 34.1% |
| Adjusted EBITDA | $ 76 | $ 170 | $ 540 | $ 799 | $ 373 | $ 507 |
| Adjusted EBITDA margin | 13.0% | 11.4% | 22.4% | 30.3% | 28.9% | 36.2% |
| Adjusted net income (loss) | $ 49 | $ (105) | $ 143 | $ 396 | $ 163 | $ 303 |
| Adjusted net income (loss) margin | 8.4% | (7.0)% | 5.9% | 15.0% | 12.6% | 21.6% |
| Net cash provided by (used in) operating activities | $ (65) | $ 316 | $ 319 | $ 496 | $ 96 | $ 288 |
| Net cash used in investing activities | $ (10) | $ (39) | $ (677) | $ (63) | $ (24) | (33) |
| Net cash provided by (used in) financing activities | $ (23) | $ 87 | $ 459 | $ (734) | $ (407) | (162) |
| Free cash flow | (94) | 277 | 257 | 435 | 74 | 260 |

For comparability between the 2017 Predecessor and 2017 Successor periods and fiscal 2018, we present net revenue for fiscal 2018 under ASC Topic 605 in the table below:

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal year</td>
</tr>
<tr>
<td>January 1 to</td>
<td>April 4 to December</td>
<td>ended</td>
</tr>
<tr>
<td>April 3, 2017</td>
<td>2017</td>
<td>December 29, 2018</td>
</tr>
</tbody>
</table>

| (in millions, except percentages) | | |
| Net revenue under ASC Topic 605 | $ 586 | $ 1,490 | $ 2,507 |

**Consumer Segment**

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period</td>
</tr>
<tr>
<td>January 1 to</td>
<td>April 4 to December 30,</td>
<td>December 29,</td>
<td>June 29,</td>
</tr>
<tr>
<td>April 3, 2017</td>
<td>2017</td>
<td>2018</td>
<td>June 27, 2020</td>
</tr>
</tbody>
</table>

| (in millions, except percentages) | | | |
| Net revenue—Consumer | $ 258 | $ 630 | $ 1,161 | $ 1,303 | $ 634 | $ 737 |
| Billings—Consumer | 285 | 831 | 1,266 | 1,293 | 677 | 810 |
| Operating income (loss)—Consumer | $ 47 | $ (47) | $ 107 | $ 277 | $ 127 | $ 201 |
| Operating income (loss) margin—Consumer | 18.2% | (7.5)% | 9.2% | 21.3% | 20.0% | 27.3% |
| Adjusted operating income—Consumer | $ 85 | $ 198 | $ 408 | $ 555 | $ 267 | $ 343 |
| Adjusted operating income margin—Consumer | 32.9% | 31.4% | 35.1% | 42.6% | 42.1% | 46.5% |
| Adjusted EBITDA—Consumer | $ 89 | $ 218 | $ 431 | $ 580 | $ 279 | $ 354 |
| Adjusted EBITDA margin—Consumer | 34.5% | 34.6% | 37.1% | 44.5% | 44.0% | 48.0% |
Enterprise Segment

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from January 1 to April 30, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period Ended</td>
</tr>
<tr>
<td>Net revenue—Enterprise</td>
<td>$328</td>
<td>$860</td>
<td>$1,248</td>
<td>$1,332</td>
</tr>
<tr>
<td></td>
<td>657</td>
<td>664</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Billings—Enterprise</td>
<td>304</td>
<td>1,161</td>
<td>1,451</td>
<td>1,427</td>
</tr>
<tr>
<td></td>
<td>626</td>
<td>564</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating income (loss)—Enterprise</td>
<td>(120)</td>
<td>(359)</td>
<td>(280)</td>
<td>(151)</td>
</tr>
<tr>
<td></td>
<td>(92)</td>
<td>(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating income (loss) margin—Enterprise</td>
<td>(36.6)%</td>
<td>(41.7)%</td>
<td>(22.4)%</td>
<td>(11.3)%</td>
</tr>
<tr>
<td></td>
<td>(14.0)%</td>
<td>(0.2)%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted operating income (loss)—Enterprise</td>
<td>(27)</td>
<td>(75)</td>
<td>72</td>
<td>178</td>
</tr>
<tr>
<td></td>
<td>74</td>
<td>135</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted operating income (loss) margin—Enterprise</td>
<td>(8.2)%</td>
<td>(8.7)%</td>
<td>5.8%</td>
<td>13.4%</td>
</tr>
<tr>
<td></td>
<td>11.3%</td>
<td>20.3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted EBITDA—Enterprise</td>
<td>(13)</td>
<td>(48)</td>
<td>109</td>
<td>219</td>
</tr>
<tr>
<td></td>
<td>94</td>
<td>153</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted EBITDA margin—Enterprise</td>
<td>(4.0)%</td>
<td>(5.6)%</td>
<td>8.7%</td>
<td>16.4%</td>
</tr>
<tr>
<td></td>
<td>14.3%</td>
<td>23.0%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Billings

We define billings as net revenue recognized in accordance with GAAP plus the change in deferred revenue from the beginning to the end of the period, excluding the impact of deferred revenue assumed through acquisitions during the period. We view billings as a key metric, as it includes changes in our deferred revenue during the period, which is an important indicator of future trends and is a significant percentage of future revenue.

Total Company

The following table presents a reconciliation of our billings to our GAAP net revenue as of the periods presented:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from January 1 to April 30, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period Ended</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
<td>$2,635</td>
</tr>
<tr>
<td>Add: Deferred revenue, end of period</td>
<td>1,772</td>
<td>1,693</td>
<td>2,107</td>
<td>2,292</td>
</tr>
<tr>
<td>Less: Deferred revenue, beginning of period</td>
<td>(1,769)</td>
<td>(1,191)</td>
<td>(1,761)</td>
<td>(2,107)</td>
</tr>
<tr>
<td>Less: Deferred revenue assumed through acquisitions</td>
<td>—</td>
<td>—</td>
<td>(38)</td>
<td>—</td>
</tr>
<tr>
<td>Billings</td>
<td>$589</td>
<td>$1,992</td>
<td>$2,717</td>
<td>$2,820</td>
</tr>
<tr>
<td></td>
<td>$1,303</td>
<td>$1,374</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Consumer Segment

The following table presents a reconciliation of our Consumer billings to our GAAP Consumer net revenue as of the periods presented:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
<td>26-Week Period</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td>Year Ended</td>
<td>Ended</td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30, 2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Net revenue—Consumer</strong></td>
<td>$258</td>
<td>$630</td>
<td>$1,161</td>
<td>$1,303</td>
</tr>
<tr>
<td>Add: Deferred revenue, end of period</td>
<td>590</td>
<td>576</td>
<td>688</td>
<td>778</td>
</tr>
<tr>
<td>Less: Deferred revenue, beginning of period</td>
<td>(563)</td>
<td>(375)</td>
<td>(578)</td>
<td>(688)</td>
</tr>
<tr>
<td>Less: Deferred revenue assumed through acquisitions</td>
<td>—</td>
<td>—</td>
<td>(33)</td>
<td>—</td>
</tr>
<tr>
<td><strong>Billings—Consumer</strong></td>
<td>$285</td>
<td>$831</td>
<td>$1,266</td>
<td>$1,393</td>
</tr>
</tbody>
</table>

## Enterprise Segment

The following table presents a reconciliation of our Enterprise billings to our GAAP Enterprise net revenue as of the periods presented:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
<td>26-Week Period</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td>Year Ended</td>
<td>Ended</td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30, 2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Net revenue—Enterprise</strong></td>
<td>$328</td>
<td>$860</td>
<td>$1,248</td>
<td>$1,322</td>
</tr>
<tr>
<td>Add: Deferred revenue, end of period</td>
<td>1,182</td>
<td>1,117</td>
<td>1,419</td>
<td>1,514</td>
</tr>
<tr>
<td>Less: Deferred revenue, beginning of period</td>
<td>(1,206)</td>
<td>(816)</td>
<td>(1,183)</td>
<td>(1,419)</td>
</tr>
<tr>
<td>Less: Deferred revenue assumed through acquisitions</td>
<td>—</td>
<td>—</td>
<td>(33)</td>
<td>—</td>
</tr>
<tr>
<td><strong>Billings—Enterprise</strong></td>
<td>$304</td>
<td>$1,161</td>
<td>$1,451</td>
<td>$1,427</td>
</tr>
</tbody>
</table>

### Adjusted Operating Income, Adjusted Operating Income Margin, Adjusted EBITDA, and Adjusted EBITDA Margin

We regularly monitor adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin to assess our operating performance. We define adjusted operating income for the total Company as net income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense, interest expense and other, net, provision for income tax expense, foreign exchange (gain) loss, net, and other costs that we do not believe are reflective of our ongoing operations. We define adjusted operating income for our Consumer and Enterprise segments as segment operating income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense and other costs attributable to the segment that we do not believe are reflective of the segment’s ongoing operations. We present this reconciliation of adjusted operating income (loss) to operating income for Consumer and Enterprise segments because operating income (loss) is the primary measure of profitability used to assess segment performance, and is therefore the most directly comparable GAAP financial measure for our operating segments. Adjusted operating income margin is calculated as adjusted operating income divided by net revenue. We define adjusted EBITDA as adjusted operating income, excluding the impact of depreciation expense and other non-operating costs. Adjusted EBITDA margin is calculated as adjusted EBITDA divided by net revenue. We believe presenting adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted
EBITDA margin provides management and investors consistency and comparability with our past financial performance and facilitates period to period comparisons of operations, as it eliminates the effects of certain variations unrelated to our overall performance. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted operating income and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- adjusted operating income and adjusted EBITDA do not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments, on our debt;
- adjusted operating income and adjusted EBITDA do not reflect income tax payments that may represent a reduction in cash available to us; and
- other companies, including companies in our industry, may calculate adjusted operating income and adjusted EBITDA differently, which reduce their usefulness as comparative measures.

Because of these limitations, you should consider adjusted operating income and adjusted EBITDA alongside other financial performance measures, including operating income (loss), net income (loss) and our other GAAP results. In evaluating adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.
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**Total Company**

The following table presents a reconciliation of our adjusted operating income and adjusted EBITDA to our GAAP net income (loss) during the periods presented:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
<th>Successor December 20, 2019</th>
<th>Successor June 29, 2019</th>
<th>Successor June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in millions, except percentages)</td>
<td>$ (75)</td>
<td>$ (607)</td>
<td>$ (512)</td>
<td>$(236)</td>
<td>$(145)</td>
<td>$ 31</td>
</tr>
<tr>
<td>Adjusted EBITDA margin</td>
<td>(13.5)%</td>
<td>(40.7)%</td>
<td>(21.3)%</td>
<td>(9.0)%</td>
<td>(11.3)%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Adjusted operating income margin</td>
<td>9.5%</td>
<td>8.3%</td>
<td>19.9%</td>
<td>27.8%</td>
<td>26.4%</td>
<td>34.1%</td>
</tr>
<tr>
<td>Adjusted EBITDA margin</td>
<td>13.0%</td>
<td>11.4%</td>
<td>22.4%</td>
<td>30.3%</td>
<td>28.8%</td>
<td>36.2%</td>
</tr>
</tbody>
</table>

(1) As a result of the Sponsor Acquisition, cash awards were provided to certain employees who held Intel equity awards in lieu of equity in Foundation Technology Worldwide LLC. In addition, as a result of the Skyhigh acquisition, cash awards were provided to certain employees who held Skyhigh equity awards in lieu of equity in Foundation Technology Worldwide LLC and vest over multiple periods based on employee service requirements. As these rollover awards reflect one-time grants to former employees of the Predecessor Business and Skyhigh Networks in connection with these transactions, and the Company does not have a comparable cash-based compensation plan or program in existence, we believe this expense is not reflective of our ongoing results.

(2) Represents both direct and incremental costs in connection with business acquisitions, including acquisition consideration structured as cash retention, third party professional fees, and other integration costs.

(3) Represents both direct and incremental costs associated with our separation from Intel, including standing up our back office and costs to execute strategic restructuring events, including third-party professional fees and services, transition services provided by Intel, severance, and facility restructuring costs.

(4) Represents management fees paid to certain affiliates of our Sponsors and Intel pursuant to the Management Services Agreement. The Management Services Agreement will terminate in connection with this offering and we will be required to pay a one-time fee of $22 million to such parties.

(5) Represents costs incurred in connection with transformation of the business post-intel separation. Also includes the cost of workforce rightsize and relocations to lower cost locations in connection with MAP and other transformation initiatives, strategic initiatives to improve customer retention, activation to pay and cost synergies, inclusive of duplicative run rate costs related to facilities and data center rationalization.

(6) Represents severance to be paid for executive terminations not associated with a strategic restructuring event.
Commercial segment

The following table presents a reconciliation of our Consumer adjusted operating income and Consumer adjusted EBITDA to our GAAP Consumer operating income (loss) as of the periods presented:

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period Ended</td>
</tr>
<tr>
<td>Operating income (loss)—Consumer</td>
<td>$47</td>
<td>$47 (47)</td>
<td>$107 $277</td>
</tr>
<tr>
<td>Add: Amortization</td>
<td>15</td>
<td>193</td>
<td>260</td>
</tr>
<tr>
<td>Add: Equity-based compensation</td>
<td>6</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>—</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(2)</td>
<td>—</td>
<td>—</td>
<td>88</td>
</tr>
<tr>
<td>Add: Restructuring and transition(3)</td>
<td>17</td>
<td>35</td>
<td>7</td>
</tr>
<tr>
<td>Add: Management fees(4)</td>
<td>—</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Add: Implementation costs of adopting ASC Topic 606</td>
<td>—</td>
<td>—</td>
<td>2</td>
</tr>
<tr>
<td>Add: Transformation initiatives(5)</td>
<td>—</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Less: Executive severance(6)</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Adjusted operating income—Consumer</td>
<td>85</td>
<td>198</td>
<td>408</td>
</tr>
<tr>
<td>Add: Depreciation</td>
<td>4</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>Adjusted EBITDA—Consumer</td>
<td>$89</td>
<td>$218</td>
<td>$431</td>
</tr>
<tr>
<td>Net revenue—Consumer</td>
<td>$250</td>
<td>$630</td>
<td>$1,161</td>
</tr>
<tr>
<td>Operating income (loss) margin—Consumer</td>
<td>18.2%</td>
<td>(7.5)%</td>
<td>9.2%</td>
</tr>
<tr>
<td>Adjusted operating income margin—Consumer</td>
<td>32.9%</td>
<td>31.4%</td>
<td>35.1%</td>
</tr>
<tr>
<td>Adjusted EBITDA margin—Consumer</td>
<td>34.5%</td>
<td>34.6%</td>
<td>37.1%</td>
</tr>
</tbody>
</table>

Enterprise segment

The following table presents a reconciliation of our Enterprise adjusted operating income and Enterprise adjusted EBITDA to our GAAP Enterprise operating income (loss) as of the periods presented:

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period Ended</td>
</tr>
<tr>
<td>Operating income (loss)—Enterprise</td>
<td>($120)</td>
<td>($159)</td>
<td>($280)</td>
</tr>
<tr>
<td>Add: Amortization</td>
<td>27</td>
<td>146</td>
<td>222</td>
</tr>
<tr>
<td>Add: Equity-based compensation</td>
<td>17</td>
<td>5</td>
<td>23</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>—</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(2)</td>
<td>—</td>
<td>3</td>
<td>22</td>
</tr>
<tr>
<td>Add: Restructuring and transition(3)</td>
<td>49</td>
<td>88</td>
<td>29</td>
</tr>
<tr>
<td>Add: Management fees(4)</td>
<td>—</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Add: Implementation costs of adopting ASC Topic 606</td>
<td>—</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Add: Transformation initiatives(5)</td>
<td>—</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>Less: Executive severance(6)</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Adjusted operating income (loss)—Enterprise</td>
<td>($27)</td>
<td>($75)</td>
<td>($72)</td>
</tr>
<tr>
<td>Add: Depreciation</td>
<td>14</td>
<td>27</td>
<td>37</td>
</tr>
<tr>
<td>Adjusted EBITDA—Enterprise</td>
<td>$13</td>
<td>$48</td>
<td>$106</td>
</tr>
<tr>
<td>Net revenue—Enterprise</td>
<td>$328</td>
<td>$866</td>
<td>$1,248</td>
</tr>
<tr>
<td>Operating income (loss) margin—Enterprise</td>
<td>(36.6)%</td>
<td>(41.7)%</td>
<td>(22.4)%</td>
</tr>
<tr>
<td>Adjusted operating income (loss) margin—Enterprise</td>
<td>(8.2)%</td>
<td>(8.7)%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Adjusted EBITDA margin—Enterprise</td>
<td>(4.0)%</td>
<td>(5.6)%</td>
<td>8.7%</td>
</tr>
</tbody>
</table>
Adjusted Net Income and Adjusted Net Income Margin

We regularly monitor adjusted net income, and adjusted net income margin to assess our operating performance. We define adjusted net income as net income (loss), excluding the impact of amortization of intangible assets, amortization of debt issuance costs, equity-based compensation expense, other costs, and certain non-recurring tax benefits and expenses that we do not believe to be reflective of our ongoing operations and the tax impact of these adjustments. Adjusted net income margin is calculated as adjusted net income divided by net revenue. Adjusted net income and adjusted net income margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although amortization is non-cash charge, the assets being amortized may have to be replaced in the future, and adjusted net income does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted net income does not reflect changes in, or cash requirements for, our working capital needs;
- other companies, including companies in our industry, may calculate adjusted net income differently, which reduces its usefulness as comparative measures.

Because of these limitations, you should consider adjusted net income alongside other financial performance measures, including net income (loss) and our other GAAP results. In evaluating adjusted net income and adjusted net income margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted net income and adjusted net income margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted net income and adjusted net income margin. Adjusted net income and adjusted net income margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.

The following table presents a reconciliation of our adjusted net income to our GAAP net income (loss) during the periods presented:

<table>
<thead>
<tr>
<th>Period</th>
<th>Predecessor (in millions, except percentages)</th>
<th>Successor (in millions, except percentages)</th>
<th>Successor (in millions, except percentages)</th>
<th>Successor (in millions, except percentages)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
<td>26-Week Period Ended</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$79</td>
<td>$ (607)</td>
<td>$ (512)</td>
<td>$ (236)</td>
</tr>
<tr>
<td>Add: Amortization of debt discount and issuance costs</td>
<td>—</td>
<td>3</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>Add: Amortization</td>
<td>42</td>
<td>339</td>
<td>482</td>
<td>470</td>
</tr>
<tr>
<td>Add: Equity-based compensation</td>
<td>23</td>
<td>8</td>
<td>28</td>
<td>25</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>—</td>
<td>42</td>
<td>36</td>
<td>19</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(2)</td>
<td>—</td>
<td>3</td>
<td>30</td>
<td>23</td>
</tr>
<tr>
<td>Add: Restructuring and transition(3)</td>
<td>66</td>
<td>123</td>
<td>36</td>
<td>22</td>
</tr>
<tr>
<td>Add: Management fees(4)</td>
<td>—</td>
<td>6</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Add: Implementation costs of adopting ASC Topic 606</td>
<td>—</td>
<td>—</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Add: Transformation initiatives(5)</td>
<td>—</td>
<td>8</td>
<td>27</td>
<td>33</td>
</tr>
<tr>
<td>Add: Executive severance(6)</td>
<td>—</td>
<td>—</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>Less: Adjustment to provision for income taxes(7)</td>
<td>(3)</td>
<td>(30)</td>
<td>(14)</td>
<td>8</td>
</tr>
<tr>
<td>Adjusted net income (loss)</td>
<td>$49</td>
<td>$ (105)</td>
<td>$ 141</td>
<td>$ 306</td>
</tr>
</tbody>
</table>

(7) Represents the tax impact of all of the above adjustments, as well as excluding the non-recurring tax benefits and expenses related to changes resulting from tax legislation, the assessment or resolution of tax audits or other significant events.
Table of Contents

For comparability between the 2017 Predecessor and 2017 Successor periods and fiscal 2018, we present adjusted operating income, adjusted operating income margin, adjusted EBITDA, adjusted EBITDA margin, adjusted net income, and adjusted net income margin for fiscal 2018 under ASC Topic 605 in the table below:

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal year</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td>ended December</td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30,</td>
<td>29, 2018</td>
</tr>
<tr>
<td>Net revenue under ASC Topic 605</td>
<td>$ 586</td>
<td>$ 1,490</td>
<td>$ 2,507</td>
</tr>
<tr>
<td>Net loss under ASC Topic 605</td>
<td>(79)</td>
<td>(607)</td>
<td>(452)</td>
</tr>
<tr>
<td>Adjusted operating income under ASC Topic 605</td>
<td>58</td>
<td>123</td>
<td>540</td>
</tr>
<tr>
<td>Adjusted net income under ASC Topic 605</td>
<td>49</td>
<td>105</td>
<td>203</td>
</tr>
<tr>
<td>Net loss margin % under ASC Topic 605</td>
<td>(13.5)%</td>
<td>(40.7)%</td>
<td>(18.0)%</td>
</tr>
<tr>
<td>Adjusted operating income margin % under ASC Topic 605</td>
<td>9.9%</td>
<td>8.3%</td>
<td>21.5%</td>
</tr>
<tr>
<td>Adjusted EBITDA margin % under ASC Topic 605</td>
<td>13.0%</td>
<td>11.4%</td>
<td>23.9%</td>
</tr>
<tr>
<td>Adjusted net income margin % under ASC Topic 605</td>
<td>8.4%</td>
<td>(7.0)%</td>
<td>8.1%</td>
</tr>
</tbody>
</table>

**Free Cash Flow**

We define free cash flow as net cash provided by operating activities less capital expenditures. We consider free cash flow to be a liquidity measure that provides useful information to management and investors about the amount of cash generated by the business that can be used for strategic opportunities, including investing in our business, making strategic acquisitions, and strengthening the balance sheet.

The following table presents a reconciliation of our free cash flow to our GAAP cash provided by operating activities during the periods presented:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Fiscal Year Ended</th>
<th>26-Week Period Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>December 29, 2018</td>
<td>June 29, 2019</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>December 30,</td>
<td>December 28, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30,</td>
<td>December 28, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>$ (65)</td>
<td>$ 316</td>
<td>$ 496</td>
<td>$ 96</td>
</tr>
<tr>
<td>Less: Capital expenditures(1)</td>
<td>(29)</td>
<td>(39)</td>
<td>(61)</td>
<td>(22)</td>
</tr>
<tr>
<td>Free cash flow(2)</td>
<td>$ (94)</td>
<td>$ 277</td>
<td>$ 435</td>
<td>$ 74</td>
</tr>
</tbody>
</table>

(1) Capital expenditures includes payments for property and equipment and capitalized labor costs incurred in connection with certain software development activities.

(2) Free cash flow includes $150 million, $290 million, and $281 million, in cash interest payments for the period from April 4 to December 30, 2017, fiscal 2018, and fiscal 2019, respectively, and $133 million and $141 million in cash interest payments for the 26-week periods ended June 29, 2019 and June 27, 2020, respectively.
MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and consolidated and combined results of operations in conjunction with the “Selected Consolidated and Combined Financial and Other Data” section of this prospectus and our consolidated and combined financial statements and the related notes appearing elsewhere in this prospectus. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties, and assumptions. See “Cautionary Note Regarding Forward Looking Statements.” Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, but not limited to, those set forth in the “Risk Factors” section and elsewhere in this prospectus.

Unless the context requires otherwise, references in this prospectus to the “Company,” “we,” “us,” “our,” and “McAfee” (i) for periods through April 3, 2017, refer to the McAfee cybersecurity business, which operated as a part of a business unit of Intel, (ii) for periods from April 4, 2017 to prior to giving effect to the Reorganization Transactions described under “The Reorganization Transactions,” refer to Foundation Technology Worldwide LLC and its subsidiaries.

Overview

As a global leader and trusted brand in cybersecurity for over 30 years, McAfee protects millions of consumers and many of the world’s largest government and enterprise clients with one of the industry’s most comprehensive cybersecurity portfolios. Our award-winning products offer individuals and families protection for their digital lives. We meet the cyber security needs of consumers wherever they are, with solutions for device security, privacy and safe WiFi, online protection, and identity protection, among others. Virtually anywhere consumers purchase connected devices or related services, such as mobile or internet, McAfee is available. For enterprises and governments, we protect data and defend against threats from device to cloud in complex, heterogeneous IT environments, supporting advanced cybersecurity infrastructures with threat insights gathered from over one billion sensors across McAfee’s global footprint in multiple domains (device, network, gateway and cloud). Our mission is to protect all things that matter through leading-edge cybersecurity.

Our consumer focused products protect over 600 million devices. Our Personal Protection Service provides holistic digital protection of the individual and family wherever they go under our Total Protection and LiveSafe brands. We achieve this by integrating the following solutions and capabilities within our Personal Protection Service:

- **Device Security**, which includes our Anti-Malware Software and Secure Home Platform products, keeps over 600 million consumer devices, including mobile and home-use, protected from viruses, ransomware, malware, spyware, and phishing.
- **Online Privacy and Comprehensive Internet Security**, which includes our Safe Connect VPN, TunnelBear, and WebAdvisor products, help make Wi-Fi connections safe with our bank-grade AES 256-bit encryption, keeping personal data protected while keeping IP addresses and physical locations private.
- **Identity Protection**, which includes our Identity Theft Protection and Password Manager products, searches over 600,000 online black markets for compromised personally identifiable information, helping consumers take action to prevent fraud.

Our go-to-market engine consists of a digitally-led omnichannel approach to reach the consumer at crucial moments in their purchase lifecycle including direct to consumer online sales, acquisition through trial pre-loads on PC OEM devices, and other indirect modes via additional partners such as mobile providers, ISPs, electronics retailers, ecommerce sites, and search providers. We have longstanding exclusive partnerships with many of the
leading PC OEMs and continue to expand our presence with mobile service providers and ISPs as the demand for mobile security protection increases. Through these relationships, our consumer security software is pre-installed on devices on either a trial basis until conversion to a paid subscription, which is enabled by a thoughtfully tailored renewal process that fits the customer’s journey, or through a live version that can be purchased directly through the OEMs’ website. Our consumer go-to-market channel also consists of partners including some of the largest electronics retailers and ISPs globally.

For enterprises and governments, we offer one of the industry’s broadest and deepest cybersecurity portfolios. MVISION Device, our next generation endpoint solutions offer comprehensive threat detection and data protection for both modern and legacy devices, such as traditional endpoints, mobile and fixed-function systems. Our MVISION cloud solutions protect data from device to cloud, prevent web-based and cloud-native threats, and help customers to accelerate their application delivery while improving governance, compliance and security. Our MVISION Security Services offers a suite of products aimed at data loss prevention, policy management orchestration, threat prevention, analytics and intelligence.

Our Enterprise products protect many of the largest governments and enterprises around the world. Some of our largest customers are government entities who represent over 25% of our top 250 Enterprise customers and 45% of our top 250 Enterprise customer annualized contract value as of June 27, 2020. Our Enterprise customers also included 86%, 78%, and 61% of Fortune 100, Fortune 500, and Global 2000 firms, respectively, as of June 27, 2020, of which 55%, 46%, and 28% were Core Enterprise Customers, respectively. See “Key Operating Metrics—Enterprise Segment—Core Enterprise Customers”. Our internal sales teams work with our channel partners to position our solutions and secure a stronger foothold in customer accounts. Our key accounts are serviced directly by our field sales teams. These teams are focused on driving customer outcomes to increase the perceived value of our solutions and secure cross-sell and upsell opportunities from existing customers. Mid-market accounts are primarily serviced through a global inside sales engine.

Our Consumer and Enterprise net revenues are derived from the sale of software subscriptions, perpetual licenses, hardware, support and maintenance, professional services, royalty agreements or a combination of these items, primarily through our indirect relationships with our partners or direct relationships with end customers through our own sales force. We operate a global business with approximately 45% of our net revenues for the 26-week period ended June 27, 2020 earned outside of the United States. Our Consumer business had greater than 85% recurring revenues for the last three fiscal years and 88% recurring revenues during the 26-week period ended June 27, 2020. Our Enterprise business had greater than 75% recurring revenues for the last three fiscal years and 77% recurring revenues during the 26-week period ended June 27, 2020. We define recurring revenues as those derived from software subscriptions and support and maintenance net revenues, as a percentage of total net revenues. Recurring revenues exclude hardware sales, perpetual license sales, professional services, royalties, and any other revenues that are non-recurring in nature.

**Our Operating Segments**

We manage our business in two operating segments, Consumer and Enterprise. A significant portion of our operating segments’ operating expenses are allocated from shared resources based on the estimated utilization of services provided to or benefits received by the operating segments. See Note 6 to our unaudited interim condensed consolidated financial statements included elsewhere in this prospectus.
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The table below summarizes our results of operations by segment for fiscal 2018 compared to fiscal 2019 and for the 26-week period ended June 29, 2019 and June 27, 2020. We believe adjusted EBITDA is useful in evaluating our business, but should not be considered in isolation or as a substitute for GAAP. See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for explanations of how we calculate these measures and for reconciliation to the most directly comparable financial measure stated in accordance with GAAP.

<table>
<thead>
<tr>
<th></th>
<th>Fiscal Year Ended</th>
<th>26-Week Period Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Net revenue - Consumer</td>
<td>$1,161</td>
<td>$1,303</td>
</tr>
<tr>
<td>Net revenue - Enterprise</td>
<td>1,248</td>
<td>1,332</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$2,409</td>
<td>$2,635</td>
</tr>
<tr>
<td>Operating income (loss) - Consumer</td>
<td>$107</td>
<td>$277</td>
</tr>
<tr>
<td>Operating income (loss) - Enterprise</td>
<td>(280)</td>
<td>(151)</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>$173</td>
<td>$126</td>
</tr>
<tr>
<td>Adjusted EBITDA - Consumer</td>
<td>$431</td>
<td>$580</td>
</tr>
<tr>
<td>Adjusted EBITDA - Enterprise</td>
<td>109</td>
<td>219</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$540</td>
<td>$799</td>
</tr>
<tr>
<td></td>
<td>$634</td>
<td>$737</td>
</tr>
<tr>
<td></td>
<td>$657</td>
<td>$664</td>
</tr>
<tr>
<td></td>
<td>$1,291</td>
<td>$1,401</td>
</tr>
<tr>
<td></td>
<td>$127</td>
<td>$201</td>
</tr>
<tr>
<td></td>
<td>(92)</td>
<td>(1)</td>
</tr>
<tr>
<td></td>
<td>$35</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td>$279</td>
<td>$354</td>
</tr>
<tr>
<td></td>
<td>94</td>
<td>153</td>
</tr>
<tr>
<td></td>
<td>$373</td>
<td>$507</td>
</tr>
</tbody>
</table>

Net revenue for our Consumer segment has grown at a greater rate than net revenue for our Enterprise segment in recent periods and, after excluding the impact of purchase accounting adjustments required under GAAP, Enterprise net revenue declined in recent periods. See “Factors Affecting the Comparability of Our Results of Operations—Impact of Purchase Accounting Related to Mergers and Acquisitions.” As we continue to execute on the reorientation of our Enterprise business, we expect our Enterprise net revenue to continue to decline in the near term, and we expect the performance of our Consumer segment to continue to have a greater impact on our consolidated Company performance, including our consolidated net revenue.

Business Developments and Highlights

Since April 2017, when our Sponsors acquired a controlling interest in us, we have accelerated our transformational journey and achieved a number of business and financial objectives, including the following:

Operational Highlights:

• During the 2017 Successor period and fiscal 2018, we invested in several areas aimed at driving higher growth and improved efficiency in our product delivery and go-to-market strategies including the following:
  • we invested in additional headcount and outside resources in the PC OEM channel of our consumer business to increase new customer conversion for our consumer security software packages;
  • we invested in additional headcount, outside resources and other tools to increase consumer retention through enhanced online marketing and customer messaging during the renewal;
  • we initiated changes to our go-to-market model for our enterprise solutions; and
  • we implemented customer support initiatives to promote effective self-service solutions and improve support service efficiency.

• In fiscal 2019 and through the first half of fiscal 2020, we continued to innovate across our online presence, ecommerce, analytics and product platform to improve customer engagement, satisfaction and acquisition efficiency and retention.
During fiscal 2018 we launched MVISION, our cloud-native family of our enterprise platform.

Throughout the 2017 Successor period to the first half of fiscal 2020, we made multiple operational changes designed to increase efficiency and adapt to the changing marketplace, reducing overhead costs and reallocating resources to drive improved performance.

**Acquisitions:**

- In fiscal 2018, we completed the acquisitions of TunnelBear (an award-winning consumer VPN provider) and Skyhigh (a leading provider of CASB), as critical steps in adding what we believe are key competencies in high-growth verticals oriented around remote work within the cybersecurity market.
- In fiscal 2019, we acquired Uplevel Security (a graph theory based predictive security analytics platform) and Nanosec (a multi-cloud, zero-trust application and security platform), and in the first half of fiscal 2020, we acquired Light Point Security (an award-winning pioneer of browser isolation).

**Key Factors Affecting Our Performance**

**New customer acquisition and go-to-market strategy:**

- We maintain a diverse go-to-market strategy in our Consumer business and leverage strong partnerships across various channels. We have a vast consumer distribution network with multiple routes across direct to consumer online sales, PC-OEMs, retail and ecommerce, communications service providers, ISPs, and search providers, making our solutions available at multiple points of need. The combination of these partnerships and our direct-to-consumer digital marketing efforts give us multiple touch points to acquire new customers looking to meet their cyber security needs from a trusted brand.
- We also leverage our significant scale and breadth in enterprise offerings to create go-to-market advantages resulting in new customer wins. We market our brand, business solutions and offerings directly to enterprise and government customers through traditional demand generation programs and events, as well as indirectly through resellers and distributors. Our mid-market customers generally conduct their business through our channel partners.

If we are unable to obtain new customers and maintain our strategic channel partnerships, our financial condition and operating performance could be harmed.

**Customer retention and expansion:**

- Our Consumer business is primarily a subscription-based model with greater than 85% recurring revenues for the last three fiscal years and 88% recurring revenues during the 26-week period ended June 27, 2020. We derive more than 85% of our annual subscription recurring revenue on average from our Core Direct to Customers, which has benefited from our improvements in retention and direct-to-consumer channel marketing. Our ability to upsell drives expansion within our existing consumer customer base.
- Our Enterprise business is primarily a recurring revenue model with greater than 75% recurring revenues for the last three fiscal years and 77% recurring revenues during the 26-week period ended June 27, 2020. We derive approximately 80% of our total Enterprise net revenue from our existing customers with an annual contract value of greater than $100,000, which we refer to as our Core Enterprise Customers. We focus on this segment of our Enterprise customers to help improve retention of the customers driving the most significant portion of our Enterprise revenue, while also driving incremental cross-sell and upsell opportunities.
Our customers have no obligation to renew their contracts with us upon their expiration. Any decline in our ability to retain customers may harm our financial condition and operating performance.

**Product innovation:**

- We continue to invest organically in our consumer product platform and innovation in performance marketing to increase customer engagement. Most importantly, our research helps us better protect our customers. In addition to developing new offerings and solutions, our development staff focuses on performance marketing to increase customer conversion and customer retention.
- We also invest in research and development to support high growth markets in enterprise. This investment refines our security risk management processes, improves our product design and usability, and keeps us at the forefront of threat research. Future upgrades and updates may include additional functionality to respond to market needs, while also ensuring compatibility with new systems and technologies.

**Market adoption of cloud solutions.** We believe our future success depends in part on the growth in the market for cloud-based security solutions. To ensure comprehensive threat protection, we believe organizations need to adopt cybersecurity solutions designed to secure the cloud while integrating seamlessly with endpoint and other security solutions. We have made significant investments in cloud-based products through product development and acquisitions, including our MVISION UCE and MVISION EDR, and expect the proportion of our revenue derived from these offerings to grow over time. The continued adoption of cloud-based solutions generally, and market acceptance of our cloud solutions in particular, will be key components of our ability to grow in the future.

**Acquisition strategy and integration.** As part of our growth strategy, we have made and expect to continue to make targeted acquisitions of, or investments in, complementary businesses, products, and technologies. We intend to continue making targeted acquisitions and believe we are uniquely positioned to successfully execute on our acquisition strategy by leveraging our scale, global reach and routes to market, brand recognition, and data assets. Our ability to acquire complementary technologies for our portfolio and integrate these acquisitions into our business will be important to our success and may affect comparability of our results of operations from period to period.

**Key Operating Metrics**

We monitor the following key metrics to help us evaluate our business, identify trends affecting our business, measure our performance, formulate business plans, and make strategic decisions. We believe the following metrics are useful in evaluating our business, but should not be considered in isolation or as a substitute for GAAP. Certain judgments and estimates are inherent in our processes to calculate these metrics.

**Consumer Segment:**

**Core Direct to Consumer Customers**

We define Core Direct to Consumer Customers as active subscribers whose transaction for a subscription is directly with McAfee. These customers include those who (i) transact with us directly through McAfee web properties, (ii) are converted during or after the trial period of the McAfee product preinstalled on their new PC purchase, or (iii) are channel led subscribers who are converted to Core Direct to Consumer Customers after expiration of their subscription of our product initially purchased through our retail/ecommerce partners or who purchased a McAfee subscription from us through our retail or PC-OEM partners.

Core Direct to Consumer Customers account for more than 85% of our annual subscription revenue on average and may purchase one or more subscriptions from us. We believe this direct billing relationship is
important and our ability to increase the number of Core Direct to Consumer Customers is a key indicator of growth of our business. We expect the number of our Core Direct to Consumer Customers to continue to grow in the near term.

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 30, 2017</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
<th>As of June 29, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core Direct to Consumer Customers</td>
<td>12.9</td>
<td>14.1</td>
<td>15.2</td>
<td>14.6</td>
<td>16.6</td>
</tr>
</tbody>
</table>

**Monthly Core Direct to Consumer Customers Average Revenue Per Customer (“ARPC”)**

We define ARPC as monthly subscription net revenue from transactions directly between McAfee and Core Direct to Consumer Customers, divided by average Core to Direct Consumer Customers from the same period. ARPC can be impacted by price, mix of products, and change between periods in Core Direct to Consumer Customer count. We believe that ARPC allows us to understand the value of our solutions to the portion of our customer base transacting directly with us.

<table>
<thead>
<tr>
<th>As of December 30, 2017</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
<th>As of June 29, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly ARPC</td>
<td>$5.55</td>
<td>$5.79</td>
<td>$5.96</td>
<td>$5.90</td>
</tr>
</tbody>
</table>

**Trailing Twelve Months (“TTM”) Dollar Based Retention - Core Direct to Consumer Customers**

TTM Dollar Based Retention for Consumer is the annual contract value of Core Direct to Consumer Customer subscriptions that were renewed in the trailing twelve months divided by the annual contract value for Core Direct to Consumer Customers subscriptions that were up for renewal in the same period. We monitor TTM Dollar Based Retention for the Consumer segment as an important measure of the value we retain of our existing Core Direct to Consumer Customer base and as a measure of the effectiveness of the strategies we deploy to improve those rates over time.

<table>
<thead>
<tr>
<th>As of December 30, 2017</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
<th>As of June 29, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>TTM Dollar Based Retention - Core Direct to Consumer Customers</td>
<td>87%</td>
<td>93%</td>
<td>97%</td>
<td>95%</td>
</tr>
</tbody>
</table>

**Enterprise Segment:**

**Core Enterprise Customers**

We define Core Enterprise Customers as any customer with an annualized contract value greater than $100,000, that has an active entitlement at any point during the last quarter of the period. For purposes of defining Core Enterprise Customers, annualized contract value excludes any customers who only purchased end of life products, which are products that have been discontinued after the relevant contract was entered.

These customers represent less than 5% of our total Enterprise customer base on average for the periods presented, but approximately 80% of our Enterprise net revenue on average for the same periods. On average, our Core Enterprise Customers had a tenure greater than 17 years as of June 27, 2020. These Core Enterprise Customers are a key focus of our Enterprise sales teams. While the number of our Core Enterprise Customers has declined slightly in recent periods as a result of refocusing our product portfolio, we expect the number of our Core Enterprise Customers to remain relatively stable in the near term, as we have continued to invest in enhancements to our Enterprise product portfolio.

<table>
<thead>
<tr>
<th>As of December 30, 2017</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
<th>As of June 29, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core Enterprise Customers</td>
<td>1,585</td>
<td>1,589</td>
<td>1,564</td>
<td>1,563</td>
</tr>
</tbody>
</table>
Non-GAAP Financial Measures

We believe that in addition to our results determined in accordance with GAAP, billings, adjusted operating income, adjusted operating income margin, adjusted EBITDA, adjusted EBITDA margin, adjusted net income, adjusted net income margin, and free cash flow are useful in evaluating our business, results of operations and financial condition. We believe that this non-GAAP financial information may be helpful to investors because it provides consistency and comparability with past financial performance and facilitates period to period comparisons of operations, as these eliminate the effects of certain variables from period to period for reasons that we do not believe reflect our underlying business performance. However, non-GAAP financial information is presented for supplemental informational purposes only and should not be considered in isolation or as a substitute for financial information presented in accordance with GAAP. Our presentation of these measures should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation. Other companies in our industry may calculate these measures differently, which may limit their usefulness as a comparative measure.

See “Selected Consolidated and Combined Financial and Other Data—Non-GAAP Financial Measures” for explanations of how we calculate these measures and for reconciliation to the most directly comparable financial measure stated in accordance with GAAP.

### Total Company

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
<th>Successor December 28, 2019</th>
<th>Successor June 29, 2019</th>
<th>Successor June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$ 586</td>
<td>$ 1,490</td>
<td>$ 2,409</td>
<td>$ 2,635</td>
<td>$ 1,291</td>
<td>$ 1,401</td>
</tr>
<tr>
<td>Billings</td>
<td>589</td>
<td>1,992</td>
<td>2,717</td>
<td>2,820</td>
<td>1,303</td>
<td>1,374</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>(73)</td>
<td>(406)</td>
<td>(173)</td>
<td>126</td>
<td>35</td>
<td>200</td>
</tr>
<tr>
<td>Operating income (loss) margin</td>
<td>(12.5)%</td>
<td>(27.2)%</td>
<td>(7.2)%</td>
<td>(4.8)%</td>
<td>2.7%</td>
<td>14.3%</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (79)</td>
<td>$ (607)</td>
<td>$ (512)</td>
<td>$ (236)</td>
<td>$ (146)</td>
<td>$ 31</td>
</tr>
<tr>
<td>Net income (loss) margin</td>
<td>(13.5)%</td>
<td>(40.7)%</td>
<td>(21.3)%</td>
<td>(9.0)%</td>
<td>(11.3)%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Adjusted operating income</td>
<td>$ 58</td>
<td>$ 123</td>
<td>$ 480</td>
<td>$ 733</td>
<td>$ 341</td>
<td>$ 478</td>
</tr>
<tr>
<td>Adjusted operating income margin</td>
<td>9.9%</td>
<td>8.3%</td>
<td>19.9%</td>
<td>27.8%</td>
<td>26.4%</td>
<td>34.1%</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$ 76</td>
<td>$ 170</td>
<td>$ 540</td>
<td>$ 799</td>
<td>$ 373</td>
<td>$ 507</td>
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<tr>
<td>Adjusted EBITDA margin</td>
<td>13.0%</td>
<td>11.4%</td>
<td>22.4%</td>
<td>30.3%</td>
<td>29.9%</td>
<td>36.2%</td>
</tr>
<tr>
<td>Adjusted net income (loss)</td>
<td>$ 49</td>
<td>$ (105)</td>
<td>$ 143</td>
<td>$ 896</td>
<td>$ 163</td>
<td>$ 303</td>
</tr>
<tr>
<td>Adjusted net income (loss) margin</td>
<td>8.4%</td>
<td>(7.0)%</td>
<td>5.9%</td>
<td>15.0%</td>
<td>12.6%</td>
<td>21.6%</td>
</tr>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>$(65)</td>
<td>$ 316</td>
<td>$ 319</td>
<td>$ 496</td>
<td>$ 96</td>
<td>$ 288</td>
</tr>
<tr>
<td>Net cash provided by (used in) investing activities</td>
<td>$(10)</td>
<td>$(39)</td>
<td>$(677)</td>
<td>$(63)</td>
<td>$(24)</td>
<td>$(33)</td>
</tr>
<tr>
<td>Net cash provided by (used in) financing activities</td>
<td>$(23)</td>
<td>87</td>
<td>459</td>
<td>(734)</td>
<td>(407)</td>
<td>(162)</td>
</tr>
<tr>
<td>Free cash flow</td>
<td>$(54)</td>
<td>277</td>
<td>257</td>
<td>435</td>
<td>74</td>
<td>260</td>
</tr>
</tbody>
</table>
# Table of Contents

## Consumer Segment

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended December 28, 2019</td>
<td>26-Week Period Ended June 27, 2020</td>
</tr>
<tr>
<td>Net revenue - Consumer</td>
<td>$258</td>
<td>$630</td>
<td>$1,303</td>
</tr>
<tr>
<td>Billings - Consumer</td>
<td>285</td>
<td>831</td>
<td>1,393</td>
</tr>
<tr>
<td>Operating income (loss) - Consumer</td>
<td>$47</td>
<td>$107</td>
<td>$277</td>
</tr>
<tr>
<td>Operating income (loss) margin - Consumer</td>
<td>18.2%</td>
<td>9.2%</td>
<td>21.3%</td>
</tr>
<tr>
<td>Adjusted operating income - consumer</td>
<td>$85</td>
<td>$408</td>
<td>$555</td>
</tr>
<tr>
<td>Adjusted operating income margin - Consumer</td>
<td>32.9%</td>
<td>35.1%</td>
<td>37.1%</td>
</tr>
<tr>
<td>Adjusted EBITDA - Consumer</td>
<td>$89</td>
<td>$218</td>
<td>$580</td>
</tr>
<tr>
<td>Adjusted EBITDA margin - Consumer</td>
<td>34.5%</td>
<td>37.1%</td>
<td>44.5%</td>
</tr>
</tbody>
</table>

## Enterprise Segment

<table>
<thead>
<tr>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended December 28, 2019</td>
<td>26-Week Period Ended June 27, 2020</td>
</tr>
<tr>
<td>Net revenue - Enterprise</td>
<td>$328</td>
<td>$860</td>
<td>$1,332</td>
</tr>
<tr>
<td>Billings - Enterprise</td>
<td>304</td>
<td>1,161</td>
<td>1,427</td>
</tr>
<tr>
<td>Operating income (loss) - Enterprise</td>
<td>$(120)</td>
<td>$(359)</td>
<td>$(151)</td>
</tr>
<tr>
<td>Operating income (loss) margin - Enterprise</td>
<td>(36.6)%</td>
<td>(41.7)%</td>
<td>(11.3)%</td>
</tr>
<tr>
<td>Adjusted operating income (loss) - Enterprise</td>
<td>$27</td>
<td>$72</td>
<td>$178</td>
</tr>
<tr>
<td>Adjusted operating income (loss) margin - Enterprise</td>
<td>8.2%</td>
<td>5.6%</td>
<td>13.4%</td>
</tr>
<tr>
<td>Adjusted EBITDA - Enterprise</td>
<td>$(13)</td>
<td>$(48)</td>
<td>$219</td>
</tr>
<tr>
<td>Adjusted EBITDA margin - Enterprise</td>
<td>(4.0)%</td>
<td>(8.7)%</td>
<td>16.4%</td>
</tr>
</tbody>
</table>

## Billings

We define billings as net revenue recognized in accordance with GAAP plus the change in deferred revenue from the beginning to the end of the period, excluding the impact of deferred revenue assumed through acquisitions during the period. We view billings as a key metric, as it includes changes in our deferred revenue during the period, which is an important indicator of future trends and is a significant percentage of future revenue.

## Adjusted Operating Income, Adjusted Operating Income Margin, Adjusted EBITDA, and Adjusted EBITDA Margin

We regularly monitor adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin to assess our operating performance. We define adjusted operating income for the total Company as net income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense, interest expense and other, net, provision for income tax expense, foreign exchange (gain) loss, net, and other costs that we do not believe are reflective of our ongoing operations. We define adjusted operating income for our Consumer and Enterprise segments as segment operating income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense and other costs attributable to the segment that we do not believe are reflective of the segment’s ongoing operations. We present this reconciliation of adjusted operating income (loss) to operating income for Consumer and Enterprise.
segments because operating income (loss) is the primary measure of profitability used to assess segment performance, and is therefore the most directly comparable GAAP financial measure for our operating segments. Adjusted operating income margin is calculated as adjusted operating income divided by net revenue. We define adjusted EBITDA as adjusted operating income, excluding the impact of depreciation expense and other non-operating costs. Adjusted EBITDA margin is calculated as adjusted EBITDA divided by net revenue. We believe presenting adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin provides management and investors consistency and comparability with our past financial performance and facilitates period-to-period comparisons of operations, as it eliminates the effects of certain variations unrelated to our overall performance. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted operating income and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- adjusted operating income and adjusted EBITDA do not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments, on our debt;
- adjusted operating income and adjusted EBITDA do not reflect income tax payments that may represent a reduction in cash available to us;
- other companies, including companies in our industry, may calculate adjusted operating income and adjusted EBITDA differently, which reduce their usefulness as comparative measures.

Because of these limitations, you should consider adjusted operating income and adjusted EBITDA alongside other financial performance measures, including operating income (loss), net income (loss) and our other GAAP results. In evaluating adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin. Adjusted operating income, adjusted operating income margin, adjusted EBITDA, and adjusted EBITDA margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.

Adjusted Net Income and Adjusted Net Income Margin

We regularly monitor adjusted net income, and adjusted net income margin to assess our operating performance. We define adjusted net income as net income (loss), excluding the impact of amortization of intangible assets, amortization of debt issuance costs, equity-based compensation expense, other costs, and certain non-recurring tax benefits and expenses that we do not believe to be reflective of our ongoing operations and the tax impact of these adjustments. Adjusted net income margin is calculated as adjusted net income divided by net revenue. Adjusted net income and adjusted net income margin have limitations as analytical tools, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- although amortization is non-cash charge, the assets being amortized may have to be replaced in the future, and adjusted net income does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
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- adjusted net income does not reflect changes in, or cash requirements for, our working capital needs;
- other companies, including companies in our industry, may calculate adjusted net income differently, which reduce its usefulness as comparative measures.

Because of these limitations, you should consider adjusted net income alongside other financial performance measures, including net income (loss) and our other GAAP results. In evaluating adjusted net income and adjusted net income margin, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of adjusted net income and adjusted net income margin should not be construed as an inference that our future results will be unaffected by the types of items excluded from the calculation of adjusted net income and adjusted net income margin. Adjusted net income and adjusted net income margin are not presentations made in accordance with GAAP and the use of these terms vary from other companies in our industry.

Free Cash Flow

We define free cash flow as net cash provided by operating activities less capital expenditures. We consider free cash flow to be a liquidity measure that provides useful information to management and investors about the amount of cash generated by the business that can be used for strategic opportunities, including investing in our business, making strategic acquisitions, and strengthening the balance sheet.

Factors Affecting the Comparability of Our Results of Operations

As a result of a number of factors, our historical results of operations are not comparable from period to period and may not be comparable to our financial results of operations in future periods. Set forth below is a brief discussion of the key factors impacting the comparability of our results of operations.

Basis of Presentation

Prior to the Sponsor Acquisition, our business operated as a part of a business unit of Intel. The period ended April 3, 2017 is referred to as the “Predecessor” period and all periods after such date are referred to as the “Successor” period. Our combined financial statements for the Predecessor period were “carved-out” from Intel’s consolidated financial statements. Our consolidated financial statements for the Successor period are presented on a stand-alone basis. Accordingly, the combined financial statements for the Predecessor period may not be comparable to the consolidated financial statements of the Successor period.

Subsequent to the Sponsor Acquisition, we implemented various transformation and restructuring activities to improve cost synergies, customer retention, and activation to pay strategies. These activities changed our operations and structure, impacting the comparability of our operating results.

Impact of Adoption of ASC Topic 606

On December 31, 2017, we adopted ASC Topic 606, using the modified retrospective method, applied to those contracts which were not completed as of the adoption date. Results for the reporting periods beginning December 31, 2017 and subsequent are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported under ASC Topic 605. Under ASC Topic 606, certain of our perpetual software licenses or hardware with integrated software are not distinct from their accompanying maintenance and support, as they are dependent upon regular threat updates. These contracts typically contain a renewal option that we have concluded creates a material right for our customer. The license, hardware, maintenance and support revenue is recognized over time, as control is transferred to the customer over the term of the initial contract period while the corresponding material right performance is recognized over time beginning at the end of the initial contractual period over the remainder of the technology constrained customer life. This generally results in
a portion of the consideration received being deferred and recognized over the longer of the technology constrained customer life or the contract term. Additionally, certain related contract costs are now amortized over the technology constrained customer life. See the Comparison of the 2017 Predecessor and 2017 Successor periods and Fiscal 2018 for further discussion of impact.

**Change in Allocation of Costs to Segments**

Prior to fiscal 2018, we allocated shared expenses of our administrative functions, including finance, accounting, human resources, legal, operations, information technology and facilities to our reportable segments using a head count ratio of directly attributable employees. Effective fiscal 2018, the allocation metrics were changed to be based on direct identification for segment specific sites and analysis for each shared function using drivers, including surveyed time, head count or revenue mix from each segment. Based on our best estimate, the change in allocation would have resulted in $39 million higher costs allocated to the Consumer segment and $39 million lower costs allocated to the Enterprise segment for the 2017 Successor period. This change in the allocation of expenses caused a one-time decrease in the rate of growth of our Consumer operating income and Consumer operating income margin in fiscal 2018 compared to the 2017 Successor period; however, this change had, and will continue to have, no effect on the comparability of subsequent periods.

**Payments to Channel Partners**

We make various payments to our channel partners, which may include revenue share, product placement fees and marketing development funds. Costs that are incremental to revenue, such as revenue share, are capitalized and amortized over time as cost of sales. This classification is an accounting policy election, which may make comparisons to other companies difficult. Product placement fees and marketing development funds are expensed in sales and marketing expense as the related benefit is received. Many of our channel partner agreements contain a clause whereby we pay the greater of revenue share calculated for the period or product placement fees. This may impact the comparability of our financial results between periods.

Under certain of our channel partner agreements, the partners pay us a royalty on our technology sold to their customers, which we recognize as revenue in accordance with our revenue recognition policy. In certain situations, the payments made to our channel partners are recognized as consideration paid to a customer, and thus are recorded as reductions to revenue up to the amount of cumulative revenue recognized from contracts with the channel partner during the period of measurement. Any payments to channel partners in excess of such cumulative revenue during the period of measurement are recognized as cost of sales or marketing expense as described above. As royalty revenue from individual partners varies, the amount of costs recognized as a reduction of revenue rather than as cost of sales or sales and marketing expense fluctuates and may impact the comparability of our financial statements between periods.

**Impact of Purchase Accounting Related to Mergers and Acquisitions**

Through April 3, 2017, the McAfee cybersecurity business, which we refer to as the Predecessor Business, was operated as a part of a business unit of Intel. Also prior to April 3, 2017, McAfee, Inc., which was then a wholly-owned subsidiary of Intel, was converted into a limited liability company, McAfee, LLC. Following such conversion, Intel contributed McAfee, LLC to Foundation Technology Worldwide LLC, a wholly-owned subsidiary of Intel. On April 3, 2017, Intel and its subsidiaries transferred assets and liabilities of the Predecessor Business not already held through Foundation Technology Worldwide LLC to Foundation Technology Worldwide LLC. Immediately thereafter on April 3, 2017, our Sponsors and certain of their co-investors acquired a majority stake in Foundation Technology Worldwide LLC, pursuant to the Sponsor Acquisition. Following the Sponsor Acquisition, our Sponsors and certain of their co-investors owned 51.0% of the common equity interests in Foundation Technology Worldwide LLC, with certain affiliates of Intel retaining the remaining 49.0% of the common equity interests. We have operated as a standalone company at all times following the Sponsor Acquisition. As a result of the Sponsor Acquisition, we recorded all assets and liabilities at
their fair value, including our deferred revenue and deferred costs balances, as of the effective date of the Sponsor Acquisition, which in some cases was different than the historical book values. Adjusting our deferred revenue and deferred costs balances to fair value on the date of the Sponsor Acquisition had the effect of reducing revenue and expenses from that which would have otherwise been recognized in subsequent periods. We also recorded identifiable intangible assets that are amortized over their useful lives, increasing expenses from that which would otherwise have been recognized.

In addition, we have made acquisitions and recorded the acquired assets and liabilities at fair value on the date of acquisition, which similarly impacted deferred revenue and deferred costs balances and reduced revenue and expenses from that which would have otherwise been recognized in subsequent periods.

We also recorded identifiable intangible assets that are amortized over their useful lives, increasing expenses from that which would otherwise have been recognized.
The accounting impact resulting from these acquisitions limits the comparability of our financial statements between periods. The table below shows the impact of purchase accounting on our financial statements.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase accounting adjustments to deferred revenue—Consumer</td>
<td>$ —</td>
<td>$ 182</td>
<td>$ 32</td>
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<td>$ 1</td>
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<td>Purchase accounting adjustments to deferred revenue—Enterprise</td>
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<td>41</td>
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<td>Impact of purchase accounting on net revenue</td>
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<td>$ 42</td>
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<td>$ 1</td>
<td>$ —</td>
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<tr>
<td>Purchase accounting adjustments to cost of sales—Enterprise</td>
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<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Amortization of acquired and developed technologies—Consumer</td>
<td>—</td>
<td>79</td>
<td>107</td>
<td>107</td>
<td>54</td>
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<tr>
<td>Amortization of acquired and developed technologies—Enterprise</td>
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<td>145</td>
<td>139</td>
<td>71</td>
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<tr>
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<td>$ 266</td>
<td>$ 266</td>
<td>$ 247</td>
<td>$ 126</td>
<td>$ 113</td>
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<tr>
<td>Purchase accounting adjustments to operating expenses—Consumer</td>
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<td>$ 2</td>
<td>$ 1</td>
<td>$ 1</td>
<td>$ 1</td>
<td>$ —</td>
</tr>
<tr>
<td>Purchase accounting adjustments to operating expenses—Enterprise</td>
<td>—</td>
<td>31</td>
<td>19</td>
<td>5</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Amortization of customer relationships and other—Consumer</td>
<td>15</td>
<td>114</td>
<td>135</td>
<td>146</td>
<td>74</td>
<td>72</td>
</tr>
<tr>
<td>Amortization of customer relationships and other—Enterprise</td>
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<td>53</td>
<td>77</td>
<td>77</td>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>Impact of purchase accounting on operating expenses</td>
<td>$ 40</td>
<td>$ 200</td>
<td>$ 250</td>
<td>$ 229</td>
<td>$ 116</td>
<td>$ 112</td>
</tr>
</tbody>
</table>

**Impact of the Reorganization Transactions**

McAfee Corp. is a corporation for U.S. federal and state income tax purposes. Following the Reorganization Transactions, Foundation Technology Worldwide LLC will be the predecessor of McAfee Corp. for accounting purposes. Foundation Technology Worldwide LLC is and is expected to remain a partnership for U.S. federal income tax purposes and will therefore generally not be subject to any U.S. federal income taxes at the entity level in respect of income it recognizes directly or through its U.S. and foreign subsidiaries that are also pass-
through or disregarded entities for U.S. federal income tax purposes. Instead, taxable income and loss of these entities will flow through to the members of Foundation Technology Worldwide LLC (including McAfee Corp. and certain of its subsidiaries) for U.S. federal income tax purposes. Certain of Foundation Technology Worldwide LLC’s non-U.S. subsidiaries that are treated as pass-through or disregarded entities for U.S. federal income tax purposes are nonetheless treated as taxable entities in their respective jurisdictions and are thus subject to non-U.S. taxes at the entity level. Foundation Technology Worldwide LLC also has certain U.S. and foreign subsidiaries that are treated as corporations for U.S. federal income tax purposes and that therefore are or may be subject to income tax at the entity level. Following this offering and the Reorganization Transactions, McAfee Corp. will pay U.S. federal, state and local income taxes as a corporation on its share of the taxable income of Foundation Technology Worldwide LLC (taking into account the direct and indirect ownership of Foundation Technology Worldwide LLC by McAfee Corp.).

The Reorganization Transactions will be accounted for as a reorganization of entities under common control. As a result, following the Reorganization Transactions, the consolidated financial statements of McAfee Corp. will recognize the assets and liabilities received in the Reorganization Transactions at their historical carrying amounts, as reflected in the historical consolidated financial statements of Foundation Technology Worldwide LLC, the accounting predecessor.

In addition, in connection with the Reorganization Transactions and this offering, we will enter into the tax receivable agreement as described under “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Tax Receivable Agreement.”

In connection with the Reorganization Transaction, we expect to incur equity-based compensation expense of $74 million recognized at the time of this offering related to the 2017 Management Incentive Plan and the MEPUs and CRSUs that vest in connection with this offering, an incremental equity-based compensation expense of $121 million recognized for the additional expense associated with the modification and replacement of unvested MEPU, CRSU, and RSU awards at the date of this offering with McAfee Corp. restricted stock units settleable in Class A common stock and options to purchase Class A common stock, and $2 million in expense recognition for unvested MIUs associated with the satisfaction of IPO-based performance vesting conditions at the date of this offering. As discussed in the notes to the unaudited pro forma statements of operations, additional expense for the modified and replaced awards and MIUs will be recorded in periods following this offering in accordance with the vesting provisions of those awards.

**Composition of Revenues, Expenses, and Cash Flows**

**Net Revenue**

We derive substantially all of our revenue from the sale of software subscriptions, including both on-premises and those hosted in the cloud, support and maintenance, perpetual licenses and hardware, professional services, royalty agreements or a combination of these items, primarily through our indirect relationships with our partners or direct relationships with end customers through our own sales force and website. We have various marketing programs with certain business partners who we consider customers and reduce revenue by the cash consideration given to these partners.

As discussed further in “—Critical Accounting Policies and Use of Estimates—Revenue Recognition” below, revenue is recognized as control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for the promised goods or services. Prior to December 31, 2017, we recognized revenue under ASC Topic 605, when all of the following criteria were met: (1) Persuasive evidence of an arrangement exists, (2) delivery has occurred, (3) fee is fixed or determinable and (4) collectability is probable. On December 31, 2017, we began recognizing revenue under ASC Topic 606.

Certain of our perpetual software licenses or hardware with integrated software are not distinct from their accompanying maintenance and support, as they are dependent upon regular threat updates. Revenue for these
products is recognized over time as control is transferred to the customer. These contracts typically contain a renewal option that we have concluded creates a material right for our customer. The license, and the corresponding material right performance obligation, are recognized over time, as control is transferred over the term of the technology constrained customer life.

Additionally, certain of our perpetual software licenses, hardware appliances, or hardware with integrated software provide a benefit to the customer that is separable from the related support as they are not dependent upon regular threat updates. Revenue for these products is recognized at a point in time when control is transferred to our customers, generally at shipment. The related maintenance and support represent a separate performance obligation and the associated transaction price allocated to it is recognized over time as control is transferred to the customer. The nature of our promise to the customer to provide our subscriptions and time-based software licenses and related support and maintenance is to stand ready to provide protection for a specified or indefinite period of time.

The nature of our promise to the customer to provide our subscriptions and time-based software licenses and related support and maintenance is to stand ready to provide protection for a specified or indefinite period of time. Maintenance and support in these cases are typically not distinct performance obligations as the licenses are dependent upon regular threat updates to the customer. Instead the maintenance and support is combined with a software license to create a single performance obligation. We typically satisfy these performance obligations over time, as control is transferred to the customer as the services are provided.

Revenue for professional services that are a separate and distinct performance obligations is recognized as services are provided to the customer.

**Cost of Sales**

Our total cost of sales include the costs of providing delivery (i.e., hosting), support, training, and consulting services, which include salaries and benefits for employees and fees related to third parties and professional service subcontractors. These costs also include fees paid under revenue share arrangements, royalties paid to our strategic channel partners, amortization of certain intangibles, the cost of computer platforms, other hardware and embedded third-party components, and technologies for our hardware-based security products. We anticipate our total cost of sales to increase in absolute dollars as we grow our net revenue. Cost of sales as a percentage of net revenue may vary from period to period based on our investments in the business and the efficiencies we are able to realize going forward.

**Operating Expenses**

Our operating expenses consist of sales and marketing, research and development, general and administrative, amortization of intangibles, and restructuring and transition charges.

- **Sales and Marketing.** Sales and marketing expenses consist primarily of salaries, commissions and benefits and costs associated with travel for sales and marketing personnel, advertising and marketing promotions as well as allocated facilities and IT costs. See further discussion of accounting for commissions within “—Critical Accounting Policies and Use of Estimates—Revenue Recognition” below.

- **Research and Development.** Research and development expenses consist primarily of salaries and benefits for our development staff and a portion of our technical support staff, contractors’ fees, and other costs associated with the enhancement of existing products and services and development of new products and services, as well as allocated facilities and IT costs.

- **General and Administrative.** General and administrative expenses consist primarily of salaries and benefits and other expenses for our executive, finance, human resources, and legal organizations.
In addition, general and administrative expenses include outside legal, accounting, and other professional fees, and an allocated portion of facilities and IT costs. Following the completion of this offering, we expect to incur additional expenses as a result of operating as a public company.

- **Amortization of Intangibles.** Amortization of intangibles includes the amortization of customer relationships and other assets associated with our acquisitions, including the Sponsor Acquisition in April 2017.

- **Restructuring and Transition Charges.** Restructuring and transition charges consists primarily of costs associated with employee severance and facility restructuring charges related to realignment of our workforce as well as certain costs to separate from Intel following our Sponsor acquisition.

**Interest Expense and Other, Net**
Interest expense and other, net primarily relates to interest expense on our outstanding indebtedness to third parties or members.

**Foreign Exchange Gain (Loss), Net**
Foreign exchange gain (loss), net is primarily attributable to realized and unrealized gains or losses on non-U.S. Dollar denominated balances, primarily long-term debt and cash, and transactions.

** Provision for Income Tax**
The provision for income taxes primarily reflects current and deferred state taxes and foreign income taxes in taxable foreign jurisdictions. We have recorded a valuation allowance to reduce our deferred tax assets to the amount that is more likely than not to be realized in future periods. We consider many factors when evaluating and estimating our tax positions, which may require periodic adjustments and may not accurately anticipate actual outcomes.

**Results of Operations**
Subsequent to the Sponsor Acquisition, we implemented various transformation and restructuring activities to improve cost synergies, customer retention, and activation to pay strategies. These activities changed our operations and structure therefore impacting the comparability of our operating results.

We adopted Accounting Standards Codification, or ASC Topic 606, *Revenue from Contracts with Customers*, or ASC Topic 606, on December 31, 2017, using the modified retrospective transition method. Under this method, results for reporting periods beginning on December 31, 2017 are presented in accordance with ASC Topic 606, while prior period amounts are not adjusted and continue to be reported in accordance with our historical accounting under ASC Topic 605, *Revenue Recognition*.

We maintain a 52- or 53-week fiscal year that ends on the last Saturday in December. Period ended April 3, 2017 is a 13-week period starting on January 1, 2017. Period ended December 30, 2017 is a 39-week fiscal period starting on April 4, 2017. Fiscal 2018 is a 52-week year starting on December 31, 2017 and ending on December 29, 2018. Fiscal 2019 is a 52-week year starting on December 30, 2018 and ending on December 28, 2019. 26-week period ended June 29, 2019 is a 26-week period starting on December 30, 2018 and ending on June 29, 2019. 26-week period ended June 27, 2020 is a 26-week period starting on December 29, 2019 and ending on June 27, 2020.
The following tables set forth the consolidated statements of operations in dollar amounts and as of a percentage of net revenue for the periods indicated:

### Table of Contents
- Net income (loss)
- Income (loss) before income taxes
- Operating income (loss)

#### Results of Operations (in millions)
<table>
<thead>
<tr>
<th>Period</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor 26-Week</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>163</td>
<td>542</td>
<td>840</td>
</tr>
<tr>
<td>Gross profit</td>
<td>423</td>
<td>948</td>
<td>1,569</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>212</td>
<td>584</td>
<td>815</td>
</tr>
<tr>
<td>Research and development</td>
<td>127</td>
<td>323</td>
<td>406</td>
</tr>
<tr>
<td>General and administrative</td>
<td>51</td>
<td>157</td>
<td>253</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>40</td>
<td>167</td>
<td>232</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>66</td>
<td>123</td>
<td>36</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>496</td>
<td>1,354</td>
<td>1,742</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>(73)</td>
<td>(406)</td>
<td>(173)</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(1)</td>
<td>(159)</td>
<td>(307)</td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>3</td>
<td>(9)</td>
<td>30</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>(71)</td>
<td>(574)</td>
<td>(450)</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>8</td>
<td>33</td>
<td>62</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (79)</td>
<td>$(607)</td>
<td>$(512)</td>
</tr>
</tbody>
</table>

#### Results of Operations, as a percentage of net revenue
<table>
<thead>
<tr>
<th>Period</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor 26-Week</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from January 1 to April 3, 2017</td>
<td>Period from April 4 to December 30, 2017</td>
<td>Fiscal Year Ended</td>
</tr>
<tr>
<td>Net revenue</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>27.8%</td>
<td>36.4%</td>
<td>34.9%</td>
</tr>
<tr>
<td>Gross profit</td>
<td>72.2%</td>
<td>63.6%</td>
<td>65.1%</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>36.2%</td>
<td>39.2%</td>
<td>33.8%</td>
</tr>
<tr>
<td>Research and development</td>
<td>21.7%</td>
<td>21.7%</td>
<td>16.9%</td>
</tr>
<tr>
<td>General and administrative</td>
<td>8.7%</td>
<td>10.5%</td>
<td>10.5%</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>6.8%</td>
<td>11.2%</td>
<td>9.6%</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>11.3%</td>
<td>8.3%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>84.6%</td>
<td>90.9%</td>
<td>72.3%</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>(12.5)%</td>
<td>(27.2)%</td>
<td>(7.2)%</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(0.2)%</td>
<td>(10.7)%</td>
<td>(12.7)%</td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>0.5%</td>
<td>0.6%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>(12.1)%</td>
<td>(38.5)%</td>
<td>(18.7)%</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>1.4%</td>
<td>2.2%</td>
<td>2.6%</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>(13.5)%</td>
<td>(40.7)%</td>
<td>(21.3)%</td>
</tr>
</tbody>
</table>
### Comparison of the 26-Week Periods Ended June 29, 2019 and June 27, 2020

#### Net Revenue

<table>
<thead>
<tr>
<th></th>
<th>June 29, 2019</th>
<th>June 27, 2020</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net revenue</strong></td>
<td>$1,291</td>
<td>$1,401</td>
<td>$110</td>
</tr>
<tr>
<td><strong>Dollars</strong></td>
<td></td>
<td></td>
<td>8.5%</td>
</tr>
</tbody>
</table>

Net revenue increased $110 million, or 8.5%, from $1,291 million for the 26-week period ended June 29, 2019 to $1,401 million for the 26-week period ended June 27, 2020. The increase in net revenue was primarily attributable to a $103 million increase in consumer revenue primarily driven by a combination of (i) increases in ARPC, (ii) higher Core Direct to Consumer Customer subscriber base from prior year, combined with increases in TTM Dollar Based Retention - Core Direct to Consumer Customers, (iii) increased new subscribers from improvements in customer acquisition across channels combined with higher demand due to the accelerated shift to working from home as a result of the COVID-19 pandemic, and (iv) with additional contributions from growth in Mobile & Internet Service Provider channel including sales of TunnelBear.

#### Cost of Sales

<table>
<thead>
<tr>
<th></th>
<th>June 29, 2019</th>
<th>June 27, 2020</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost of sales</strong></td>
<td>$429</td>
<td>$410</td>
<td>$(19)</td>
</tr>
<tr>
<td><strong>Dollars</strong></td>
<td></td>
<td></td>
<td>(4.4)%</td>
</tr>
<tr>
<td><strong>Gross profit margin</strong></td>
<td>66.8%</td>
<td>70.7%</td>
<td></td>
</tr>
</tbody>
</table>

Cost of sales decreased $19 million, or 4.4%, from $429 million for the 26-week period ended June 29, 2019 to $410 million for the 26-week period ended June 27, 2020. The decrease in cost of sales was primarily attributable to (i) a $12 million decrease in amortization expense resulting from certain assets recorded at the Sponsor Acquisition becoming fully amortized and (ii) a $13 million decrease in employee expenses and travel driven primarily by lower headcount and product cost of sales largely due to decreased hardware sales. These decreases were partially offset by a $9 million increase in revenue share expense resulting from increases in consumer billings and retention.

#### Operating Expenses

<table>
<thead>
<tr>
<th></th>
<th>June 29, 2019</th>
<th>June 27, 2020</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sales and marketing</strong></td>
<td>$383</td>
<td>$348</td>
<td>$(35)</td>
</tr>
<tr>
<td><strong>Dollars</strong></td>
<td></td>
<td></td>
<td>(9.1)%</td>
</tr>
<tr>
<td><strong>Research and development</strong></td>
<td>193</td>
<td>186</td>
<td>(7)</td>
</tr>
<tr>
<td><strong>General and administrative</strong></td>
<td>123</td>
<td>138</td>
<td>15</td>
</tr>
<tr>
<td><strong>Amortization of intangibles</strong></td>
<td>113</td>
<td>110</td>
<td>(3)</td>
</tr>
<tr>
<td><strong>Restructuring and transition charges</strong></td>
<td>15</td>
<td>9</td>
<td>(6)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$827</td>
<td>$791</td>
<td>$(36)</td>
</tr>
<tr>
<td><strong>Dollars</strong></td>
<td></td>
<td></td>
<td>(4.4)%</td>
</tr>
</tbody>
</table>

**Sales and Marketing**

Sales and marketing expense decreased $35 million, or 9.1%, from $383 million for the 26-week period ended June 29, 2019 to $348 million for the 26-week period ended June 27, 2020. The decrease in sales and marketing expense was primarily attributable to (i) a $20 million decrease in employee expenses primarily due to a decrease in headcount as a result of our strategic initiatives, (ii) a $15 million decrease in external consulting costs related to strategic initiatives in 2019, and (iii) a $10 million decrease in travel expenses due to the COVID-19 pandemic and reduction in headcount. The decreases were partially offset by a $14 million increase in product placement fees and marketing development funds under agreements with certain OEM partners, primarily driven by increased PC shipments.
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Research and Development

Research and development expense decreased $7 million, or 3.6%, from $193 million for the 26-week period ended June 29, 2019 to $186 million for the 26-week period ended June 27, 2020. The decrease in research and development expense was primarily attributable to a $6 million decrease in compensation related to cash in lieu of equity awards as these awards are not replaced as they vest as well as a decrease in equity based compensation due to deferred equity awards relating to one of our acquisitions becoming fully vested in January 2020.

General and Administrative

General and administrative expense increased $15 million, or 12.2%, from $123 million for the 26-week period ended June 29, 2019 to $138 million for the 26-week period ended June 27, 2020. The increase in general and administrative expense was primarily attributable to a $12 million increase in equity based compensation due to acceleration of vesting related to the departure of our former CEO.

Amortization of Intangibles

Amortization of intangibles decreased $3 million, or 2.7%, from $113 million for the 26-week period ended June 29, 2019 to $110 million for the 26-week period ended June 27, 2020. The decrease was the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.

Restructuring and Transition Charges

Restructuring and transition charges decreased $6 million, or 40.0%, from $15 million for the 26-week period ended June 29, 2019 to $9 million for the 26-week period ended June 27, 2020. The decrease in restructuring and transition charges was primarily attributable to a $6 million decrease in employee severance and benefits as a result of the winding down of a transformation-related headcount reduction initiatives in 2020 compared to 2019.

Operating Income

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>26-Week Period Ended</th>
<th>Variance in</th>
<th>Dollars</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating income</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating income</td>
<td>$35</td>
<td>$200</td>
<td>$165</td>
<td>471.4%</td>
</tr>
<tr>
<td>Operating income margin</td>
<td>2.7%</td>
<td>14.3%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Operating income increased $165 million, from $35 million for the 26-week period ended June 29, 2019 to $200 million for the 26-week period ended June 27, 2020. The increase in operating income was primarily attributable to the reasons noted above.

Interest Expense and Other, Net

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>26-Week Period Ended</th>
<th>Variance in</th>
<th>Dollars</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest expense and other, net</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>$143</td>
<td>$150</td>
<td>$7</td>
<td>(4.9)%</td>
</tr>
</tbody>
</table>

Interest expense and other, net increased $7 million, or 4.9%, from $143 million for the 26-week period ended June 29, 2019 to $150 million for the 26-week period ended June 27, 2020. The increase in interest expense and other, net was primarily attributable to the incremental borrowing issued under our 1st Lien credit facility in June 2019 in addition to the March 2020 borrowing under our revolving credit facility, partially offset by a decrease in LIBOR.

138
Provision for Income Tax Expense

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>26-Week Period Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>$39</td>
<td>$13</td>
</tr>
</tbody>
</table>

Provision for income tax expense decreased $26 million, or 66.7%, from $39 million for the 26-week period ended June 29, 2019 to $13 million for the 26-week period ended June 27, 2020. The decrease in provision for income tax expense was primarily attributable to (i) a $12 million decrease in reserve for uncertain tax positions due to an election to treat one of our subsidiary entities as a corporation for U.S federal income tax purposes and (ii) an $8 million decrease due to outside basis differences.

Segment Operating Results

**Consumer**

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>26-Week Period Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$634</td>
<td>$737</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>140</td>
<td>136</td>
</tr>
<tr>
<td>Operating income</td>
<td>127</td>
<td>201</td>
</tr>
<tr>
<td>Operating income margin</td>
<td>20.0%</td>
<td>27.3%</td>
</tr>
</tbody>
</table>

Net revenue increased $103 million, or 16.2%, from $634 million for the 26-week period ended June 29, 2019 to $737 million for the 26-week period ended June 27, 2020. The increase in net revenue was primarily driven by a combination of (i) increases in ARPC, (ii) higher Core Direct to Consumer Customer subscriber base from prior year, combined with increases in TTM Dollar Based Retention - Core Direct to Consumer Customers, (iii) increased new subscribers from improvements in customer acquisition across channels combined with higher demand due to the accelerated shift to working from home as a result of the COVID-19 pandemic, and (iv) with additional contributions from growth in Mobile & Internet Service Provider channel including sales of TunnelBear.

Depreciation and amortization decreased $4 million, or 2.9%, from the 26-week period ended June 29, 2019 to the 26-week period ended June 27, 2020. The decrease is largely the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.

Operating income increased $74 million, or 58.3%, from $127 million for the 26-week period ended June 29, 2019 to $201 million for the 26-week period ended June 27, 2020. The increase in operating income was primarily attributable to (i) the consumer revenue increase discussed above and (ii) a $9 million decrease in external consulting costs related to strategic initiatives in 2019. These costs were partially offset by (i) a $14 million increase in product placement fees and marketing development funds under agreements with certain OEM partners primarily driven by increased PC shipments, (ii) an $8 million increase in general and administrative expense segment allocation consistent with the growth in consumer revenue, and (iii) a $9 million increase in revenue share expense resulting from increases in consumer billings and retention.

**Enterprise**

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>26-Week Period Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$657</td>
<td>$664</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>129</td>
<td>116</td>
</tr>
<tr>
<td>Operating loss</td>
<td>(92)</td>
<td>(1)</td>
</tr>
<tr>
<td>Operating loss margin</td>
<td>(14.0)%</td>
<td>(0.2)%</td>
</tr>
</tbody>
</table>
Net revenue increased $7 million, or 1.1%, from $657 million for the 26-week period ended June 29, 2019 to $664 million for the 26-week period ended June 27, 2020. The increase in net revenue was primarily attributable to a $23 million increase due to a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition compared to prior period, partially offset by a $15 million decrease in enterprise revenue due to lower year on year billings over the prior 12 months.

Depreciation and amortization decreased $13 million or 10.1%, for the 26-week period ended June 29, 2019 and the 26-week period ended June 27, 2020. The decrease is largely the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.

Operating loss improved $91 million or 98.9%, from $92 million for the 26-week period ended June 29, 2019 to $1 million for the 26-week period ended June 27, 2020. The improvement in operating loss was primarily attributable to (i) the enterprise revenue increase discussed above, (ii) a $26 million decrease in sales and marketing costs due to lower headcount as a result of strategic and transformational initiatives in addition to decreased travel expenses related to the COVID-19 pandemic, (iii) a $19 million decrease in cost of sales primarily driven by lower hardware sales and a decrease in employee costs and travel due to lower headcount, (iv) the $13 million decrease in depreciation and amortization discussed above and (v) other decreases in expenses.

Comparison of Fiscal 2018 and 2019

**Net Revenue**

<table>
<thead>
<tr>
<th>Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td></td>
</tr>
<tr>
<td>December 29, 2018</td>
<td>$2,409</td>
</tr>
<tr>
<td>December 28, 2019</td>
<td>$2,635</td>
</tr>
<tr>
<td>Dollars</td>
<td>$226</td>
</tr>
<tr>
<td>Percent</td>
<td>9.4%</td>
</tr>
</tbody>
</table>

Net revenue increased $226 million, or 9.4%, from $2,409 million for fiscal 2018 to $2,635 million for fiscal 2019. The increase in net revenue was primarily attributable to (i) a $127 million increase in consumer revenue consistent with growth in consumer billings primarily driven by growth in the Core Direct to Consumer Customer subscriber base, increases in TTM Dollar Based Retention – Core Direct to Consumer Customers, increases in ARPC, and growth in Mobile & Internet Service Provider channel which is inclusive of the sales of TunnelBear, and (ii) a $109 million increase due to a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition compared to prior period.

**Cost of Sales**

<table>
<thead>
<tr>
<th>Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of sales</td>
<td></td>
</tr>
<tr>
<td>December 29, 2018</td>
<td>$840</td>
</tr>
<tr>
<td>December 28, 2019</td>
<td>$843</td>
</tr>
<tr>
<td>Dollars</td>
<td>$3</td>
</tr>
<tr>
<td>Percent</td>
<td>0.4%</td>
</tr>
</tbody>
</table>

Cost of sales increased $3 million, or 0.4%, from $840 million for fiscal 2018 to $843 million for fiscal 2019. The increase in cost of sales was primarily attributable to a $12 million increase in revenue share expense due to fair value adjustments to deferred revenue share in connection with purchase accounting primarily relating to the Sponsor Acquisition, partially offset by a $6 million decrease in amortization of technology assets as certain assets recorded at the Sponsor Acquisition that have since fully amortized.
### Operating Expenses

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>$815</td>
<td>$770</td>
</tr>
<tr>
<td>Research and development</td>
<td>406</td>
<td>380</td>
</tr>
<tr>
<td>General and administrative</td>
<td>253</td>
<td>272</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>232</td>
<td>222</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>36</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>$1,742</td>
<td>$1,666</td>
</tr>
</tbody>
</table>

Sales and Marketing

Sales and marketing expense decreased $45 million, or 5.5%, from $815 million for fiscal 2018 to $770 million for fiscal 2019. The decrease in sales and marketing expense was primarily attributable to (i) a $33 million decrease in salaries and related expenses primarily due to a decrease in headcount as a result of our strategic initiatives and (ii) a $28 million decrease in product placement fees and marketing development funds under agreements with certain OEM partners primarily driven by lower PC shipments, changes in sales mix to models with lower shipment cost per unit, as well as an increase in the amount recorded as a reduction to revenue as consideration paid to a customer. The offsetting $16 million increase is due to a combination of other immaterial items.

Research and Development

Research and development expense decreased $26 million, or 6.4%, from $406 million for fiscal 2018 to $380 million for fiscal 2019. The decrease in research and development expense was primarily attributable to (i) an $11 million decrease in salaries and related expenses primarily due to a decrease in headcount as a result of strategic changes to the business and (ii) a $5 million decrease in cash in lieu of equity awards as these awards are not replaced as they vest. The remaining $10 million decrease is due to other immaterial items.

General and Administrative

General and administrative expense increased $19 million, or 7.5%, from $253 million for fiscal 2018 to $272 million for fiscal 2019. The increase in general and administrative expense was primarily attributable to (i) an $11 million net increase in professional services fees primarily related to certain strategic initiatives, certain fees and expenses related to this offering and (ii) an $8 million increase in facilities costs resulting from the execution of a new lease for our headquarters and acceleration of amortization of the right of use asset on our existing headquarters.

Amortization of Intangibles

Amortization of intangibles decreased $10 million, or 4.3%, from $232 million for fiscal 2018 to $222 million for fiscal 2019. The decrease was the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.

Restructuring and Transition Charges

Restructuring and transition charges decreased $14 million, or 38.9%, from $36 million for fiscal 2018 to $22 million for fiscal 2019. The decrease in restructuring and transition charges was primarily attributable to (i) a
$6 million decrease in employee severance and benefits as a result of the winding down of McAfee Acceleration Program (MAP) related headcount reduction initiatives in 2019 compared to 2018 and (ii) a $7 million decrease related to nonrecurring separation costs incurred in fiscal 2018 following the separation from Intel.

**Operating Income (Loss)**

<table>
<thead>
<tr>
<th>Successor Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>$ (173)</td>
</tr>
<tr>
<td>Operating income (loss) margin</td>
<td>(7.2)%</td>
</tr>
</tbody>
</table>

Operating loss improved $299 million, or 172.8%, from operating loss of $173 million for fiscal 2018 to operating income of $126 million for fiscal 2019. The improvement in operating loss to operating income was primarily attributable to (i) a $127 million increase in consumer revenue, (ii) a $109 million increase due to a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition compared to prior period, (iii) a net $44 million decrease in salaries and related expenses primarily due to a decrease in headcount as a result of our strategic initiatives, and (iv) a $28 million decrease in product placement fees and marketing development funds under agreements with certain OEM partners primarily driven by lower PC shipments, changes in sales mix to models with lower shipment cost per unit, as well as an increase in the amount recorded as a reduction to revenue as consideration paid to a customer.

**Interest Expense and Other, Net**

<table>
<thead>
<tr>
<th>Successor Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>$ (307)</td>
</tr>
</tbody>
</table>

Interest expense and other, net decreased $12 million or 3.9%, from $307 million for fiscal 2018 to $295 million for fiscal 2019. The decrease in interest expense and other, net was primarily attributable to the refinancing of certain of our indebtedness in fiscal 2018.

**Provision for Income Tax Expense**

<table>
<thead>
<tr>
<th>Successor Fiscal Year Ended</th>
<th>Variance in</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 29, 2018</td>
<td>December 28, 2019</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>$ 62</td>
</tr>
</tbody>
</table>

Provision for income tax expense increased $25 million, or 40.3%, from $62 million for fiscal 2018 to $87 million for fiscal 2019. The increase in provision for income tax expense was primarily attributable to (i) a $15 million increase in reserve for uncertain tax positions and (ii) a $9 million increase in federal tax expense due to the impact of distributions through corporate subsidiaries.
## Segment Operating Results

### Consumer

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Successor Fiscal Year Ended</th>
<th>Variance in Dollars</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$1,161</td>
<td>$1,303</td>
<td>$142</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>283</td>
<td>278</td>
<td>(5)</td>
</tr>
<tr>
<td>Operating income</td>
<td>107</td>
<td>277</td>
<td>170</td>
</tr>
<tr>
<td>Operating income margin</td>
<td>9.2%</td>
<td>21.3%</td>
<td></td>
</tr>
</tbody>
</table>

Net revenue increased $142 million, or 12.2%, from $1,161 million for fiscal 2018 to $1,303 million for fiscal 2019. The increase in net revenue was primarily attributable to (i) a $127 million increase in consumer revenue consistent with growth in consumer billings primarily driven by growth in the Core Direct to Consumer Customer subscriber base, increases in TTM Dollar Based Retention – Core Direct to Consumer Customers, increases in ARPC, and growth in Mobile & Internet Service Provider channel which is inclusive of TunnelBear and (ii) a $30 million increase due to a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition compared to prior period. These increases were partially offset by a $15 million decrease related release of revenue under reserve for a single customer in connection with such customer’s right under certain circumstances to claw-back revenue from us within twelve months of payment.

Depreciation and amortization decreased $5 million, or 1.8%, from $283 million for fiscal 2018 to $278 million for fiscal 2019. The decrease is largely the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.

Operating income increased $170 million from $107 million for fiscal 2018 to $277 million for fiscal 2019. The increase in operating income was primarily attributable to (i) the consumer revenue increase discussed above and (ii) a $28 million decrease in product placement fees under agreements with certain OEM partners primarily driven by lower PC shipments, changes in sales mix to models with lower shipment cost per unit.

### Enterprise

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Successor Fiscal Year Ended</th>
<th>Variance in Dollars</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$1,248</td>
<td>$1,332</td>
<td>$84</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>260</td>
<td>258</td>
<td>(2)</td>
</tr>
<tr>
<td>Operating loss</td>
<td>(280)</td>
<td>(151)</td>
<td>129</td>
</tr>
<tr>
<td>Operating loss margin</td>
<td>(22.4)%</td>
<td>(11.3)%</td>
<td></td>
</tr>
</tbody>
</table>

Net revenue increased $84 million, or 6.7%, from $1,248 million for fiscal 2018 to $1,332 million for fiscal 2019. The increase in net revenue was primarily attributable to (i) a $79 million increase due to a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition compared to prior period, and (ii) a $15 million increase in enterprise revenue driven by growth in our cloud security products due to our sales force integration efforts following our Skyhigh acquisition in the first quarter of fiscal 2018. These increases were partially offset by a $10 million decrease in revenue from certain legacy enterprise offerings.

Depreciation and amortization decreased $2 million, or 0.8%, from $260 million for fiscal 2018 to $258 million for fiscal 2018. The decrease is largely the result of certain assets recorded at the Sponsor Acquisition that have since fully amortized.
Operating loss improved $129 million, or 46.1%, from $280 million for fiscal 2018 to $151 million for fiscal 2019. The improvement in was primarily attributable to (i) the enterprise revenue increase discussed above and (ii) a $47 million decrease in operating expenses as a result of recent strategic and transformational initiatives, primarily from lower employee expenses from lower head count.

Comparison of the 2017 Predecessor and 2017 Successor Periods to Fiscal 2018

**Net Revenue**

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
</tr>
</tbody>
</table>

Net revenue was $586 million for the 2017 Predecessor period and $1,490 million for the 2017 Successor period compared to $2,409 million for fiscal 2018. The increase in net revenue was primarily attributable to (i) a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition which reduced revenue by $395 million in the 2017 Successor period compared to $151 million in fiscal 2018, (ii) an increase in consumer net revenue primarily driven by growth in the Core Direct to Consumer subscriber base, increases in TTM Dollar Based Retention - Core Direct to Consumer Customers, increases in ARPC, and growth in Mobile & Internet Service Provider channel which is inclusive of TunnelBear, (iii) a $61 million increase in enterprise revenue in fiscal 2018 primarily driven by the 2018 Skyhigh acquisition that had no impact on the 2017 Predecessor or 2017 Successor periods, and (iv) a $15 million increase in net revenue for fiscal 2018 related to the release of revenue under reserve for a single customer in connection with such customer’s right under certain circumstances to claw-back revenue from us within twelve months of payment which had no impact to the 2017 Predecessor or 2017 Successor periods. These increases were partially offset by a $98 million reduction in net revenue for fiscal 2018 resulting from our adoption of ASC Topic 606 on December 31, 2017 which had no impact on the 2017 Predecessor or 2017 Successor periods.

For comparability between the 2017 Predecessor and 2017 Successor periods and fiscal 2018, we present net revenue for fiscal 2018 under ASC Topic 605 in the table below:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue under ASC Topic 605</td>
<td>$586</td>
<td>$1,490</td>
<td>$2,507</td>
</tr>
</tbody>
</table>

**Cost of Sales**

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of sales</td>
<td>$163</td>
<td>$542</td>
<td>$840</td>
</tr>
<tr>
<td>Gross profit margin</td>
<td>72.2%</td>
<td>63.6%</td>
<td>65.1%</td>
</tr>
</tbody>
</table>

Cost of sales was $163 million for the 2017 Predecessor period and $542 million for the 2017 Successor period compared to $840 million for fiscal 2018. The increase in cost of sales was primarily attributable to (i) an
increase in revenue share expense due to reduced impact of fair value adjustments to deferred revenue share due to purchase accounting that reduced revenue share expense by $96 million in the 2017 Successor period compared to a reduction of $13 million in fiscal 2018, with no impact on the 2017 Predecessor period and (ii) an increase in amortization of acquired technology, which was $2 million in the 2017 Predecessor period and $172 million in the 2017 Successor period compared to $252 million in fiscal 2018 primarily as the result of the Sponsor Acquisition and the subsequent Skyhigh and TunnelBear acquisitions. These changes were partially offset by (i) a decrease in costs due to the elimination of higher cost allocations following the Sponsor Acquisition, and (ii) a decrease of $12 million in recognition of deferred costs of sales in fiscal 2018 due to the adoption of ASC Topic 606 that had no impact to the 2017 Predecessor or 2017 Successor period.

Operating Expenses

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales and marketing</td>
<td>$ 212</td>
<td>$ 584</td>
<td>$ 815</td>
</tr>
<tr>
<td>Research and development</td>
<td>127</td>
<td>323</td>
<td>406</td>
</tr>
<tr>
<td>General and administrative</td>
<td>51</td>
<td>157</td>
<td>253</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>40</td>
<td>167</td>
<td>232</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
<td>66</td>
<td>123</td>
<td>36</td>
</tr>
<tr>
<td>Total</td>
<td>$ 496</td>
<td>$ 1,354</td>
<td>$ 1,742</td>
</tr>
</tbody>
</table>

Sales and Marketing

Sales and marketing expense was $212 million for the 2017 Predecessor period and $584 million for the 2017 Successor period compared to $815 million for fiscal 2018. The increase in sales and marketing expense was primarily attributable to (i) changes in the terms of agreements with certain OEM partners that caused a shift in timing of recognition and classification of channel partner payments from cost of sales to sales and marketing, (ii) an increase in commissions due to reduced impact of purchase accounting adjustments to deferred costs that reduced commissions by $36 million in the 2017 Successor period compared to a reduction of $20 million in fiscal 2018 with no impact on the 2017 Predecessor period, and (iii) additional expenses incurred in connection with new marketing campaigns initiated in fiscal 2018. These changes were partially offset by (i) a $26 million decrease in expense in fiscal 2018 due to the adoption of ASC Topic 606 primarily driven by a decrease in deferred commission recognition as some commissions are recognized over the technology constrained customer life rather than the shorter contract period of the related revenue which had no impact in the 2017 Predecessor or Successor periods and (ii) a $7 million decrease in costs due to the elimination of higher cost allocations following the Sponsor Acquisition. In addition, in fiscal 2018 employee related expenses increased due to our Skyhigh acquisition which was partially offset by savings resulting from MAP.

Research and Development

Research and development expense was $127 million for the 2017 Predecessor period and $323 million for the 2017 Successor period compared to $406 million for fiscal 2018. The decrease in research and development expense was primarily attributable to a decrease of $17 million due to the elimination of higher cost allocations following the Sponsor Acquisition and a decrease in employee related expenses driven by decreased headcount in fiscal 2018 associated with MAP. The decreases are partially offset by an increase in equity-based compensation expense which was $8 million in the 2017 Predecessor period and $2 million in the 2017 Successor period compared to $13 million in fiscal 2018.
General and Administrative

General and administrative was $51 million for the 2017 Predecessor period and $157 million for the 2017 Successor period compared to $253 million for fiscal 2018. The increase in general and administrative expense was primarily attributable to (i) an increase primarily driven by employee retention expenses for cash and equity awards that were $3 million in the 2017 Predecessor period and $10 million in the 2017 Successor period compared to $36 million in fiscal 2018, (ii) an increase in transformation initiative expenses incurred in connection with transformation of the business following the Sponsor Acquisition, of which $8 million was in the 2017 Successor period compared to $27 million in fiscal 2018, (iii) an increase in employee costs that were $9 million in the 2017 Predecessor period and $73 million in the 2017 Successor period compared to $94 million in fiscal 2018 driven by increased headcount related to the building of our back office functions post-Intel separation, and (iv) an increase in expenses of $6 million incurred in 2018 for the implementation of ASC Topic 606. These increases were partially offset by a $16 million decrease in costs due to the elimination of higher cost allocations following the Sponsor Acquisition.

Amortization of Intangibles

Amortization of intangibles was $40 million for the 2017 Predecessor period and $167 million for the 2017 Successor period compared to $232 million for fiscal 2018. The increase in amortization of intangibles was primarily attributable to (i) an increase of $7 million driven by the intangible assets from purchase accounting as a result of our Skyhigh and TunnelBear acquisitions in 2018 and (ii) an amortization of intangible assets recorded in purchase accounting in connection with the Sponsor Acquisition that was $167 million in the 2017 Successor period compared to $223 million in fiscal 2018. These increases were offset by the $40 million of amortization of intangibles in the 2017 Predecessor period.

Restructuring and Transition Charges

Restructuring and transition charges was $66 million for the 2017 Predecessor period and $123 million for the 2017 Successor period compared to $36 million for fiscal 2018. The decrease in restructuring and transition charges was primarily attributable to (i) a decrease related to costs of the separation from Intel of which $70 million were in the 2017 Predecessor period and $77 million were in the 2017 Successor period compared to $7 million in fiscal 2018 and (ii) a decrease in facilities and employee restructuring expenses driven by MAP following the Sponsor Acquisition, which were $46 million in the 2017 Successor period compared to $29 million in fiscal 2018.

Operating Loss

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating loss</td>
<td>$ (73)</td>
<td>$ (406)</td>
<td>$ (173)</td>
</tr>
<tr>
<td>Operating loss margin</td>
<td>(12.5)%</td>
<td>(27.2)%</td>
<td>(7.2)%</td>
</tr>
</tbody>
</table>

Operating loss was $73 million for the 2017 Predecessor period and $406 million for the 2017 Successor period compared to $173 million for fiscal 2018. The improvement in operating loss was primarily attributable to (i) a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition which reduced revenue by $395 million in the 2017 Successor period compared $151 million in fiscal 2018, (ii) an increase in consumer net revenue primarily driven by growth in the Core Direct to Consumer Customer subscriber base, increases in TTM Dollar Based Retention - Core Direct to Consumer Customers, increases in ARPC, and growth in Mobile & Internet Service Provider channel which is inclusive of TunnelBear, (iii) a $61
A million increase in enterprise revenue in fiscal 2018 primarily driven by the 2018 Skyhigh acquisition that had no impact on the 2017 Predecessor or 2017 Successor periods, (iv) a decrease related to costs of the separation from Intel of which $70 million were in the 2017 Predecessor period and $77 million were in the 2017 Successor period compared to $7 million in fiscal 2018 and (v) a decrease in facilities and employee restructuring expenses driven by MAP which was $46 million in the 2017 Successor period compared to $29 million in fiscal 2018. These items were partially offset by (i) a $98 million reduction in net revenue for fiscal 2018 resulting from our adoption of ASC Topic 606 on December 31, 2017, which had no impact on 2017 Predecessor or 2017 Successor periods, (ii) an increase in revenue share expense due to reduced impact of fair value adjustments to deferred revenue share due to purchase accounting that reduced revenue share expense by $96 million in the 2017 Successor period compared to a reduction of $13 million in fiscal 2018, with no impact on the 2017 Predecessor period and (iii) an increase in amortization of acquired technology, primarily as the result of the Sponsor Acquisition and the subsequent Skyhigh and TunnelBear acquisitions. Improvements in the operating loss driven by higher allocations in the Predecessor period were largely offset by increases in costs relating to transformation initiatives and amortization of intangibles in the Successor periods.

For comparability between the 2017 Predecessor and 2017 Successor periods and fiscal 2018, we present operating loss for fiscal 2018 under ASC Topic 605 in the table below:

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30, 2017</td>
<td>Year Ended December 29, 2018</td>
</tr>
<tr>
<td>Operating loss under ASC Topic 605</td>
<td>(73)</td>
<td>(406)</td>
<td>(113)</td>
</tr>
<tr>
<td>Operating loss margin under ASC Topic 605</td>
<td>(12.5)%</td>
<td>(27.2)%</td>
<td>(4.5)%</td>
</tr>
</tbody>
</table>

Interest Expense and Other, Net

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30, 2017</td>
<td>Year Ended December 29, 2018</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(1)</td>
<td>(159)</td>
<td>(307)</td>
</tr>
</tbody>
</table>

Interest expense and other, net was $1 million for the Predecessor period and $159 million for the 2017 Successor period compared to 2017 to $307 million for fiscal 2018. The increase in interest expense and other, net was primarily attributable to (i) $309 million for a full year of interest in fiscal 2018 on the $3.7 billion in debt issued in September 2017 in connection with re-capitalizing the business post separation from Intel and (ii) interest on the $504 million in debt issued in January 2018 in connection with our Skyhigh acquisition, partially offset by (i) the $90 million of interest of debt to members that was outstanding for a portion of the 2017 Successor period in connection with the Sponsor Acquisition and (ii) the $64 million of interest on the debt issued in September 2017 incurred in the 2017 Successor period.

Provision for Income Tax Expense

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 30, 2017</td>
<td>Year Ended December 29, 2018</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>8</td>
<td>33</td>
<td>62</td>
</tr>
</tbody>
</table>
Provision for income tax expense was $8 million for the 2017 Predecessor period and $33 million for the 2017 Successor period compared to $62 million for fiscal 2018. The increase in provision for income tax expense was primarily attributable to an increase in foreign withholding tax and income tax, and an increase in U.S. and state tax expense.

Segment Operating Results

Change in Allocation of Costs to Segments

Prior to fiscal 2018, we allocated shared expenses of our administrative functions, including finance, accounting, human resources, legal, operations, information technology and facilities to our reportable segments using a head count ratio of directly attributable employees. Effective fiscal 2018, the allocation metrics were changed to be based on direct identification for segment specific sites and analysis for each shared function using drivers, including surveyed time, head count or revenue mix from each segment. The change in allocation resulted in higher costs allocated to the Consumer segment and lower costs allocated to the Enterprise segment in fiscal 2018 when compared to prior periods.

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period from January 1 to April 3, 2017</th>
<th>Successor Period from April 4 to December 30, 2017</th>
<th>Successor Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
<td>$258</td>
<td>$630</td>
<td>$1,161</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>18</td>
<td>213</td>
<td>283</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>47</td>
<td>(47)</td>
<td>107</td>
</tr>
<tr>
<td>Operating income (loss) margin</td>
<td>18.2%</td>
<td>(7.5)%</td>
<td>9.2%</td>
</tr>
</tbody>
</table>

Net revenue was $258 million for the 2017 Predecessor period and $630 million for the 2017 Successor period compared to $1,161 million for fiscal 2018. The increase in net revenue was primarily attributable to (i) a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition which reduced revenue by $181 million in the 2017 Successor period compared to a reduction of $31 million in fiscal 2018 with no impact to the 2017 Predecessor period, (ii) an increase in consumer net revenue primarily driven by growth in the Core Direct to Consumer Customer subscriber base, increases in TTM Dollar Based Retention - Core Direct to Consumer Customers, increases in ARPC, and growth in Mobile & Internet Service Provider channel which is inclusive of TunnelBear, and (iii) a $15 million increase in net revenue for fiscal 2018 related to the release of revenue under reserve for a single customer in connection with such customer’s right under certain circumstances to claw-back revenue from us within twelve months of payment which had no impact to the 2017 Predecessor or 2017 Successor periods. The adoption of ASC Topic 606 had minimal impact to the Consumer segment.

Depreciation and amortization was $18 million for the 2017 Predecessor period and $213 million for the 2017 Successor period compared to $283 million for fiscal 2018. The increase in depreciation and amortization was primarily attributable to an increase of $2 million driven by the amortization of intangible assets from purchase accounting as a result of our TunnelBear acquisition in 2018 and (ii) an increase in amortization driven by intangible assets recorded in purchase accounting due to the Sponsor Acquisition which was $193 million in the 2017 Successor period compared to $258 million in fiscal 2018. These increases were offset by the $15 million of amortization of intangibles in the 2017 Predecessor period.

Operating income (loss) was $47 million for the 2017 Predecessor period and $(47) million for the 2017 Successor period compared to $107 million for fiscal 2018. The change in operating income (loss) was primarily attributable to (i) the increase in consumer revenue discussed above, (ii) a decrease in restructuring costs associated with MAP actions and transition costs after our separation from Intel which were $17 million in the
2017 Predecessor period and $35 million in the 2017 Successor period compared to $7 million in fiscal 2018. These amounts were partially offset by (i) an increase in revenue share expense due to reduced impact of fair value adjustments to deferred revenue share due to purchase accounting that reduced revenue share expense by $96 million in the 2017 Successor period compared to a reduction of $13 million in fiscal 2018, with no impact on the 2017 Predecessor period and (ii) the change in depreciation and amortization discussed above, (iii) a $39 million increase in general and administrative costs for fiscal 2018 as a result of changes in the allocation methodology of costs shared between the segments beginning in fiscal 2018, (iv) changes in the terms of agreements with certain OEM partners that caused a shift in timing of recognition and classification of channel partner payments from cost of sales to sales and marketing. The increase in costs due to transformation initiatives and driven by our Tunnelbear acquisition in the Successor periods was offset against decrease in costs in 2018 resulting from MAP and higher cost allocations in the 2017 Predecessor period.

**Enterprise**

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Year Ended</td>
</tr>
<tr>
<td></td>
<td>January 1</td>
<td>April 4 to</td>
<td>Fiscal</td>
</tr>
<tr>
<td></td>
<td>to April 3,</td>
<td>December 30,</td>
<td>Year Ended</td>
</tr>
<tr>
<td></td>
<td>2017</td>
<td>2017</td>
<td>December 29,</td>
</tr>
<tr>
<td>(in millions, except percentages)</td>
<td></td>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Net revenue</td>
<td>$ 328</td>
<td>$ 860</td>
<td>$ 1,248</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>42</td>
<td>173</td>
<td>260</td>
</tr>
<tr>
<td>Operating loss</td>
<td>(120)</td>
<td>(359)</td>
<td>(280)</td>
</tr>
<tr>
<td>Operating loss margin</td>
<td>(36.6)%</td>
<td>(41.7)%</td>
<td>(22.4)%</td>
</tr>
</tbody>
</table>

Net revenue was $328 million for the 2017 Predecessor period and $860 million for the 2017 Successor period compared to $1,248 million for fiscal 2018. The increase in net revenue was primarily attributable to (i) a reduced impact of purchase accounting adjustments primarily relating to the Sponsor Acquisition which reduced revenue by $214 million in the 2017 Successor period compared to $120 million in fiscal 2018, and (ii) a $61 million increase in enterprise revenue in fiscal 2018 primarily driven by the 2018 Skyhigh acquisition that had no impact to the 2017 Predecessor or 2017 Successor periods, partially offset by a $98 million reduction in net revenue for fiscal 2018 resulting from our adoption of ASC Topic 606 on December 31, 2017 which had no impact on the 2017 Predecessor or 2017 Successor periods.

Depreciation and amortization was $42 million for the 2017 Predecessor period and $173 million for the 2017 Successor period compared to $260 million for fiscal 2018. The increase in depreciation and amortization was primarily attributable to (i) an increase in amortization driven by intangible assets recorded in purchase accounting due to the Sponsor Acquisition which was $146 million in the 2017 Successor period compared to $206 million in fiscal 2018, and (ii) an increase of $16 million driven by the intangible assets of our 2018 Skyhigh acquisition. These increases were offset by the $27 million of amortization of intangibles in the 2017 Predecessor period.

Operating loss was $120 million for the 2017 Predecessor period and $359 million for the 2017 Successor period compared to $280 million for fiscal 2018. The improvement in operating loss was primarily attributable to (i) a decrease in restructuring costs associated with MAP actions and transition costs after our separation from Intel which were $49 million in the 2017 Predecessor period and $88 million in the 2017 Successor period compared to $29 million in fiscal 2018, (ii) the enterprise revenue increase discussed above, (iii) a $39 million decrease in general and administrative costs as a result of changes in the allocation methodology of costs shared between the segments in 2018, (iv) a decrease in employee related expenses driven by decreased headcount associated with MAP, (v) a $26 million decrease in expense in fiscal 2018 due to the adoption of ASC Topic 606 primarily driven by a decrease in deferred commission recognition as some commissions are recognized over the technology constrained customer life rather than the shorter contract period of the related revenue which had no impact on the 2017 Predecessor or Successor periods, (vi) a decrease of $12 million in recognition of deferred

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costs of sales in fiscal 2018 due to the adoption of ASC Topic 606 which had no impact to the 2017 Predecessor or 2017 Successor periods, and (vii) a decrease in costs due to the elimination of higher cost allocations following the Sponsor Acquisition. These increases were partially offset by (i) the increase in depreciation and amortization discussed above, (ii) an increase of $27 million of employee retention expenses associated with our 2018 Skyhigh acquisition, (iii) an increase in commissions due to reduced impact of purchase accounting adjustments to deferred costs that reduced commissions expense by $36 million in the 2017 Successor period compared to a reduction of $20 million in fiscal 2018 with no impact on the 2017 Predecessor period, and (iv) increases in costs associated with transformation initiatives in the Successor periods and additional Skyhigh operating expenses incurred following the 2018 Skyhigh Acquisition.

For comparability between the 2017 Predecessor and 2017 Successor periods and fiscal 2018, we present net revenue and operating loss of the Enterprise segment for fiscal 2018 under ASC Topic 605 in the table below:

<table>
<thead>
<tr>
<th>(in millions, except percentages)</th>
<th>Predecessor Year Ended December 29, 2018</th>
<th>Successor Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue under ASC Topic 605</td>
<td>328</td>
<td>860</td>
</tr>
<tr>
<td>Operating loss under ASC Topic 605</td>
<td>(120)</td>
<td>(359)</td>
</tr>
<tr>
<td>Operating loss margin under ASC Topic 605</td>
<td>(36.6)%</td>
<td>(41.7)%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(16.3)%</td>
</tr>
</tbody>
</table>
Quarterly Results of Operations and Other Financial and Operations Data

The following tables set forth unaudited quarterly results of operations and other financial and operations data for each of the eight 13-week periods presented below, as well as the percentage that each line item represents of net revenue. The information for each of these quarters has been prepared on the same basis as the audited annual consolidated financial statements included elsewhere in this prospectus and in the opinion of management, includes all adjustments, which include only normal recurring adjustments, necessary for the fair statement of our consolidated results of operations for these periods. This data should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this prospectus. Our quarterly results of operations will vary in the future. These quarterly operating results are not necessarily indicative of our operating results for any future period.

<table>
<thead>
<tr>
<th></th>
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<th></th>
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<tbody>
<tr>
<td>Net revenue</td>
<td>$ 613</td>
<td>$ 651</td>
<td>$ 637</td>
<td>$ 654</td>
<td>$ 662</td>
<td>$ 682</td>
<td>$ 685</td>
<td>$ 716</td>
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<tr>
<td>Cost of sales</td>
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<td>209</td>
<td>214</td>
<td>215</td>
<td>203</td>
<td>211</td>
<td>204</td>
<td>206</td>
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<tr>
<td>Gross profit</td>
<td>402</td>
<td>442</td>
<td>423</td>
<td>439</td>
<td>459</td>
<td>471</td>
<td>481</td>
<td>510</td>
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<tr>
<td>Operating expenses:</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>196</td>
<td>217</td>
<td>193</td>
<td>190</td>
<td>184</td>
<td>203</td>
<td>174</td>
<td>174</td>
</tr>
<tr>
<td>Research and development</td>
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<td>93</td>
<td>94</td>
<td>99</td>
<td>96</td>
<td>91</td>
<td>94</td>
<td>92</td>
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<tr>
<td>General and administrative</td>
<td>57</td>
<td>62</td>
<td>59</td>
<td>64</td>
<td>72</td>
<td>77</td>
<td>78</td>
<td>60</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>59</td>
<td>58</td>
<td>58</td>
<td>55</td>
<td>55</td>
<td>54</td>
<td>55</td>
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<tr>
<td>Restructuring and transition charges</td>
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<td>1</td>
<td>12</td>
<td>3</td>
<td>(1)</td>
<td>8</td>
<td>9</td>
<td>—</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>415</td>
<td>431</td>
<td>416</td>
<td>411</td>
<td>406</td>
<td>433</td>
<td>410</td>
<td>381</td>
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<tr>
<td>Operating income (loss)</td>
<td>(13)</td>
<td>11</td>
<td>7</td>
<td>28</td>
<td>53</td>
<td>38</td>
<td>71</td>
<td>129</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(77)</td>
<td>(77)</td>
<td>(70)</td>
<td>(73)</td>
<td>(76)</td>
<td>(76)</td>
<td>(75)</td>
<td>(75)</td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>(1)</td>
<td>11</td>
<td>13</td>
<td>(12)</td>
<td>43</td>
<td>(24)</td>
<td>11</td>
<td>(17)</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>(91)</td>
<td>(55)</td>
<td>(50)</td>
<td>(57)</td>
<td>20</td>
<td>(62)</td>
<td>7</td>
<td>37</td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>13</td>
<td>14</td>
<td>17</td>
<td>22</td>
<td>29</td>
<td>19</td>
<td>(2)</td>
<td>15</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (104)</td>
<td>$ (69)</td>
<td>$ (67)</td>
<td>$ (79)</td>
<td>$ (9)</td>
<td>$ (81)</td>
<td>$ 9</td>
<td>$ 22</td>
</tr>
</tbody>
</table>

151
<table>
<thead>
<tr>
<th>Table of Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue</td>
</tr>
<tr>
<td>Cost of sales</td>
</tr>
<tr>
<td>Gross profit</td>
</tr>
<tr>
<td>Operating expenses:</td>
</tr>
<tr>
<td>Sales and marketing</td>
</tr>
<tr>
<td>Research and development</td>
</tr>
<tr>
<td>General and administrative</td>
</tr>
<tr>
<td>Amortization of intangibles</td>
</tr>
<tr>
<td>Restructuring and transition charges</td>
</tr>
<tr>
<td>Total operating expenses</td>
</tr>
<tr>
<td>Operating income (loss)</td>
</tr>
<tr>
<td>Interest expense and other, net</td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
</tr>
<tr>
<td>Provision for income tax expense (benefit)</td>
</tr>
<tr>
<td>Net income (loss)</td>
</tr>
</tbody>
</table>

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The following tables present non-GAAP financial measures for each of the eight 13-week periods presented below. In addition to our results determined in accordance with GAAP, we believe the following non-GAAP measures are useful in evaluating our operating performance. See “Selected Consolidated and Combined Financial Data—Non-GAAP Financial Measures” and “Selected Consolidated and Combined Financial Data—Reconciliation of Non-GAAP Financial Measures” for a description of the non-GAAP measures and the adjustments to reconcile to GAAP.

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net revenue</strong></td>
<td>$613</td>
<td>$651</td>
<td>$637</td>
<td>$654</td>
<td>$662</td>
<td>$682</td>
<td>$685</td>
<td>$716</td>
</tr>
<tr>
<td><strong>Billings</strong></td>
<td>653</td>
<td>796</td>
<td>649</td>
<td>654</td>
<td>671</td>
<td>846</td>
<td>667</td>
<td>707</td>
</tr>
<tr>
<td><strong>Net income (loss)</strong></td>
<td>($104)</td>
<td>($69)</td>
<td>($67)</td>
<td>($79)</td>
<td>($9)</td>
<td>($81)</td>
<td>9</td>
<td>22</td>
</tr>
<tr>
<td><strong>Adjusted operating income</strong></td>
<td>$142</td>
<td>$160</td>
<td>$169</td>
<td>$172</td>
<td>$195</td>
<td>$197</td>
<td>$229</td>
<td>$249</td>
</tr>
<tr>
<td><strong>Adjusted operating income margin</strong></td>
<td>23.2%</td>
<td>24.6%</td>
<td>26.5%</td>
<td>26.3%</td>
<td>29.5%</td>
<td>28.9%</td>
<td>33.4%</td>
<td>34.8%</td>
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<tr>
<td><strong>Adjusted EBITDA</strong></td>
<td>$157</td>
<td>$176</td>
<td>$185</td>
<td>$188</td>
<td>$210</td>
<td>$216</td>
<td>$245</td>
<td>$262</td>
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<tr>
<td><strong>Adjusted EBITDA margin</strong></td>
<td>25.6%</td>
<td>27.0%</td>
<td>29.0%</td>
<td>28.7%</td>
<td>31.7%</td>
<td>31.7%</td>
<td>35.8%</td>
<td>36.6%</td>
</tr>
<tr>
<td><strong>Adjusted net income (loss)</strong></td>
<td>$53</td>
<td>$82</td>
<td>$97</td>
<td>$66</td>
<td>$149</td>
<td>$84</td>
<td>$158</td>
<td>$145</td>
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<tr>
<td><strong>Adjusted net income (loss) margin</strong></td>
<td>8.6%</td>
<td>12.6%</td>
<td>15.2%</td>
<td>10.1%</td>
<td>22.5%</td>
<td>12.3%</td>
<td>23.1%</td>
<td>20.3%</td>
</tr>
<tr>
<td><strong>Net cash provided by (used in) operating activities</strong></td>
<td>$85</td>
<td>$199</td>
<td>$95</td>
<td>$1</td>
<td>$189</td>
<td>$211</td>
<td>$171</td>
<td>$117</td>
</tr>
<tr>
<td><strong>Net cash provided by (used in) investing activities</strong></td>
<td>(14)</td>
<td>(15)</td>
<td>(15)</td>
<td>(9)</td>
<td>(18)</td>
<td>(21)</td>
<td>(21)</td>
<td>(12)</td>
</tr>
<tr>
<td><strong>Net cash provided by (used in) financing activities</strong></td>
<td>(11)</td>
<td>(17)</td>
<td>(344)</td>
<td>(63)</td>
<td>(62)</td>
<td>(265)</td>
<td>239</td>
<td>(401)</td>
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<tr>
<td><strong>Free cash flow</strong></td>
<td>71</td>
<td>184</td>
<td>80</td>
<td>(6)</td>
<td>171</td>
<td>190</td>
<td>150</td>
<td>110</td>
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</tbody>
</table>

<table>
<thead>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Net revenue</strong></td>
<td>$613</td>
<td>$651</td>
<td>$637</td>
<td>$654</td>
<td>$662</td>
<td>$682</td>
<td>$685</td>
<td>$716</td>
</tr>
<tr>
<td><strong>Add: Deferred revenue, end of period</strong></td>
<td>1,962</td>
<td>2,107</td>
<td>2,119</td>
<td>2,119</td>
<td>2,128</td>
<td>2,292</td>
<td>2,274</td>
<td>2,265</td>
</tr>
<tr>
<td><strong>Less: Deferred revenue, beginning of period</strong></td>
<td>(1,922)</td>
<td>(1,962)</td>
<td>(2,107)</td>
<td>(2,119)</td>
<td>(2,119)</td>
<td>(2,128)</td>
<td>(2,292)</td>
<td>(2,274)</td>
</tr>
<tr>
<td><strong>Billings</strong></td>
<td>$653</td>
<td>$796</td>
<td>$649</td>
<td>$654</td>
<td>$671</td>
<td>$846</td>
<td>$667</td>
<td>$707</td>
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<td>----------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>(104)</td>
<td>(69)</td>
<td>(67)</td>
<td>(79)</td>
<td>(9)</td>
<td>(81)</td>
<td>9</td>
<td>22</td>
</tr>
<tr>
<td>Add: Amortization</td>
<td>121</td>
<td>122</td>
<td>121</td>
<td>116</td>
<td>116</td>
<td>117</td>
<td>116</td>
<td>107</td>
</tr>
<tr>
<td>Add: Equity-based compensation</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>6</td>
<td>15</td>
<td>4</td>
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<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>8</td>
<td>6</td>
<td>5</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(2)</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Add: Restructuring and transition(3)</td>
<td>4</td>
<td>1</td>
<td>12</td>
<td>3</td>
<td>(1)</td>
<td>8</td>
<td>9</td>
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<tr>
<td>Add: Management fees(4)</td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
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</tr>
<tr>
<td>Add: Equity-based compensation</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>8</td>
<td>6</td>
<td>5</td>
<td>6</td>
<td>4</td>
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<tr>
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<td>6</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>2</td>
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<tr>
<td>Add: Restructuring and transition(3)</td>
<td>4</td>
<td>1</td>
<td>12</td>
<td>3</td>
<td>(1)</td>
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<tr>
<td>Add: Management fees(4)</td>
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<tr>
<td>Add: Imposement costs of adopting ASC Topic 606</td>
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<tr>
<td>Add: Transformation initiatives(5)</td>
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<td>3</td>
<td>7</td>
<td>4</td>
<td>8</td>
<td>14</td>
<td>8</td>
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<tr>
<td>Add: Executive severance(6)</td>
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<td>—</td>
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<td>—</td>
<td>—</td>
<td>—</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Add: Interest expense and other, net</td>
<td>77</td>
<td>77</td>
<td>70</td>
<td>73</td>
<td>76</td>
<td>76</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>Add: Provision for income tax expense</td>
<td>13</td>
<td>14</td>
<td>17</td>
<td>22</td>
<td>29</td>
<td>19</td>
<td>(2)</td>
<td>15</td>
</tr>
<tr>
<td>Add: Foreign exchange loss (gain), net</td>
<td>1</td>
<td>(11)</td>
<td>(13)</td>
<td>12</td>
<td>(43)</td>
<td>24</td>
<td>(11)</td>
<td>17</td>
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<tr>
<td>Adjusted operating income</td>
<td>142</td>
<td>160</td>
<td>169</td>
<td>172</td>
<td>195</td>
<td>197</td>
<td>229</td>
<td>249</td>
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<tr>
<td>Add: Depreciation</td>
<td>15</td>
<td>16</td>
<td>16</td>
<td>16</td>
<td>15</td>
<td>19</td>
<td>16</td>
<td>13</td>
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<tr>
<td>Adjusted EBITDA</td>
<td>$157</td>
<td>$176</td>
<td>$185</td>
<td>$188</td>
<td>$210</td>
<td>$216</td>
<td>$245</td>
<td>$262</td>
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<tr>
<td>Net Revenue</td>
<td>$613</td>
<td>$651</td>
<td>$637</td>
<td>$654</td>
<td>$662</td>
<td>$682</td>
<td>$685</td>
<td>$716</td>
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<tr>
<td>Net income (loss) margin</td>
<td>(17.0)%</td>
<td>(10.6)%</td>
<td>(10.5)%</td>
<td>(12.1)%</td>
<td>(1.4)%</td>
<td>(11.9)%</td>
<td>1.3%</td>
<td>3.1%</td>
</tr>
<tr>
<td>Adjusted operating income margin</td>
<td>23.2%</td>
<td>24.6%</td>
<td>26.5%</td>
<td>26.3%</td>
<td>29.5%</td>
<td>28.9%</td>
<td>33.4%</td>
<td>34.8%</td>
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<tr>
<td>Adjusted EBITDA margin</td>
<td>25.6%</td>
<td>27.0%</td>
<td>29.0%</td>
<td>28.7%</td>
<td>31.7%</td>
<td>31.7%</td>
<td>35.8%</td>
<td>36.6%</td>
</tr>
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</table>

(1) As a result of the Sponsor Acquisition, cash awards were provided to certain employees who held Intel equity awards in lieu of equity in Foundation Technology Worldwide LLC. In addition, as a result of the Skyhigh acquisition, cash awards were provided to certain employees who held Skyhigh equity awards in lieu of equity in Foundation Technology Worldwide LLC and vest over multiple periods based on employee service requirements. As these rollover awards reflect one-time grants to former employees of the Predecessor Business and Skyhigh Networks in connection with these transactions, and the Company does not have a comparable cash-based compensation plan or program in existence, we believe this expense is not reflective of our ongoing results.

(2) Represents both direct and incremental costs in connection with business acquisitions, including acquisition consideration structured as cash retention, third party professional fees, and other integration costs.

(3) Represents both direct and incremental costs associated with our separation from Intel, including standup of our back office and costs to execute strategic restructuring events, including third-party professional fees and services, transition services provided by Intel, severance, and facility restructuring costs.

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Represents management fees paid to certain affiliates of our Sponsors and Intel pursuant to the Management Services Agreement. The Management Services Agreement will terminate in connection with this offering and we will be required to pay a one-time fee of $22 million to such parties.

Represents costs incurred in connection with transformation of the business post-Intel separation. Also includes the cost of workforce restructurings involving both eliminations of positions and relocations to lower cost locations in connection with MAP and other transformational initiatives, strategic initiatives to improve customer retention, activation to pay and cost synergies, inclusive of duplicative run rate costs related to facilities and data center rationalization.

Represents severance to be paid for executive terminations not associated with a strategic restructuring event.

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</tr>
</thead>
<tbody>
<tr>
<td><strong>Net income (loss)</strong></td>
<td>$ (104)</td>
<td>$ (69)</td>
<td>$ (67)</td>
<td>$ (79)</td>
<td>$ (9)</td>
<td>$ (81)</td>
<td>$ 9</td>
<td>$ 22</td>
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<tr>
<td>Add: Amortization of debt discount and issuance costs</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>4</td>
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<tr>
<td>Add: Equity-based compensation</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>6</td>
<td>15</td>
<td>4</td>
</tr>
<tr>
<td>Add: Cash in lieu of equity awards(1)</td>
<td>8</td>
<td>6</td>
<td>5</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Add: Acquisition and integration costs(2)</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>2</td>
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<tr>
<td>Add: Restructuring and transition(3)</td>
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<td>1</td>
<td>12</td>
<td>3</td>
<td>(1)</td>
<td>8</td>
<td>9</td>
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<tr>
<td>Add: Management fees(4)</td>
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<td>2</td>
<td>2</td>
<td>2</td>
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<td>2</td>
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<td>2</td>
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<tr>
<td>Add: Implementation costs of adopting ASC Topic 606</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Add: Transformation initiatives(5)</td>
<td>7</td>
<td>3</td>
<td>7</td>
<td>4</td>
<td>8</td>
<td>14</td>
<td>8</td>
<td>2</td>
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<tr>
<td>Add: Executive severance(6)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Less: Adjustment to provision for income taxes(7)</td>
<td>(2)</td>
<td>(3)</td>
<td>(1)</td>
<td>(4)</td>
<td>11</td>
<td>2</td>
<td>(14)</td>
<td>(1)</td>
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<tr>
<td>Adjusted net income (loss)</td>
<td>$ 53</td>
<td>$ 82</td>
<td>$ 97</td>
<td>$ 66</td>
<td>$ 149</td>
<td>$ 84</td>
<td>$ 158</td>
<td>$ 145</td>
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<tr>
<td>Net Revenue</td>
<td>$ 613</td>
<td>$ 651</td>
<td>$ 637</td>
<td>$ 654</td>
<td>$ 662</td>
<td>$ 682</td>
<td>$ 685</td>
<td>$ 716</td>
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<tr>
<td>Net income (loss) margin</td>
<td>(17.0)%</td>
<td>(10.6)%</td>
<td>(10.5)%</td>
<td>(12.1)%</td>
<td>(1.4)%</td>
<td>(11.9)%</td>
<td>(1.3)%</td>
<td>(3.1)%</td>
</tr>
<tr>
<td>Adjusted net income (loss)</td>
<td>8.6%</td>
<td>12.6%</td>
<td>15.2%</td>
<td>10.1%</td>
<td>22.5%</td>
<td>12.3%</td>
<td>23.1%</td>
<td>20.3%</td>
</tr>
</tbody>
</table>
Represents the tax impact of all of the above adjustments, as well as excluding the non-recurring tax benefits and expenses related to changes resulting from tax legislation, the assessment or resolution of tax audits or other significant events.

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>$85</td>
<td>$199</td>
<td>$95</td>
<td>$1</td>
<td>$189</td>
<td>$211</td>
<td>$171</td>
<td>$117</td>
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<tr>
<td>Free cash flow</td>
<td>$71</td>
<td>$184</td>
<td>$80</td>
<td>(6)</td>
<td>$171</td>
<td>$190</td>
<td>$150</td>
<td>$110</td>
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</table>

(1) Capital expenditures includes payments for property and equipment and capitalized labor costs incurred in connection with certain software development activities.

Seasonality

While portions of our business are impacted by seasonality, the net impact of seasonality on our combined business is limited. Software license and maintenance orders are generally higher in our third and fourth quarters and lower in our first and second quarters. A significant decline in license and maintenance orders is typical in the first quarter of our year as compared to license and maintenance orders in the fourth quarter of the prior year. In addition, we generally receive a higher volume of software license and maintenance orders in the last month of a quarter, with orders concentrated in the later part of that month. We believe that this seasonality primarily reflects customer spending patterns and budget cycles, as well as the impact of compensation incentive plans for our sales personnel. Revenue generally reflects similar seasonal patterns but to a lesser extent than orders because revenue is not recognized until an order is shipped or services are performed and other revenue recognition criteria are met and a large portion of our in period revenues are recognized ratably from our deferred revenue balance. Consumer orders are generally higher in the first and fourth quarters and lower in the second and third quarters. A significant number of orders in the fourth quarter is reflective of historically higher holiday sales of PC computers leading to higher subscriptions in the fourth quarter as well as in the first quarter due to lag from computer purchase to paid subscription of our products. This seasonal effect is present both in new subscriptions as well as in the renewal of prior year subscriptions due in those quarters.

Liquidity and Capital Resources

McAfee Corp. is a holding company with no operations of its own and, as such, we will depend on our subsidiaries for cash to fund all of our operations and expenses. We will depend on the payment of distributions by our current and future subsidiaries, including Foundation Technology Worldwide LLC. The terms of the agreements governing our senior secured credit facilities contain certain negative covenants prohibiting certain of our subsidiaries from making cash dividends or distributions to us or to Foundation Technology Worldwide LLC unless certain financial tests are met. For a discussion of those restrictions, see “—Senior Secured Credit Facilities” below and “Risk Factors—Risks Related to Our Indebtedness—Restrictions imposed by our outstanding indebtedness and any future indebtedness may limit our ability to operate our business and to finance our future operations or capital needs or to engage in acquisitions or other business activities necessary to achieve growth.” We currently anticipate that such restrictions will not impact our ability to meet our cash obligations. Foundation Technology Worldwide LLC declared and paid a cash distribution to its members in September 2020 in an aggregate amount of $70 million and expects to declare a cash distribution in October 2020 in an aggregate amount of $75 million that will be distributed prior to this offering.
Sources of Liquidity

As of June 27, 2020, we had cash and cash equivalents of $257 million. Our primary source of cash for funding operations and growth has been through cash flows generated from operating activities. In addition, we have funded certain acquisitions, distributions to members, and to a lesser extent, capital expenditures and our operations, through borrowings under the Senior Secured Credit Facilities, primarily in the form of long-term debt obligations. As of June 27, 2020, we had $496 million of additional unused borrowing capacity under our Revolving Credit Facility.

We believe that our existing cash on hand, expected future cash flows from operating activities, and additional borrowings available under our credit facilities will provide sufficient resources to fund our operating requirements as well as future capital expenditures, debt service requirements, and investments in future growth for at least the next twelve months. Our future capital requirements will depend on many factors, including our growth rate, the timing and extent of spending to support development efforts, the expansion of sales and marketing activities, the introduction of new and enhanced product and service offerings, and the continuing market acceptance of our products. In the event that additional financing is required from outside sources, we may not be able to raise such financing on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, operating results, and financial condition may be adversely affected.

Senior Secured Credit Facilities

On September 29, 2017, McAfee, LLC entered into senior secured credit facilities (the “First Lien Credit Facilities”), which consisted of a U.S. dollar-denominated term loan tranche of $2,555 million (the “First Lien USD Term Loan”), a Euro-denominated term loan tranche of €507 million (the “First Lien EUR Term Loan”, and together with the First Lien USD Term Loan, the “First Lien Term Loans”), and a $500 million revolving credit facility (the “Revolving Credit Facility”). The First Lien Credit Facilities were amended: (w) on January 3, 2018 to increase the amount of the First Lien USD Term Loan by $324 million and the First Lien EUR Term Loan by €150 million; (x) on November 1, 2018 to make changes to the pricing terms and to increase the amount of the First Lien EUR Term Loan by €90 million to reduce the First Lien USD Term Loan by $50 million and prepay $50 million of the Second Lien Term Loan (as defined below); (y) on June 13, 2019 to increase the amount of the First Lien USD Term Loan by $300 million and the First Lien EUR Term Loan by €355 million; and (z) on October 12, 2020, subject to the closing of this offering, to extend the maturity date of, and increase the amount of by $164 million, a portion of the commitments under the Revolving Credit Facility (the “Revolving Credit Facility Amendment”). The closing of the Revolving Credit Facility amendment is contingent upon the consummation of this offering. As a result of the amendments, the First Lien Credit Facilities as of June 27, 2020 consisted of the First Lien USD Term Loan of $3,048 million, the First Lien EUR Term Loan of $1,078 million and the Revolving Credit Facility of $500 million. The Revolving Credit Facility includes a $50 million sublimit for the issuance of letters of credit.

In addition, on September 29, 2017, McAfee, LLC entered into a second lien credit facility (the “Second Lien Credit Facility”, and, together with the First Lien Credit Facilities, the “Senior Secured Credit Facilities”), which, as of June 27, 2020, consisted of a U.S. dollar-denominated term loan tranche of $525 million (the “Second Lien Term Loan”), which does not reflect the repayment of approximately $ million of the Second Lien Term Loan using the proceeds from this offering.

Following the closing of this offering, $500 million of the commitments under the Revolving Credit Facility will mature on September 29, 2024 and, upon the effectiveness of the Revolving Credit Facility Amendment, $164 million of the commitments under the Revolving Credit Facility will mature on September 29, 2022. The First Lien Term Loans will mature on September 29, 2024. The Second Lien Term Loan will mature on September 29, 2025.

As of June 27, 2020, our total outstanding indebtedness under the Credit Facilities was $4,781 million.
First Lien Credit Facilities

The First Lien USD Term Loans require equal quarterly repayments equal to 0.25% of the total amount borrowed.

The borrowings under the Revolving Credit Facility bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 3.75% or (2) a base rate plus an applicable margin of 2.75%. The applicable margins for Eurodollar rate and base rate borrowings are subject to reductions to 3.50% and 3.25% and 2.50% and 2.25%, respectively, based on our first lien net leverage ratio. The Eurodollar rate applicable to the Revolving Credit Facility is subject to a “floor” of 0.0%. We are required to pay a commitment fee of 0.50% per annum of unused commitments under the Revolving Credit Facility.

The borrowings under the First Lien USD Term Loan bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 3.75% or (2) a base rate plus an applicable margin of 2.75%. The Eurodollar rate applicable to the Revolving Credit Facility is subject to a “floor” of 0.0%.

In addition, the terms of the First Lien Credit Facilities include a financial covenant which requires that, at the end of each fiscal quarter, for so long as the aggregate principal amount of borrowings under the Revolving Credit Facility exceeds 35% of the aggregate commitments under the Revolving Credit Facility, our first lien net leverage ratio cannot exceed 6.30 to 1.00. A breach of this financial covenant will not result in a default or event of default under the First Lien Term Loans unless and until the lenders under the Revolving Credit Facility have terminated the commitments under the Revolving Credit Facility and declared the borrowings under the Revolving Credit Facility due and payable.

Our first lien net leverage ratio was 3.6 as of June 27, 2020. For the 26-week period ended June 27, 2020, the weighted average interest rate was 4.9% under the First Lien USD Term Loan and 3.5% under the First Lien EUR Term Loan. As of June 27, 2020, we had a total of $496 million of available borrowings under the Revolving Credit Facility, of which we had no borrowing outstanding. On the amount available for borrowing, we paid a commitment fee of 0.5%.

Second Lien Credit Facility

The borrowings under the Second Lien Credit Facility bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 8.50% or (2) a base rate plus an applicable margin of 7.50%. The Eurodollar rate applicable to the Second Lien Credit Facility is subject to a “floor” of 1.0%.

As of June 27, 2020, the weighted average interest rate under the Second Lien Credit Facility was 9.8%.

Tax Receivable Agreement

The contribution by certain Continuing Owners to McAfee Corp. of certain corporate entities in connection with this offering (including the Reorganization Transactions) and future exchanges of LLC Units for cash or, at our option, shares of our Class A common stock are expected to produce or otherwise deliver to us favorable tax attributes that can reduce our taxable income. Upon the completion of this offering, we will be a party to a tax receivable agreement, under which generally we will be required to pay the TRA Beneficiaries % of the applicable cash savings, if any, in U.S. federal, state, and local income tax that we actually realize or, in certain circumstances, are deemed to realize as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in
connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. We generally will retain the benefit of the remaining % of the applicable tax savings. The payment obligations under the tax receivable agreement are obligations of McAfee Corp., and we expect that the payments we will be required to make under the tax receivable agreement will be substantial. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Tax Receivable Agreements.”

**Consolidated Statements of Cash Flows**

Our cash flows for the 2017 Predecessor period, 2017 Successor period, fiscal 2018, fiscal 2019 and the 26-week period ended June 29, 2019 and June 27, 2020 were:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Predecessor</th>
<th>Successor</th>
<th>Successor</th>
<th>Successor</th>
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<tr>
<td></td>
<td>Period from</td>
<td>Period from</td>
<td>Fiscal</td>
<td>26-Week</td>
</tr>
<tr>
<td></td>
<td>January 1 to</td>
<td>April 4 to</td>
<td>Year Ended</td>
<td>Period Ended</td>
</tr>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>$ (65)</td>
<td>$ 316</td>
<td>$ 319</td>
<td>$ 496</td>
</tr>
<tr>
<td>Net cash provided by (used in) investing activities</td>
<td>(10)</td>
<td>(39)</td>
<td>(677)</td>
<td>(63)</td>
</tr>
<tr>
<td>Net cash provided by (used in) financing activities</td>
<td>(23)</td>
<td>87</td>
<td>459</td>
<td>(734)</td>
</tr>
<tr>
<td>Net increase (decrease) in cash and cash equivalents</td>
<td>(95)</td>
<td>371</td>
<td>97</td>
<td>(301)</td>
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**Operating Activities**

For the 2017 Predecessor period, net cash used in operating activities was $65 million, as a result of a net loss of $79 million, adjusted for non-cash charges of $70 million and net cash outflow of $56 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of $60 million of depreciation and amortization and $23 million of equity-based compensation. The cash inflow from changes in operating assets and liabilities was due to a $93 million decrease in accounts receivable, net, due to seasonality in higher fourth quarter billings collected in the first quarter and a $130 million decrease in other liabilities. The decrease in other liabilities is driven by primarily from (i) the payment of annual bonus, (ii) payment larger year-end commissions, and (iii) payment of fees under our OEM agreements due to seasonality in PC shipments and holiday sales.

For the 2017 Successor period, net cash provided by operating activities was $316 million, as a result of a net loss of $607 million, adjusted for non-cash charges of $406 million and net cash inflow of $517 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of $386 million of depreciation and amortization. The cash inflow from changes in operating assets and liabilities was due to (i) a $502 million increase in deferred revenue due to purchase accounting at the time of the Sponsor Acquisition in addition to an increase in billings in 2017, (ii) a $132 million increase in other liabilities primarily driven by employee liabilities for commissions, annual bonus amounts, cash in lieu of equity awards and related taxes that were paid in 2018, (iii) a $55 million increase in accounts payable and other current liabilities due to the timing of payments to vendors subsequent to the separation from Intel, and (iv) a $37 million decrease in other assets
primarily driven by amounts received from Intel under the terms of the Sponsor Acquisition related to reimbursed separation costs and cash in lieu of equity awards payments due to employees offset by (i) an $85 million increase in accounts receivable caused by seasonality of higher fourth quarter billings when compared to first quarter billings and (ii) a $124 million increase in deferred costs caused by increasing balances subsequent to purchase accounting at the time of the Sponsor Acquisition.

For fiscal 2018, net cash provided by operating activities was $319 million, as a result of a net loss of $512 million, adjusted for non-cash charges of $568 million and net cash inflow of $263 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of $543 million in depreciation and amortization and $28 million in equity-based compensation. The net cash inflow from changes in operating assets and liabilities was primarily due to (i) a $309 million increase in deferred revenue due to an increase in billings as well as increasing balances subsequent to purchase accounting at the time of the Sponsor Acquisition, and (ii) a $29 million increase in accounts receivable resulting from collections exceeding billings for the period, partially offset by a $54 million increase in other assets and a $26 million increase in current deferred costs, both primarily resulting from adoption of ASC Topic 606 and increasing balances subsequent to purchase accounting at the time of the Sponsor Acquisition.

For fiscal 2019, net cash provided by operating activities was $496 million, as a result of a net loss of $236 million, adjusted for non-cash charges of $612 million and net cash inflow of $120 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of $536 million in depreciation and amortization, $25 million in equity-based compensation and $18 million in deferred taxes. The net cash inflow from changes in operating assets and liabilities was primarily due to (i) a $186 million increase in deferred revenue due to increase in billings, partially offset by a $60 million increase in accounts receivable, net due to billings exceeding collections.

For the 26-week period ended June 29, 2019, net cash provided by operating activities was $96 million, as a result of a net loss of $146 million, adjusted for non-cash charges of $315 million and net cash outflow of $73 million from change in operating assets and liabilities. Non-cash charges consisted primarily of $269 million in depreciation and amortization, $12 million in equity-based compensation, and $10 million in deferred income taxes. The net cash outflow from changes in operating assets and liabilities was primarily due to (i) a $48 million decrease in accounts payable and accrued liabilities primarily driven by seasonality of OEM partner payments, and (ii) a $25 million decrease in other liabilities resulting primarily from the payment of annual bonus and larger year-end commissions in the first quarter of fiscal 2019 along with the payment of cash in lieu of equity awards amounts that vested primarily in the second quarter of fiscal 2019.

For the 26-week period ended June 27, 2020, net cash provided by operating activities was $288 million, as a result of a net loss of $31 million, adjusted for non-cash charges of $309 million and net cash outflow of $52 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of $252 million in depreciation and amortization, $19 million in equity-based compensation, $5 million for deferred taxes, and $33 million in other operating activities primarily consisting of lease asset amortization, amortization of debt discount and issuance costs, and changes in foreign exchange rates. The net cash outflow from changes in operating assets and liabilities was primarily due to (i) an 86 million decrease in other liabilities, (ii) a $29 million decrease in accounts payable and accrued liabilities, (iii) a $27 million decrease in deferred revenue primarily due to recognition of prior period deferred revenue, (iv) a $22 million increase in deferred costs primarily due to increased deferred revenue share resulting from an increased consumer subscriber base and a new consumer affiliate program, and (v) a $14 million increase in prepaids and other assets primarily due to new leases signed during the period. These changes were partially offset by a $126 million decrease in accounts receivable, net due to collections exceeds billings for the period.
Investing Activities

For the 2017 Predecessor period, net cash used in investing activities was $10 million, which primarily related to additions to property and equipment of $29 million partially offset by $19 million in sales of investments in the period.

For the 2017 Successor period, net cash used in investing activities was $39 million, which primarily related to additions to property and equipment of $35 million.

For fiscal 2018, net cash used in investing activities was $677 million, which was primarily the result of the Skyhigh and TunnelBear acquisitions of $615 million, net of cash acquired, and additions to property and equipment of $61 million.

For fiscal 2019, net cash used in investing activities was $63 million, which was primarily related to additions to property and equipment of $56 million, $5 million of other investing activities primarily related to capitalized labor, and $2 million in an acquisition.

For the 26-week period ended June 29, 2019, net cash used in investing activities was $24 million, which was primarily the result of the additions to property and equipment of $20 million.

For the 26-week period ended June 27, 2020, net cash used in investing activities was $33 million, which was primarily the result of additions to property and equipment of $25 million and $5 million on acquisition of businesses, net of cash.

Financing Activities

For the 2017 Predecessor period, net cash used in financing activities was $23 million, which was primarily the result of $35 million of net transfers to parent partially offset by a $14 million inflow from sales of common stock through employee incentive plans.

For the 2017 Successor period, net cash provided by financing activities was $87 million, which was primarily the result of net (i) proceeds of long-term debt of $3,660 million and (ii) $217 million in proceeds from member units issuances partially offset by (i) $2,245 million in payment of debt due to members and (ii) $1,562 million in distributions to members in the period.

For fiscal 2018, net cash provided by financing activities was $459 million, which was primarily the result of net proceeds of debt of $494 million, used for our business acquisitions, net proceeds of $52 million from the modification of our debt, and $20 million in proceeds from a note issued to a member partially offset by $87 million in payment of long-term debt, and $20 million in other financing activities primarily relating to equity repurchase and equity-based compensation tax withholdings.

For fiscal 2019, net cash used by financing activities was $734 million, which was primarily the result of $1,334 million in distributions to members, $67 million in payment of long-term debt, and $13 million in other financing activities primarily relating to equity repurchase and equity-based compensation tax withholdings partially offset by net proceeds of long-term debt of $679 million and $1 million in proceeds from issuance of member units.

For the 26-week period ended June 29, 2019, net cash provided by financing activities was $407 million, which was primarily the result of (i) distributions to members of $1,034 million, (ii) payment of long-term debt of $45 million, and (iii) $7 million in other financing activities primarily relating to equity-based compensation tax withholdings, partially offset by net proceeds of long-term debt of $679 million.

For the 26-week period ended June 27, 2020, net cash used in financing activities was $162 million, which was primarily the result of (i) distributions to members of $130 million, (ii) payment of long-term debt of
$21 million, and (iii) $12 million in other financing activities was primarily relating to equity repurchases and equity-based compensation tax withholdings, partially offset by $1 million in proceeds from member unit issuances. As of June 27, 2020, there are distribution amounts of $5 million that have not yet been disbursed.

**Contractual Obligations and Commitments**

The following is a summary of our contractual obligations as of December 28, 2019:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Payments Due by Period(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
</tr>
<tr>
<td>Long-term debt(2)</td>
<td>$4,799</td>
</tr>
<tr>
<td>Cash interest(3)</td>
<td>1,474</td>
</tr>
<tr>
<td>Purchase obligations</td>
<td>167</td>
</tr>
<tr>
<td>Operating lease obligations, including imputed interests</td>
<td>145</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$6,585</td>
</tr>
</tbody>
</table>

(1) Excludes any obligations under the tax receivable agreement. Although the actual timing and amount of any payments that we make to the TRA Beneficiaries under the tax receivable agreement will vary, we expect that those payments will be significant.

(2) See Note 13 to our consolidated financial statements included elsewhere in this prospectus for further information on our long-term debt.

(3) Interest payments were calculated based on the contractual terms related to the First Lien USD Term Loan, First Lien Euro Term Loan and Second Lien Term Loan. See Note 12 to our consolidated financial statements included elsewhere in this prospectus for further information on the First Lien USD Term Loan, First Lien Euro Term Loan and Second Lien Term Loan.

**Off-balance Sheet Arrangements**

As of December 28, 2019 and June 27, 2020, we did not have any relationships with unconsolidated entities or financial partnerships, such as structured finance or special purpose entities, that were established for the purpose of facilitating off-balance sheet arrangements or other purposes.

**Critical Accounting Policies and Use of Estimates**

Our discussion and analysis of operating results and financial condition are based upon our consolidated and combined financial statements included elsewhere in this prospectus. The preparation of our financial statements in accordance with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, expenses and related disclosures of contingent assets and liabilities. We base our estimates on past experience and other assumptions that we believe are reasonable under the circumstances, and we evaluate these estimates on an ongoing basis. Actual results may differ from those estimates.

Our critical accounting policies are those that materially affect our consolidated financial statements including those that involve difficult, subjective or complex judgments by management. A thorough understanding of these critical accounting policies is essential when reviewing our consolidated financial statements. We believe that the critical accounting policies listed below are those that are most important to the portrayal of our results of operations or involve the most difficult management decisions related to the use of significant estimates and assumptions as described above. For further information, see Note 2 of our consolidated financial statements included elsewhere in this prospectus.
Revenue Recognition

We derive revenue from the sale of perpetual licenses and hardware, subscriptions, support and maintenance, professional services, or a combination of these items, primarily through our indirect relationships with our partners or direct relationships with end customers through our internal sales force. On December 31, 2017, we adopted ASC Topic 606. Results for the reporting period beginning December 31, 2017 are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported under ASC Topic 605.

We recognize revenue pursuant to the five-step framework within ASC Topic 606:

1. Identify the contract(s) with a customer: Contracts are generally evidenced by a binding and non-cancelable purchase order or agreement that creates enforceable rights and obligations.
2. Identify the performance obligations in the contract: Performance obligations are the promises contained in the contract to provide distinct goods or services.
3. Determine the transaction price: The amount of consideration we expect to be entitled for transferring the promised goods and services to the customer.
4. Allocate the transaction price to the performance obligations in the contract: standalone selling price (“SSP”) is determined for each performance obligation in the contract and a proportion of the overall transaction price is allocated to each performance obligation based on the relative value of its SSP in comparison to the transaction price except when a discount or variable consideration can be allocated to a specific performance obligation in the contract.
5. Recognize revenue when (or as) we satisfy a performance obligation: Recognition for a performance obligation may happen over time or at a point in time depending on the facts and circumstances.

Determining the nature and timing of satisfaction of performance obligations, assessing the material rights associated with it, determining the SSP of performance obligations, and determining our technology constrained customer life, which is measured as the shorter of our technology life or customer relationship life, often involves significant judgment that can have a significant impact on the timing and amount of revenue we report.

We generally consider our customer to be the entity with which we have a contractual agreement. This could be the end user, or when we sell products and services through the channel, our customer could be either the distributor or the reseller. As part of determining whether a contract exists, probability of collection is assessed on a customer-by-customer basis at the outset of the contract. Customers are subjected to a credit review process that evaluates the customers’ financial condition and the ability and intention to pay.

At contract inception, we assess the goods and services promised in our contracts with customers and identify a performance obligation for each promise to transfer to the customer a good or service (or bundle of goods or services) that is distinct - i.e., if a good or service is separately identifiable from other items in the bundled package and if a customer can benefit from it on its own or together with other resources that are readily available to the customer. To identify our performance obligations, we consider all of the goods or services promised in the contract regardless of whether they are explicitly stated or are implied by customary business practices. Determining whether products and services are considered distinct performance obligations or should be combined to create a single performance obligation may require significant judgment. We recognize revenue when (or as) we satisfy a performance obligation by transferring control of a good or service to a customer.

The transaction price is determined based on the consideration to which we will be entitled in exchange for transferring goods or services to the customer, adjusted for estimated variable consideration, if any. We typically estimate the transaction price impact of sales returns and discounts offered to the customers, including discounts for early payments on receivables, rebates or certain distribution partner incentives, including marketing programs. Constraints are applied when estimating variable considerations based on historical experience where applicable.
Once we have determined the transaction price, we allocate it to each performance obligation in a manner depicting the amount of consideration to which we expect to be entitled in exchange for transferring the goods or services to the customer (the “allocation objective”). If the allocation objective is met at contractual prices, no allocations are made. Otherwise, we allocate the transaction price to each performance obligation identified in the contract on a relative SSP basis, except when the criteria are met for allocating variable consideration or a discount to one or more, but not all, performance obligations in the contract.

To determine the SSP of our goods or services, we conduct a regular analysis to determine whether various goods or services have an observable SSP. If we do not have an observable SSP for a particular good or service, then SSP for that particular good or service is estimated using an approach that maximizes the use of observable inputs. We generally determine SSPs using various methodologies such as historical prices, expected cost plus margin, adjusted market assessment or non-standalone selling prices.

We recognize revenue as control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for the promised goods or services. Revenue is recognized net of any taxes collected from customers and subsequently remitted to governmental authorities. Control of the promised goods or services is transferred to our customers at either a point in time or over time, depending on the performance obligation.

Nature of Products and Services

Certain of our perpetual software licenses or hardware with integrated software are not distinct from their accompanying maintenance and support, as they are dependent upon regular threat updates. These contracts typically contain a renewal option that we have concluded creates a material right for our customer. The license, hardware and maintenance and support revenue is recognized over time, as control is transferred to the customer over the term of the initial contract period while the corresponding material right is recognized over time beginning at the end of the initial contractual period over the remainder of the technology constrained customer life.

Alternatively, certain of our perpetual software licenses, hardware appliances, or hardware with integrated software provide a benefit to the customer that is separable from the related support as they are not dependent upon regular threat updates. Revenue for these products is recognized at a point in time when control is transferred to our customers, generally at shipment. The related maintenance and support represent a separate performance obligation and the associated transaction price allocated to it is recognized over time as control is transferred to the customer.

The nature of our promise to the customer to provide our subscriptions and time-based software licenses and related support and maintenance is to stand ready to provide protection for a specified or indefinite period of time. Maintenance and support in these cases are typically not distinct performance obligations as the licenses are dependent upon regular threat updates to the customer. Instead the maintenance and support is combined with a software license to create a single performance obligation. We typically satisfy these performance obligations over time, as control is transferred to the customer as the services are provided.

Revenue for professional services that are a separate and distinct performance obligation is recognized as services are provided to the customer.

Additional Revenue Recognition Considerations

Royalties and Managed Service Provider Revenues

Our OEM and managed service provider (“MSP”) sales channels have revenues derived from sales- or usage-based royalties. Such revenue is excluded from any variable consideration and transaction price calculations and is recognized at the later of when the sale or usage occurs, or the performance obligation is satisfied or partially satisfied.
Consideration Payable to a Customer

We make various payments to our channel partners, which may include revenue share, product placement fees and marketing development funds. Costs that are incremental to revenue, such as revenue share, are capitalized and amortized over time as cost of sales. Product placement fees and marketing development funds are expensed in sales and marketing expense as the related benefit is received.

Under certain of our channel partner agreements, the partners pay us royalties on our technology sold to their customers, which we recognize as revenue in accordance with our revenue recognition policy. In these situations, the payments made to our channel partners are recognized as consideration paid to a customer, and thus are recorded as reductions to revenue up to the amount of cumulative revenue recognized from the contract with the channel partner during the period of measurement.

Payment Terms and Warranties

Our payment terms vary by the type and location of our customer and the products or services offered. The term between invoicing and when payment is due is not significant. For certain products or services and customer types, we require payment before the products or services are delivered to the customer.

We provide assurance warranties on our products and services. The warranty timeframe varies depending on the product or service sold, and the resolution of any issues is at our discretion to either repair, replace, reperform or refund the fee.

Contract Costs

Contract acquisition costs consist mainly of sales commissions and associated fringe benefits, as well as revenue share under programs with certain of our distribution partners. For revenue share, the partner receives a percentage of the revenue we receive from an end user upon conversion to a paid customer or renewal. These costs would not have been incurred if the contract was not obtained and are considered incremental and recoverable costs of obtaining a contract with a customer. These costs are and capitalized and amortized over time in accordance with ASC 340-40.

Contract fulfillment costs consist of hardware and software and related costs. These costs are incremental and recoverable and are capitalized and amortized on a systematic basis that is consistent with the pattern of transfer of the goods and services to which the asset relates. We typically recognize the initial commissions that are not commensurate with renewal commissions over the longer of the customer relationship (generally estimated to be four to five years) or over the same period as the initial revenue arrangement to which these costs relate. Renewal commissions paid are generally amortized over the renewal period.

ASC Topic 605

Prior to December 31, 2017, we recognized revenue under ASC Topic 605, when all of the following criteria had been met: (1) Persuasive evidence of an arrangement exists, (2) delivery has occurred, (3) fee is fixed or determinable, and collectability is probable. For multiple-element arrangements that include perpetual software licenses, support, and/or services, we allocated fair value to each element based on vendor-specific objective evidence (“VSOE”). If VSOE was available, we recognized when the element was delivered. If VSOE was not available for the delivered element, we applied the residual method and recognized revenue for the difference between the total arrangement fee and the aggregate fair value of the undelivered elements.

Determining whether and when some of these criteria have been satisfied often involves judgments that can have a significant impact on the timing and amount of revenue we report. Determining VSOE of the fair value of the various undelivered elements of our multiple element software transactions and the fair value of the elements within multiple-element revenue transactions where VSOE is not available involves significant judgment that can have a significant impact on the timing and amount of revenue we report.
For software and non-software multiple-element arrangements, we allocated revenue using the relative selling price method to the software elements as a group and on-software elements based on the following selling price hierarchy: (1) VSOE of fair value, (2) third-party evidence (“TPE”), and (3) best estimate of selling price (“BESP”). We then allocated the arrangement within the software group using the residual method. When we were unable to establish a selling price using VSOE or TPE, we used BESP to allocate the arrangement fees to the deliverables. We limited the amount of revenue recognized for delivered elements to an amount that was not contingent upon future delivery of additional products/services or meeting any specified performance conditions.

We recognized product revenue at the time of shipment, provided all other revenue recognition criteria had been met. We recognized service, support, and subscriptions revenue ratably over the contractual period, which typically ranged from one to three years.

Our professional services typically consist of training and implementation services. We do not typically enter into transactions that provide for significant production, modification, or customization of our software. Professional service revenue was recognized as the services are performed or, if required, upon customer acceptance.

We enter into revenue-sharing agreements with our strategic partners, primarily PC OEMs who load trial or subscription versions of the Company’s products onto their hardware products. We share a percentage of the revenue we receive from the end customer upon trial-to-paid conversion or upon renewal of a paid subscription.

We have various marketing programs with our business partners who we consider customers and reduced revenue by the cash consideration given, which was presumed to be a reduction of the selling price. We deferred costs of revenue related to revenue-sharing and royalty arrangements and commissions recognized these costs over the service period of the related revenue which was typically over one to three years.

**Goodwill**

Goodwill is recorded as the excess of consideration transferred over the acquisition-date fair values of assets acquired and liabilities assumed and primarily comprises the goodwill arising from the Sponsor Acquisition. We assign goodwill to our reporting units based on the relative fair value expected at the time of the acquisition.

We perform an annual impairment assessment in the fourth quarter or more frequently if indicators of potential impairment exist, which includes evaluating qualitative and quantitative factors to assess the likelihood of an impairment of a reporting unit’s goodwill. For reporting units in which this assessment concludes that it is more likely than not that the fair value is more than its carrying value, goodwill is not considered impaired and we are not required to perform the quantitative goodwill impairment test.

For reporting units in which the impairment assessment concludes that it is more likely than not that the fair value is less than its carrying value, we perform the quantitative goodwill impairment test, which compares the fair value of the reporting unit to its carrying value. Impairments, if any, are based on the excess of the carrying amount over the fair value. Our goodwill impairment test considers the income method and/or market method to estimate a reporting unit’s fair value.

Significant judgments are required in assessing impairment of goodwill include the identification of reporting units, estimating future cash flows, determining appropriate discount and growth rates and other assumptions. Changes in these estimates and assumptions could materially affect the determination of fair value, whether an impairment exists and if so the amount of that impairment.

**Identifiable Intangible Assets**

We amortize all finite-lived intangible assets that are subject to amortization over their estimated useful life of economic benefit on a straight-line basis.
For significant intangible assets subject to amortization, we perform a quarterly assessment to determine whether facts and circumstances indicate that the useful life is shorter than we had originally estimated or that the carrying amount of assets may not be recoverable. If such facts and circumstances exist, we assess recoverability by comparing the projected undiscounted net cash flows associated with the related asset or group of assets over their remaining useful lives against their respective carrying amounts. Impairments, if any, are based on the excess of the carrying amount over the fair value of those assets. If an asset’s useful life is shorter than originally estimated, we accelerate the rate of amortization and amortize the remaining carrying value over the updated, shorter useful life.

For our intangible assets not subject to amortization, we perform an annual impairment assessment in the fourth quarter, or more frequently if indicators of potential impairment exist, to determine whether it is more likely than not that the carrying value of the asset may not be recoverable. If necessary, a quantitative impairment test is performed to compare the fair value of the indefinite-lived intangible asset with its carrying value. Impairments, if any, are based on the excess of the carrying amount over the fair value of the asset.

Significant judgments are required in assessing impairment of intangible assets include the identifying whether events or changes in circumstances require an impairment assessment, estimating future cash flows, determining appropriate discount and growth rates and other assumptions. Changes in these estimates and assumptions could materially affect the determination of fair value, whether an impairment exists and if so the amount of that impairment.

**Equity-Based and Cash-Based Awards**

We currently provide various equity-based and cash-based compensation to those whom, in the opinion of the board of directors, are in a position to make a significant contribution to our success.

Equity-based compensation cost is measured at the grant date based on the fair value of the award and cash-based compensation cost is re-assessed at each reporting period. Both types of awards are recognized as expense over the appropriate service period. Determining the fair value of equity-based and cash-based awards requires considerable judgment, including assumptions and estimates of the following:

- fair value of the unit;
- life of the award;
- volatility of the unit price; and
- dividend yield

The fair value of the unit is determined by the Board reasonably and in good faith. Generally, this has involved a review of an independent valuation of our business, which requires judgmental inputs and assumptions such as our cash flow projections, peer company comparisons, market data, growth rates and discount rate. The Board reviews its prior determination of fair value of a unit on a quarterly basis to decide whether any change is appropriate (including whether to obtain a new independent valuation), considering such factors as any significant financial, operational, or market changes affecting the business since the last valuation date. Due to us not having sufficient historical volatility, we use the historical volatilities of publicly traded companies which are similar to us in size, stage of life cycle and financial leverage. We will continue to use this peer group of companies unless a situation arises within the group that would require evaluation of which publicly traded companies are included or once sufficient data is available to use our own historical volatility. In addition, for awards where vesting is dependent upon achieving certain operating performance goals, we estimate the likelihood of achieving the performance goals. For goals dependent upon a qualifying liquidity event (i.e., a change of control or public offering registered on a Form S-1 (or successor form), in either case, occurring on or before April 3, 2024) (a “Qualifying Liquidity Event”), we will not recognize any expense until the event occurs. Upon consummation of a Qualifying Liquidity Event, we would recognize a cumulative catch-up of expense.
based on the vesting dates for our time-based awards and expected vesting dates for our performance-based awards. Differences between actual results and these estimates could have a material effect on the consolidated financial results. We recognize forfeitures as they occur.

**Income Taxes**

Foundation Technology Worldwide LLC is a pass through entity for U.S. federal income tax purposes and will not incur any federal income taxes either for itself or its U.S. subsidiaries that are also pass through or disregarded subsidiaries. Taxable income or loss for these entities will flow through to its respective Members for U.S. tax purposes. Foundation Technology Worldwide LLC does have certain U.S. and foreign subsidiaries that are corporations and are subject to income tax in their respective jurisdiction. The provision for income taxes is calculated under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements.

We consider many factors when evaluating and estimating our tax positions, which may require periodic adjustments and may not accurately anticipate actual outcomes. Tax position recognition is a matter of judgment based on the individual facts and circumstances of our position evaluated in light of all available evidence.

After consummation of this offering, we will become subject to U.S. federal, state and local income taxes with respect to our allocable share of any taxable income of Foundation Technology Worldwide LLC and will be taxed at the prevailing corporate tax rates. In addition to tax expenses, we will also be responsible to fund payments under the tax receivable agreements, which will be significant. We anticipate that we will account for the income tax effects and corresponding tax receivable agreements effect resulting from future taxable exchanges of units by unit holders of Foundation Technology Worldwide LLC for shares of our Class A common stock by recognizing an increase in our deferred tax assets, based on enacted tax rates at the date of the exchange. Further, we will evaluate the likelihood that we will realize the benefit represented by the deferred tax asset and, to the extent that we estimate that it is more likely than not that we will not realize the benefit, we will reduce the carrying amount of the deferred tax asset with a valuation allowance. The amounts to be recorded for both the deferred tax assets and the liability for our obligations under the tax receivable agreements will be estimated at the time the agreements are executed as an adjustment to stockholders’ equity, and the effects of changes in any of our estimates after this date will be included in net income. Similarly, the effect of subsequent changes in the enacted tax rates will be included in net income. We intend to cause Foundation Technology Worldwide LLC to make distributions in an amount sufficient to allow us to pay our tax obligations, including distributions to fund any ordinary course payments due under the tax receivable agreements.

**Recent Accounting Pronouncements**

See Note 3 to our audited consolidated financial statements included elsewhere in this prospectus for information about recent accounting pronouncements.

**Quantitative and Qualitative Disclosures About Market Risk**

We are exposed to certain risk arising from both our business operations and economic conditions. We principally manage our exposure to a wide variety of business and operational risks through management of our core business activities. We manage economic risks, including interest rate, liquidity, and credit risk primarily by managing the amount, sources, and duration of our debt funding and through the use of derivative financial instruments.

**Foreign Currency Exchange Risk**

Our sales contracts are primarily denominated in U.S. dollars. A portion of our operating expenses are incurred outside of the United States and are denominated in foreign currencies and are subject to fluctuations.
due to changes in foreign currency exchange rates, particularly changes in the Euro, Argentine Peso, Indian Rupee, British Pound Sterling, Australian Dollar, and Japanese Yen. Additionally, fluctuations in foreign currency exchange rates may cause us to recognize transaction gains and losses in our consolidated statement of operations. The effect of an immediate 10% adverse change in foreign exchange rates on monetary assets and liabilities at June 27, 2020 would not be material to our financial condition or results of operations. To date, foreign currency transaction gains and losses and exchange rate fluctuations have not been material to our consolidated financial statements, and we have not engaged in any foreign currency hedging transactions.

As our international operations continue to grow, our risks associated with fluctuation in currency rates will become greater, and we will continue to reassess our approach to managing this risk, such as using foreign currency forward and option contracts to hedge certain exposures to fluctuations in foreign currency exchange rates. In addition, currency fluctuations or a weakening U.S. dollar can increase the costs of our international expansion, and the currently strengthening U.S. dollar could slow international demand as products and services priced in the U.S. dollar become more expensive.

**Interest Rate Risk**

We utilize long-term debt to, among other things, finance our acquisitions and, to a lesser extent, our operations. We are exposed to interest rate risk on our outstanding floating rate debt instruments which bear interest at rates that fluctuate with changes in certain short-term prevailing interest rates. Borrowings under the Senior Secured Credit Facilities bear interest at a Euro currency rate determined by reference to LIBOR, plus an applicable margin, subject to established floors of 0.00%. During the fiscal year ended December 29, 2018, the 2017 Predecessor and 2017 Successor periods and the fiscal year ended December 31, 2016, applicable interest rates have been lower than the designated floors under our Senior Secured Credit Facilities; therefore, interest rates under the Senior Secured Credit Facilities have not been subject to change. Assuming that the rates remain below the applicable floors under the Senior Secured Credit Facilities, a 25 basis point increase or decrease in the applicable interest rates on our variable rate debt, excluding debt outstanding under the Senior Secured Credit Facilities, would result in a minor change in interest expense on an annual basis.

In 2018 and through 2020, we entered into multiple interest rate swaps in order to fix a substantial amount of the LIBOR portion of our USD denominated variable rate borrowings. Our derivative financial instruments are used to manage differences in the amount, timing, and duration of our known or expected cash payments principally related to our variable-rate borrowings.

A hypothetical 10% increase or decrease in interest rates during any of the periods presented would not have had a material impact on our interest expense.

**Inflation Rate Risk**

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. Nonetheless, if our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition, and results of operations.
BUSINESS

Our Pledge

We dedicate ourselves to keeping the world safe from cyberthreats. Threats that are no longer limited to the confines of our computers but are prevalent in every aspect of our connected world. We will not rest in our quest to protect the safety of our families, our communities, and our nations.

— On the walls of McAfee campuses worldwide and signed by employees

Our Company

McAfee has been a pioneer and leader in protecting consumers, enterprises, and governments from cyberattacks for more than 30 years with integrated security, privacy, and trust solutions. We built our platform through a deep, rich history of innovation and have established a leading global brand. Whether we are securing the digital experience of a consumer who is increasingly living life online, or defending many of the world’s largest enterprises and governments from sophisticated attacks and nation-state threats, McAfee is singularly committed to one mission: to protect all things that matter through leading-edge cybersecurity.

We live in a digital world. Consumers are increasingly moving their daily lives online, interacting through multiple devices, networks and platforms, and leveraging technology in nearly every aspect of their lives. This shift is most noticeable in the way individuals are working, socializing, consuming, and transacting, leading to a proliferation of digital touchpoints and applications. Remote work and increasing work from home arrangements are driving a pronounced convergence of work and personal life. While people expect effective and frictionless security at work and in their personal lives, this lifestyle shift has been accompanied by a more challenging threat landscape and an increase in points of vulnerability, risking individuals’ privacy, identity, data and other vital resources. Similarly, enterprises embracing employee mobility, work from home strategies, bring your own device, and greater cloud adoption are facing a broader attack surface and dissolving network perimeter. These drivers have amplified the number of workloads across endpoints, making it challenging for enterprises to monitor and protect all of their workloads and applications. This challenge, coupled with an increase in cyberthreats, has heightened the importance of the consumer in making security decisions for their converged digital lives.

We have a differentiated ability to secure the digital experience against cyberthreats by using threat intelligence capabilities that we have developed through the scale and diversity of our sensor network. We define our sensor network as the aggregate of our presence in all of our customers’ endpoints, networks, gateways, and clouds that generate massive amounts of data that we translate into actionable, real-time insights. The McAfee platform is continuously enriched by artificial intelligence, machine learning and the telemetry gathered from over one billion sensors across our consumer, enterprise, and government customer base. Our vast and dynamic data set and advanced analytics capabilities enable us to provide defense for advanced zero-day threats by training machine learning models on the 62.7 billion threat queries we receive each day. McAfee simplifies the complexity of threat detection and response by correlating events, detecting new threats, reducing false positives, automating and prioritizing incident response, and creating workflows that guide analysts through remediation. Protecting our customers has been the foundation of our success, enabling us to maintain an industry-leading reputation among our customers and partners.

Consumers, enterprises and governments have turned to McAfee as a leading brand in cybersecurity for over 30 years. Our Personal Protection Service provides holistic digital protection for an individual or family at home, on the go, and on the web. Our platform includes device security, privacy and safe Wi-Fi, online protection, and identity protection, creating a seamless and integrated digital moat. With a single interface, simple set up and ease of use, consumers obtain immediate time-to-value whether on a computer, smartphone or tablet, and across multiple operating systems. For enterprises and governments, we offer a comprehensive
cybersecurity solution that protects our customers against adversarial threats across cloud, on-premise, hybrid environments and endpoint devices. Our cloud-native MVISION platform offers true device-to-cloud protection with threat detection and data protection for devices, SASE solutions for the multi-cloud, centralized policy orchestration, automated threat response, and threat insights generated by our predictive analytics engine.

Our consumer focused products protected over 600 million devices as of June 27, 2020. Our consumer go-to-market strategy consists of a digitally-led omnichannel approach to reach the consumer at crucial moments in their purchase lifecycle via several direct and indirect channels. We have longstanding exclusive partnerships with many of the leading PC OEMs and continue to expand our presence with mobile service providers and ISPs as the demand for mobile security protection increases. Through many of these relationships, our consumer security software is pre-installed on devices on a trial basis until conversion to a paid subscription, through a thoughtfully tailored conversion process that fits the customer journey. Our consumer go-to-market channel also consists of partners including some of the largest electronics retailers and ISPs globally. Our enterprise business protects many of the largest enterprises and governments around the world, including 86%, 78%, and 61% of Fortune 100, Fortune 500, and Global 2000 firms, respectively, as of June 27, 2020. Some of our largest customers are government entities who represent over 25% of our 250 largest Enterprise customers, with an average tenure of nearly 20 years. We primarily engage our enterprise and government customers with our direct sales force, while mid-market customers generally conduct their business through our channel partners. We operate a global business, with 46.6% of our fiscal 2019 net revenue earned outside of the United States.

McAfee’s Transformational Journey

In 2011, McAfee was acquired by Intel and operated as a part of a business unit of Intel. Since then, McAfee has grown from $1.9 billion in net revenue in 2011 to $2.6 billion in 2019. Recognizing the growth drivers that would power a surge in our business, in 2017, our Sponsors acquired a controlling interest in McAfee, accelerating our transformational journey to optimize and reinforce our cybersecurity platform. Over the last several years, we have invested in new routes to market and partnerships for the consumer business, and rationalized our enterprise portfolio by divesting our network firewall, email, and vulnerability management businesses to reorient our focus and resources to products that align with our device-to-cloud strategy. In addition to organic initiatives, we added new capabilities and products through several strategic acquisitions. In 2018, we completed our acquisitions of TunnelBear, a consumer VPN provider, and Skyhigh, a leader in CASB and a technology that would benefit from remote workers connecting directly to cloud applications. We believe both these acquisitions have added key competencies in high-growth verticals oriented around remote work within the cybersecurity market. In 2019, we acquired Uplevel Security, a predictive security platform that helps security teams extract meaningful insights data, and NanoSec, a service identity-based approach to hybrid and multi-cloud security space. More recently, we acquired LightPoint Security, a browser isolation platform that protects users from malware, ransomware and cyberattacks. In parallel with these acquisitions, we launched MVISION, the cloud-native family of our platform that offers threat defense, management, automation, and orchestration across devices, networks, clouds (IaaS, PaaS, and SaaS), and on-premises environments. Our investments in our platform and strategy have reinforced our market leadership, and we intend to continue innovating to protect our customers.

In addition to our commitments to innovate and invest in growth technologies, we have made multiple operational changes designed to increase efficiency and adapt to the changing marketplace. Mirroring our success with PC OEMs, we have developed new partnerships with mobile OEMs and service providers and ISPs to capture a sizable share of the growing mobile consumer security market. As a result, we reinvested in several areas aimed at driving higher growth and improving efficiency in our product delivery and go-to-market strategies. These efforts included the transformation of our performance marketing through a digital first approach focused on customer engagement through both direct and indirect channels, new customer acquisition, and overall customer retention, including our PC led product experience and consumer application development and engagement. Additionally, we have invested in the infrastructure and backend processes to successfully deliver this engagement across the consumer customer journey with McAfee.
Our Industry

The Internet has led to a hyper connected world and driven profound changes in both personal and business settings. It has created new forms of communication, new business models and brought in massive productivity gains and new opportunity for economic growth. It has also created new risks to communications, commerce, privacy, and even national defense. As the Internet continues to evolve, introduce new technologies and reshape our lives, consumers, enterprises, and governments continue to react to multiple important trends.

Online adoption use is global and continues to grow

Globally, people are coming online faster than ever before. According to IDC, there were over 4 billion Internet users in 2020, and there were approximately 1.4 billion Internet-enabled smartphones globally in 2019. The number of mobile-only Internet users is expected to grow at an approximate 8% CAGR from 2020-2024, with growth in emerging markets contributing to this trend as mobile devices continue to become a main source of accessing information and content online. According to Frost & Sullivan, in 2020, there were over 6 billion Internet-connected devices worldwide. This significant growth in the mobile install base is driving the ubiquity of the Internet and online browsing, with the average U.S. consumer spending 3 hours daily on their smartphones accessing information, online media, online shopping, and social interactions among other things, according to eMarketer.

The global consumer is completing more of their everyday routine online, expanding their digital footprint

Time and budgets have shifted to the digital world as formerly in person activities like banking, finance, shopping, education, online media, and healthcare can now be completed and experienced through online platforms. Seamless, fast, and intuitive products and services delivered by Internet and software-enabled companies have reduced the friction that previously existed and have resulted in users being more comfortable engaging in critical transactions on mobile devices and their PCs. For example, according to eMarketer, worldwide ecommerce sales are expected to grow to $3.9 trillion in 2020 and increase to approximately $6 trillion by 2023. As a result, consumers are inputting and storing personal and financial data across several platforms.

At the same time, consumers are rapidly expanding their social interactions and media consumption online through social platforms such as Facebook and Instagram. Per eMarketer, the average U.S. adult spent over 7.5 hours per day consuming digital media in 2020, representing 55% of total media consumption and an increase of 12% over the prior year. Increased use of social platforms exposes more personal data as it is broadcast publicly across the web.

Last, consumers are shifting data storage online with cloud-based storage platforms like Box and Dropbox to store personal photos and large amounts of data so that they are accessible across any endpoint device which expands the digital footprint.

Families are also engaging online and accessing information across several devices. Our Q2 2020 survey shows that 63% of newly acquired U.S. McAfee customers have purchased security software because of the increased time online and a desire to protect themselves and their families from threats, viruses, and hackers. Half of families surveyed are concerned with their family coming into communication with someone suspicious, with almost 30% of families surveyed indicating that they have actually experienced this threat. While unlocking consumers’ digital lives allows for convenience, using a greater number of digital platforms increases the surface area that cybercriminals can use to access personal data.

Increased attack surface results in high risk of being hacked and critical data used for profit

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Cyberattacks have evolved from rudimentary malware into highly sophisticated, organized, and large-scale attacks by malicious insiders, criminal syndicates, and nation-states seeking to exploit vulnerabilities and compromise data. Total malware attacks reached over 1.2 billion during Q1 2020, with our Labs team observing 375 new threats per minute. Mobile and IoT attacks have also increased, with total mobile malware attacks growing nearly 12% higher in Q1 2020 compared to the previous four quarters, and IoT malware seeing over a 50% increase during Q1 2020 compared to Q4 2019. As the volume of threats has increased, cyberattacks have become pervasive, targeting consumers, governments, and a broad range of industries. Adversaries are converging tactics and techniques, mixing old threat vectors with new, to inflict unprecedented damage.

While consumers are increasingly aware of cybersecurity risks, digital consumption continues to rise and consumers often prefer convenience over security. For instance, our 2019 research study found that over a third of respondents admit they do not check an email sender or retailer’s website for authenticity. 74% of respondents admitted to losing more than $100 to robocalling, email phishing, and text phishing in 2019, while 30% lost more than $500 to these scams. According to Statista, only nine percent of consumers report feeling “very safe” on the Internet. According to RiskBased Security, during 2019, over 7,000 data breaches were reported, resulting in over 15 billion records being exposed. We have seen the number of threats from external actors targeting cloud services increase approximately 630% from January 2020 to April 2020. Along with rising numbers of mobile attacks, cybercriminals have simultaneously increased the sophistication and variety of their methods, ranging from backdoors to mining cryptocurrencies. Given these risks, consumers need solutions that provide comprehensive protection across their digital footprint, which are also convenient and easy to install and use.

In enterprises, cyberattacks are increasingly perpetrated by sophisticated, well-trained, and well-financed adversaries that are deliberate and targeted in their attacks. In particular, enterprises have to protect themselves from increasing ransomware attacks. Ransomware is malware that employs encryption to hold a victim’s information at ransom. A user or organization’s critical data is encrypted so that they cannot access files, databases, or applications. A ransom is then demanded to provide access. Ransomware is often designed to spread across a network and target database and file servers, and can thus quickly paralyze an entire organization. It is a growing threat, generating billions of dollars in payments to cybercriminals and inflicted significant damage and expenses for consumers, businesses, and governments.

Cyberattacks also focus on enterprises that hold troves of consumer data which result in large-scale consumer vulnerabilities. Over the last several years, financial, web services, social media, and credit reporting agency protection companies have experienced data breaches, resulting in the unauthorized access of millions of consumer’s personal identifiable information being exposed. Cyberattacks have also been targeted at governments and government agencies. Individual and nation-state bad actors attempt to exploit vulnerabilities of government’s digital infrastructure to steal information, money, and impede the delivery of essential services.

Workplace digital transformation is driving the increased use of cloud-based applications and personal devices, which is straining traditional enterprise defenses.

The proliferation of cloud computing, cloud-based third-party SaaS applications, and unmanaged personal devices in the workplace is redefining the enterprise network and straining traditional enterprise defenses. The development of cloud-based SaaS applications and bring-your-own-device adoption has enabled the enterprise employee to bring their professional lives online and into the home. The trend started many years ago with the continued adoption of the virtualized desktop, and the COVID-19 pandemic and resulting shelter-in-place orders have accelerated the pace of workplace digital transformation.

The rapid adoption of cloud applications has increased organizations’ attack surface by moving both threats and sensitive data away from the traditional network perimeter, reducing the effectiveness of many existing security products. Cyberattacks have also fundamentally shifted from not just targeting enterprise infrastructure but also targeting people. As employees use their own devices and home or third-party Wi-Fi networks to access
enterprise data and applications they become additional targets, with hackers using phishing attacks on employees in order to gain access to enterprise assets.

- **Complexity of the IT environment and dissolution of the enterprise perimeter.** According to IDC, spending on cloud IT infrastructure including cloud software is expected to reach almost $272 billion in 2020, approximately a 16% increase year over year, and expected to grow at a CAGR of 19% from 2020 to 2024.

- **Loss of visibility and control.** As devices proliferate and perimeters dissolve, organizations are losing visibility and control of data in their environment. According to our internal research, the average enterprise uses more than 1,900 cloud services, with many not authorized by IT. As enterprise environments comprise a mix of clouds, networks, and devices, managing data security policies across this heterogeneous, multi-cloud footprint to avoid breaches and demonstrate regulatory compliance is paramount.

- **Mobility of the workforce.** IDC estimates the mobile worker population in the United States will exceed 93 million by 2024, representing 60% of the total U.S. workforce. As mobile adoption increases, the enterprise attack surface expands. We detected over 35 million total mobile malware incidents in Q4 2019.

- **Third party access.** Enterprises rely on third parties to help complete certain functions or processes. Providing enterprise network access and data to third parties further increases the attack surface area. Data breaches can result if third party networks are compromised and bad actors gain access to data that allows them to access another enterprise’s network. This can result in hackers gaining access to personal and financial data of consumers that might not have otherwise been accessible from the compromised enterprise.

With the transition of the workplace to online platforms, cybercriminals leveraged newly designed ransomware, RDP exploits, spam URLs, and other deceitful tactics to target a remotely connected and vulnerable workforce that lacked the enterprise infrastructure to protect the breach of corporate data at home. Our Threat Center observed an increase of over 40% of disclosed security incidents since the pandemic, underlining the heightened threat environment.

**Data and IT infrastructure are increasingly interdependent and require comprehensive protection solutions**

In today’s connected world, data and networks are increasingly interdependent. Both must be protected against sophisticated adversaries looking to exploit one to compromise the other. Data inside of a compromised system is at risk for exploitation. At the same time, stolen or weaponized data can be used to manipulate a network. Data protection and threat defense are the critical pillars needed to protect against these converging threats.

Primary adversarial threat vectors may consistently apply to either data or networks. Cybersecurity victims may find their data or networks held for ransom (ransomware), denied, exploited, or lost. As adversarial tactics and techniques converge to compromise data or networks, defensive technologies must also holistically apply to data protection and threat defense.

- **Data protection.** Data is one of the most important corporate assets, making it a top target for cyber criminals. As enterprises have adopted new IT technologies, gaps have emerged, including lack of visibility and control of sensitive data once it leaves the traditional network perimeter. Enterprises need a centralized solution that automatically enforces and updates a consistent policy to protect data everywhere it lives, including the cloud, corporate endpoints, networks, and unmanaged devices.

- **Threat defense.** The volume and sophistication of cyberattacks continues to increase at a rapid pace. Enterprises need consistent threat defense across endpoint, network, web, and cloud domains to defend
against cyberattacks as a vulnerability anywhere has the potential to compromise the entire system. Additionally, in today’s environment, threat defenses must continuously learn from intelligence gathered and adapt to the evolving tactics and techniques of cybercriminals.

Data protection and threat defense can work synergistically in an integrated defense platform. While the former relies on policy control for data protection, the latter detects suspicious alerts that may suggest a threat to the system (and the data contained therein). Data protection and threat defense are often linked by their common end goal.

There is a need for integrated device-to-cloud cybersecurity solutions that secure consumers, enterprises and governments in a connected world by offering the following:

- **Comprehensive and convenient security solutions to protect consumers across their digital footprint.** Consumers have an increasingly expanding digital presence in their daily lives as they access different online platforms and apps to complete personal and professional tasks. These daily online interactions require solutions that provide peace of mind as consumers jump from platform to platform across multiple devices. As a result, there is a demand for products that are designed to meet consumers’ anti-malware, identity, and privacy protection needs that can be used by hundreds of millions of digital users around the globe.

- **Consumer protection powered by seamless digital experience across device platforms.** Consumers require holistic digital protection for themselves, their families, and their data across devices and platforms whether they are at home, at work, or on the go. This digital protection requires an interface that is simple to set up and use, and provides ongoing protection without hampering device performance and consumer’s digital experience.

- **Consumer products to address privacy needs.** A growing online presence exposes more personal and financial data. At the same time, malicious hackers are targeting attacks specifically designed to expose this data for profit. After securing personal information, hackers will often sell this data on the dark web marketplace. According to Identity Theft Resource Center, more than 490 million individuals were affected by data breaches in 2019 with an estimated global cost of cybercrime of $600 billion per year. Users are increasingly mobile, and thus at a higher risk of connecting to unsecured public Wi-Fi connections, requiring VPN solutions to address the need to secure personally identifiable information over unsecured networks.

- **Data protection and threat defense for heterogeneous, multi-cloud IT and hybrid environments.** Enterprises are seeing a significant rise in diversity of devices that both offers operational advantages to enterprises, but also creates new points of attack due to their connectivity with business-critical data. While IT infrastructures are becoming more heterogeneous, employees are demanding the same technological conveniences on the job that they are being offered at home and are increasingly accessing cloud-based services directly from devices. Additionally, many enterprises employ a hybrid IT model, requiring security solutions across their on premise IT infrastructure and virtual environments. With the growing reliance on cloud, new threat vectors have emerged, requiring enterprises and governments to have both device-to-cloud and on premise solutions that protect data and defend against threats across heterogeneous devices and clouds, rather than relying on traditional corporate network boundaries.

- **Comprehensive threat intelligence leveraging a unique global sensor network.** In an enterprise environment with an increasingly dissolving perimeter, the line between consumer and enterprise threat vectors is blurring. Cyberattacks by adversaries are often using sophisticated, well-trained, and well-financed methods to target enterprises and governments that have been tested and refined against consumers first. Consumers, enterprises, and governments require comprehensive threat intelligence that can gather massive amounts of data from multiple domains and devices and translate that data into actionable, real-time insights to protect against the evolving tactics and techniques of cybercriminals. It
is challenging for cybersecurity vendors to accomplish this without a systems approach that integrates real-time data collection, machine learning model training, and feedback across billions of sensors deployed with consumer, enterprise, and government customers and across multiple defense domains (endpoint, network, gateway, and cloud).

Key Benefits of Our Solutions

We protect consumers, enterprises, and governments with our differentiated ability to detect, analyze, and manage responses to adversarial threats. Our customers trust us to protect and defend their families, data, network, and online experience whether it is on a device or in the cloud, at home or on the go.

Our products are multi-faceted privacy protection solutions that provide consumers security in their everyday lives

Our Personal Protection Service is designed to provide a comprehensive suite of features that protect consumers and their families across their digital lives. Our products provide cross-device identity protection, online privacy, and Internet and device security against the latest virus, malware, spyware, and ransomware attacks that are pervasive across all digital devices. Personal Protection Service allows consumers to have mobile and PC virus protection across all of their devices, spam filtering capabilities, the ability to securely encrypt sensitive files on public networks, and erases digital footprints that could be used to compromise their data, identity and privacy.

Our solutions provide a seamless and user friendly experience

From working on laptops, to accessing social media on phones, or accessing home entertainment, our Personal Protection Service provides multi-device protection for the modern connected family. With a single McAfee Total Protection subscription, our customers can protect multiples devices without impeding the consumer experience via cloud-based online and offline protection across devices to enjoy security at home and on the go. While people recognize the value of computer security, most get frustrated if the software hogs down their devices. We understand that while consumers need malware protection, it should not come at the price of device performance. McAfee Total Protection comes with performance-enhancing features that allow for more productivity and entertainment by automatically assigning more dedicated processor power to the apps you are actively using. With a single interface, simple set up and ease of use, consumers obtain immediate time-to-value from our solutions once installed. Our security, privacy, and trust solutions provide a seamless and convenient experience, and an integrated digital moat. We are one of the few scaled cybersecurity companies with integrated data protection and threat defense capabilities built into technologies and solutions that span the digital ecosystem.

Our solutions with comprehensive features provide consumers peace of mind that their online experience is protected

Our Personal Protection Service is a holistic digital protection of consumers and their families wherever they are, whatever they do, and on any device they own. Personal Protection Service encompasses data and device security and identity protection through our suite of products while delivering an experience that is equally easy to use whether on a computer, a mobile smartphone or a tablet and across multiple operating system platforms.

Our solutions provide integrated threat defense and data protection, from device to cloud

Existing enterprises have repurposed on premise solutions like firewalls and fragmented cloud solutions that serve as a patchwork of enforcement points and intelligence that are each very narrow in their scope of protection. Our unified cloud and endpoint security solutions provide comprehensive threat detection and data
protection from device to cloud with unified policy control and centralized management and incident reporting. We provide customers the ability to easily extend on-premise data policies to multi-cloud environments to secure data wherever it travels or resides and prevent the risk of data loss. Additionally, our centralized management and reporting capabilities give customers visibility to potential threats and/or incidents of noncompliance. Our MVISION Cloud is designed to secure employees working on enterprise cloud services such as Office 365, Salesforce, Box, and Slack.

Our solutions are supported by our global threat intelligence network, which is bolstered by artificial intelligence, machine learning, and deep learning to increase efficacy and efficiency

Consumers, enterprises, and governments all benefit from shared technology and security analytics to improve the efficacy of our products. Our portfolio leverages over one billion telemetry sensors across multiple domains (device, network, gateway, and cloud) that feed our threat intelligence and insights engines. As of August 2020, our global threat intelligence engine responds to 62.7 billion threat queries and identifies 12.4 million unique threats on an average day. By leveraging artificial intelligence, machine learning, and deep learning, we use complex threat detection and response algorithms that collect data from our vast customer base to correlate events, detect new threats, reduce false positives, and guide analysts through remediation. Our Advanced Threat Research team leverages a wide range of unique skills to identify zero-day threats and partners with law enforcement agencies around the world to take down sophisticated cybercriminal syndicates.

Market Opportunity

We estimate that our addressable market comprised of consumer and enterprise security is $30.4 billion in 2020, and is projected to grow at a four-year CAGR of 7.9% and reach $41.2 billion in 2024.

According to Frost & Sullivan, the global consumer endpoint security market (comprised of endpoint protection and prevention and consumer privacy and identity protection) addressed by our solutions is expected to reach nearly $13.1 billion in 2020, growing to $18.7 billion in 2024. We believe the total addressable market for our consumer security solutions encompasses the above threat vectors pertinent to the digital safety of our users.

According to IDC, the addressable enterprise security market addressed by our solutions is expected to reach nearly $17.3 billion in 2020, growing at a CAGR of 6.9% through 2024. The “addressable enterprise security market” represents revenue from five markets (Web Security, SIEM, Network Security, Corporate Endpoint, and Data Loss Protection). Web/CASB is a $2.4 billion market in 2020 and growing at a CAGR of 9.1% through 2024. SIEM is a $4.5 billion market in 2020 and growing at a CAGR of 4.7% through 2024. IDP, which includes the IPS market we serve, is a $2.0 billion market in 2020 and growing at a CAGR of 6.9% through 2024. Endpoint is an estimated $7.8 billion market in 2020 and growing at a CAGR of 7.4% through 2024. Data loss protection (“DLP”) is a $0.7 billion market in 2020 and growing at a CAGR of 6.7% through 2024.

Competitive Strengths

Our competitive strengths include:

- **Brand recognition in both Consumer and Enterprise segments.** We have been a trusted provider of cybersecurity products for over 30 years and have built a strong reputation of trust in the market. We have built this brand by protecting hundreds of millions of consumers and many of the world’s largest enterprises with a portfolio of products that has an established track record of industry leadership. Our brand recognition drives customer stickiness and bolsters our mutually-beneficial long-standing partner relationships.

- **Scale and diversity of threat intelligence network.** The McAfee portfolio is continuously enriched by the intelligence gathered from over one billion sensors across diverse domains and multiple segments.
(consumers, enterprises, and governments) to inform our machine learning, deep learning and artificial intelligence capabilities. Our vast data set combined with artificial intelligence and proprietary algorithms enables us to provide defense for advanced zero-day threats by training machine learning models on the billions of threat queries we receive each day.

- **Experienced management team with deep cybersecurity expertise.** Our world-class management team has extensive SaaS, consumer, cloud, device, and network expertise. The team has a proven track record of building innovative products and cultivating effective go-to-market strategies at scaled public and private software businesses. Our Chief Executive Officer, Peter Leav, is a software and security pioneer, and has been leading software and IT businesses for more than a decade. Most recently, prior to McAfee, Mr. Leav led the turnaround of BMC Software Corporation, a renowned IT Services Management company. Other key members of our management team have held senior leadership positions at Apple, Cisco, eBay, EMC, Informatica, Intel, Intuit, Microsoft, Symantec, ServiceNow, and Skyhigh.

Competitive strengths specific to our Consumer business include:

- **Holistic cybersecurity solutions seamlessly integrated across the consumers’ entire digital ecosystem.** We strive to secure the digital experience of consumers and their loved ones, whether at home or at work, and protect their privacy across multitude of devices, on the web, on the go, at home, and virtually anywhere else, with our holistic platform of personal protection and secure home cybersecurity solutions. With a single interface, simple set up, and ease of use, consumers obtain immediate time-to-value from our solutions once installed. Our security, privacy, and trust solutions provide a seamless and integrated digital moat. We are one of the few scaled cybersecurity companies with integrated data protection and threat defense capabilities built into technologies and solutions that span the digital ecosystem.

- **Unique footprint across devices.** Our consumer solutions protected over 600 million devices, as of June 27, 2020. Our massive security footprint spans traditional devices including PCs, mobile devices including smartphones and tablets, home gateways and smart / IoT devices, allowing us to better protect the consumer than our competitors. The vast data on digital interaction and threat queries from these endpoints helps inform our intelligence and insights engine, directly helping us improve the quality of security provided to our customers.

- **Differentiated omnichannel go-to-market strategy.** Our leading brand and cybersecurity platform have enabled McAfee to secure longstanding exclusive partnerships with many of the leading PC and mobile OEMs, communications and ISPs, electronics retailers, ecommerce sites, and search providers. These relationships have been built on years of trust, partnership and integration, spanning up to nineteen years in length. We have designed these partnerships to be mutually beneficial and work closely with our partners to drive a highly engaging customer experience and mutual success. For example, our PC OEM partnerships may include frequent executive and multi-function meetings including sales, performance marketing, product, and engineering teams. In one case, the PC OEM has dedicated resources to the McAfee customer acquisition journey in order to continuously improve our customer experience and thus improve our conversion rates. Throughout the partnership, the PC-OEM and McAfee have launched online campaigns, updated the PC-OEM specific McAfee conversion page, and grew geo engagement. McAfee recommendations to the PC-OEM relationship are based on McAfee’s “test and learn” methodology to ensure high likelihood of success. McAfee and the PC-OEM review recent performance, agree on issues to address, and align on mutual short- and long-term objectives. All of these factors have contributed to creating entry barriers for other cybersecurity providers to establish similar relationships.

Competitive strengths specific to our Enterprise business include:

- **Comprehensive device-to-cloud platform spanning cloud, on-premise, and hybrid IT environments.** Our leading EPP detects advanced threats across a breadth of heterogeneous device environments, including
Our Growth Strategy

Our strategy is to maintain and extend our technology leadership in cybersecurity solutions for consumers, enterprises, and governments by driving frictionless and secure digital experiences whether users are at home, at work, or on the go. The following are key elements of our growth strategy:

- **Continue to leverage our strength as a trusted cybersecurity brand to increase sales from new and existing customers.** We have one of the most trusted brands and comprehensive cybersecurity platforms in the market with competitive offerings for consumers, enterprises, and governments. We believe it is essential for us to keep investing in strengthening our brand through superior solutions and thoughtful customer engagement. We believe there is a significant growth opportunity within our core business as our portfolio of solutions continues to expand. We will continue to target and educate new customers across consumer, enterprise, and government through our various sales & marketing motions.

- **Continue to pursue targeted acquisitions.** We have successfully acquired and integrated businesses and technologies in the past that have extended our product capabilities and helped us improve our position in new and existing markets, including Skyhigh (a leader in CASB), TunnelBear (a consumer VPN provider), NanoSec, Lightpoint Security, and Uplevel Security. We intend to continue making targeted acquisitions and believe we are uniquely positioned to successfully execute on our acquisition strategy by leveraging our scale, global reach and routes to market, brand recognition, and data assets.

Key elements specific to our Consumer growth strategy include:

- **Invest in new and existing routes to market for consumer customers.**
  - **Direct-to-Consumer.** We have seen increased momentum in our direct-to-consumer go to market strategy. We will continue to invest in digital and performance marketing motions, and our website, McAfee.com, in order to educate consumers, drive more page visits and greater customer conversion, and improve user experience.
  - **PC OEMs, Retail and Ecommerce.** We are well positioned to drive continued growth through our PC OEM, retail and ecommerce routes to market. We will continue to invest in opportunities to enhance our brand recognition as a leading cybersecurity provider and strengthen our value proposition to our PC OEM partners. Additionally, we will continue to develop and invest in new
and existing retail and ecommerce relationships through which we sell our software for purchase and download at third party locations.

- **Communications Service Providers and ISPs.** With over 4 billion Internet users, 1.4 billion units in annual smartphone sales, per IDC, and an average daily mobile screen-time of over 3 hours (eclipsing television consumption), according to eMarketer, globally, mobile providers and ISPs are becoming among the most important enablers of consumers’ digital migration. ISPs are increasingly starting to invest in on-demand video streaming, gaming, online shopping, and other digital offerings as a part of their broader platform offering. Thus, we believe there is a huge opportunity to reach consumers via this route. We intend to drive new customer growth by expanding our relationships with communications service providers and ISPs utilizing the cross-platform functionality of our solutions.

We will continue to apply best practices learned in each of these routes to market across channels to strengthen our overall go-to-market strategy and drive greater customer conversion and renewal.

- **Enhance and tailor the subscriber conversion and renewal process.** We intend to supplement our holistic product offering and brand recognition with analytics and thoughtfully designed, effective marketing to drive consumer stickiness and trust. These initiatives are comprised of performance marketing and other digital marketing approaches, engagement initiatives, and touchpoints at critical junctures in the customer’s conversion and renewal journeys. Our analytics platform provides us with the insights to optimize the landing pages of our multi-experience websites and optimizes our check-out and payment processes. As we expand our routes to market and partnerships, we strive to evolve our conversion and renewal process and educate partners to best support mutually beneficial consumer-centric initiatives.

- **Continue to innovate and enhance our consumer security platform and user experience.** We are dedicated to protecting our customer’s digital experience across devices, networks, and online interactions. We plan to continue to invest in new product and platform innovation while continuing to unify policy control and management to help protect data wherever it resides or travels and defend against threats across multiple domains. At the product level, we have created a platform of integrated solutions that aligns with consumer needs for a holistic, easy to use cybersecurity solution. We will continue to utilize our “test and learn” design methodology to improve the customer experience while ensuring our products deliver value and an engaging experience on PC, mobile, tablet, and online. As the digital world gets more complex, our approach is to continue to offer unified solutions that meet customer needs.

Key elements specific to our Enterprise strategy include:

- **Invest in new and existing routes to market for enterprise and government customers.**
  - **Direct sales force.** We will continue to invest in our existing direct sales force of more than 1,200 sales professionals, including field, inside sales, sales engineering, and channel resources to provide global reach and scale. Additionally, we use our analytics and training capabilities to work with our salesforce to drive sustainable productivity gains.
  - **Public cloud service providers.** We will continue to invest in partnerships with public cloud service providers, such as Amazon, Google, Microsoft, and Oracle. As enterprises increasingly adopt public cloud deployments, these partnerships enable us to access a growing customer base by enabling them to streamline deployment of the cloud-native family of our platform, MVISION, to secure their public cloud environments and applications.
  - **Channel partners.** We will continue to invest in partnerships through an ecosystem of distributors, MSSPs, and systems integrators. These relationships enable us to tap into a wide range of customers, extend our global reach, and benefit from opportunities where our partners offer their customers McAfee solutions bundled with expert assessments and service.
Focus on winning in endpoint and cloud security to further enhance our device-to-cloud platform. We are a leader in the emerging cloud security and cloud-native endpoint security markets. We offer the industry’s leading CASB solution that protects data across the full spectrum of sanctioned and unsanctioned cloud environments (SaaS, PaaS, and IaaS). Combined with our growing SWG and UCE solutions, we provide broad-based cloud security to enterprises, and as of June 27, 2020, 10% of our Core Enterprise Customers used all three of our UCE components. On the device side, we provide industry leading endpoint security solutions composed of rapidly growing EDR and next-gen AV solutions, and more mature DLP solutions. As one of the few integrated cybersecurity providers, with the added advantage of telemetry data from a billion endpoints, we are well positioned to rapidly grow our CASB, EDR, extended detection and response (“XDR”), SWG, and SASE-based UCE security, and compete against the several point solution providers in the enterprise security landscape. Given the limitations of other pure-play cloud vendors that only address a very narrow set of IT security needs, we plan to continue to extend our cloud capabilities to proximate adjacencies across our entire portfolio of enterprise solutions to further advance our market leading position in cloud security and help both new and existing customers harness the power of our unified security platform. We aim to continue to unify policy control and management to deliver a holistic device-to-cloud platform to protect data wherever it resides or travels.

Our Products

We have one of the industry’s most comprehensive cybersecurity portfolios protecting both consumers’ digital life and enterprises from device to cloud.

For Consumers

Our Personal Protection Service provides holistic digital protection of the individual and family wherever they go, whatever they do and whatever they own. It encompasses device security, privacy, and safe Wi-Fi, online protection, and identity protection through a trusted brand with an experience that is equally easy to use.
whether on a computer, a mobile smartphone or a tablet and across multiple operating system platforms. Our Personal Protection Service delivers a multi-experience user interface with no performance trade-offs, and with a focus on simple and seamless protection during a consumers’ digital experience. Our platform frees consumers to work on sensitive files, videoconference their friends, and have their kids go on social media platforms while having peace of mind that our Personal Protection Service is keeping their data and files encrypted, alerting them when they are at risk, and helping them to resolve security threats. We achieve this by integrating the following solutions and capabilities within our Personal Protection Service:

- **Device Security.** Our award-winning Anti-Malware Software and real-time threat defense has won over 50 awards since 2015 and helps protect over 600 million consumer devices across Android, iOS, and Windows protected from viruses, ransomware, malware, spyware and phishing as of June 27, 2020. Our net promoter score grew from 36 in 2019 to 41 as of June 27, 2020. These 600 million devices, as part of our over one billion threat sensors, help power our threat intelligence engine. As consumers expand their digital footprint with an increasing number of devices and share personal data among them by hopping from one device to another, our threat intelligence engine becomes more robust. We built our Total Protection / LiveSafe solution with the purpose of protecting all of our consumers’ data, regardless of the device they are using or the network they are on. Through our interface, consumers can easily protect additional devices and have peace of mind by being able to observe each device’s security status. Beyond PCs and mobile, we have developed our Secure Home Platform (“SHP”) that protects consumer household IoT systems. Provided through major service providers and router OEMs around the world, our SHP simplifies network security in the home and protects household IoT devices, such as Alexa, smart TVs, and gaming systems.

- **Online Privacy and Comprehensive Internet Security.** Our Safe Connect VPN and TunnelBear help consumers make any Wi-Fi connection safe and private. With bank-grade AES 256-bit encryption, our solution keeps personal data, such as banking account credentials and credit card information protected while keeping IP addresses and physical locations private. This capability helps consumers prevent password and data theft and IP-based tracking and allows customers to access global content, by bypassing local censorship. Consumers can add an additional layer of protection with FileLock by creating password-protected encrypted drives to store their sensitive files, such as tax returns and financial documents. Once these documents are not needed anymore they can be securely deleted with Shredder. Our WebAdvisor acts as a trusted companion protecting consumers from accessing malware and phishing sites while surfing and from downloading unsafe files. As we protect the consumer’s digital life, we also offer our Safe Family solution to keep children safe while they learn to navigate the digital life. Our parental control software blocks age-inappropriate websites, provides device usage monitoring and device restriction services and gives parents the ability to track children’s devices.

- **Identity Protection.** Our IdentityProtection includes cyber monitoring, which searches over 600,000 online black markets—including the Dark Web—for compromised personally identifiable information, credit monitoring and SSN trace, helping consumers take action to prevent from fraud. Our solution also helps consumers recover from fraud through our 24/7/365 support and range of additional services, such as our full-service ID restoration, stolen funds reimbursement, lost wallet recovery, and identify theft insurance, covering expenses up to $1 million. Our Password Manager adds another level of security by securely managing and storing various complex passwords eliminating potential weaknesses caused by simple or re-used passwords.

We also provide these services to consumers who want to complement their existing protection in the form of individual products, such as Mobile Security, Safe Connect, Safe Family, WebAdvisor, and Identity Theft Protection, as well as to consumers who want to protect their complete digital life through our Total Protection and LiveSafe portfolio brands.

In addition, we extended our protection services to small business owners and the gamer community. Our Small Business Security package helps small businesses keep their businesses and customer data safe by
leveraging our award-winning multi-device protection and privacy capabilities, enhanced with our 24/7 technical support and virus removal service. Our Gamer Security package delivers anti-malware functionality while enhancing gaming performance. By offloading threat detection to the cloud, keeping necessary virus definitions locally, and optimizing system resources like CPU, GPU, and RAM by pausing background services, we deliver a smoother and safer gaming experience.

**For Enterprises and Governments**

Through our integrated and open platform for heterogeneous, multi-cloud and on premise environments, we help enterprises and governments manage multivendor cybersecurity environments and stay ahead of, and defend themselves against, threats from the device to cloud.

- **MVISION Device.** Our next generation endpoint solutions offer comprehensive threat detection and data protection for both modern and legacy devices, such as traditional endpoints, mobile, and fixed-function systems. Integrated with the native Windows 10 security system and our MVISION Platform, our cloud-native MVISION Endpoint offers advanced detection and correction capabilities to Windows 10 environments, including rollback remediation and credential theft monitoring, with unified management and automated workflow control through MVISION ePO, our industry-leading management console. Our MVISION EDR investigates an average of 94 million security threats per day and detects an average of 4.9 million unique threats per day as of August 2020. Through our MVISION EDR we provide investigative playbooks guided by artificial intelligence to resource-constrained security operations center analysts, allowing our customers to accelerate investigations and detect the most sophisticated threats faster.

- **MVISION Cloud.** Our UCE Offering, comprised of our CASB, SWG, and DLP products, protects data from device to cloud, and prevents web-based and cloud-native threats that are invisible to the corporate network. That allows employees to use their personal or corporate devices to safely access SaaS applications, such as Office 365 and Box. With our Cloud-Native Application Protection, comprised of our CASB, cloud security posture management, cloud workload protection platform and integrated with DevOps tools, we help customers to accelerate their application delivery while improving the governance, compliance and security of their containers workloads.

- **MVISION Security Services.** Our industry-leading management console, MVISION ePO, helps our customers to manage their full endpoint estate, from PCs to tablets and mobile devices, to automate their policy controls, and to simplify their back-office and IT environment through a comprehensive view into their multivendor cybersecurity environment. MVISION Insights provides actionable and preemptive threat intelligence by leveraging our cutting-edge threat research, augmented with
sophisticated artificial intelligence applied to real-time threat telemetry streamed from over 1 billion global sensors, social media, and other telemetry. By synthesizing these data in an easily digestible format, we help our customers to understand within minutes if they are currently in a target rich environment and help them prioritize their threats, predict impacts, and prescribe safeguards proactively.

**MVISION XDR** dramatically expands the capabilities of traditional EDR solutions through a fully integrated, SaaS based platform that provides a complete view of the threat activity by normalizing and contextualizing a rich set of sources within one console. This allows analysts to rapidly discover and mitigate threats against networks, users, and data.

**Our Technology**

We deploy the latest technologies to maintain our competitive advantage in our product offerings for consumers, enterprises, and governments as well as to design a digital experience for consumers that drive customer engagement, satisfaction, and retention.

**Quality of Our Protection and AI**

Our solutions defend against a wide range of threats by using technology that leverages a combination of threat intelligence and artificial intelligence. Unlike other alternatives that rely only on artificial intelligence, our approach minimizes false positives while detecting a wide range of threats, including new zero-day threats that have never been seen before. Additionally, we utilize a hybrid approach where both local- and cloud-based artificial intelligence models work to protect our customers. Furthermore, cloud models can be updated rapidly and transparently to customers while the local models are able to provide defense during disconnected or isolated scenarios.

Our solutions are enhanced by our **Global Threat Intelligence Telemetry** from detected events across the product portfolio in addition to structural and behavioral feature vectors from telemetry collected through our artificial intelligence sensors. This telemetry enables McAfee to understand the blueprint of threats for which we do not necessarily possess the sample but can identify based on behavioral and structural vectors which improves our efficacy in detecting zero-day threats.

Our **Machine Learning Scanner** provides two options for performing automated analysis—on the device or in the cloud. The former uses machine learning on client systems to determine whether existing and incoming files match known malware. The client-based scanning sensitivity levels, which are based on mathematical formulas, assign tolerance to suspected activity to assess whether the file matches known malware. Our cloud-based machine learning scanner collects and sends file attributes and behavioral information to the machine-learning system in the cloud for malware analysis, without transmitting personally identifiable information.

**Anti-Malware Engine**

Our anti-malware engine is the core component of our award-winning endpoint and gateway products. Using patented technology, the engine analyzes potentially malicious code to detect and block Trojans, viruses, worms, adware, spyware, and other threats. The engine scans files at particular points, processes, and pattern-matches malware definitions with data it finds within scanned files, decrypts, and runs malware code in an emulated environment, applies heuristic techniques to recognize new malware, and removes infectious code from legitimate files.

**Consumer Experience Innovation**

We continuously improve the digital experience for consumers through the following technologies:

- **Platform Innovation.** Our continuous innovations across our online presence, ecommerce, analytics, and product platform aim towards creating the best-possible experience for consumers. Our analytics
platform draws from millions of consumer engagement interactions, accumulated over years and years, provides us with the insights to craft the ideal consumer experience. We use these insights to design a comprehensive, unified seamless security experience for consumers that can be managed from any mobile device. This rich set of engagement patterns also allows us to fine-tune the purchasing process by displaying the right landing page and choosing the ideal payment provider to ensure a successful transaction. Combined with our next generation messaging system and tailored marketing campaigns, we improve customer engagement, satisfaction, as well as acquisition efficiency and retention.

- Ability to Integrate with Our Partners. Through our ongoing collaboration with our OEM partners, we developed an integrated consumer experience that increases the conversation of potential indirect customers to our platform. Working closely with each OEM, we are continuously testing and improving each element of the consumer journey, from our tailored OEM landing pages and messaging, to our product trials, trial experience, offerings options, pricing, and shopping cart and payments experience. Additionally, we also integrated our product platform with leading telecommunication providers, retailers, as well as networking equipment manufacturers to be the underlying platform for their mobile and IoT related security offerings.

**Technology Underlying Our Enterprise Products**

Our enterprise portfolio is enhanced by the following core technologies:

- **Next Generation Endpoint Security.** Our intelligent and proactive endpoint security platform uses native operating system controls, behavioral blocking, and exploit prevention, and machine-learning and deep-learning technologies to prevent and detect advanced threats (including fileless attacks and ransomware) and to rollback any damages if executed. **MVISION EDR** helps to prevent threats by capturing events, files, process objects, and system state changes in combination and to surface suspicious behavior with the help of with several analytics engines. Behavior-based detection results map to the MITRE ATT&CK mapping, supporting a more consistent process to determine the phase of a threat and its associated risk and to prioritize a response. Simplified and AI-guided investigation then provides analysts with investigative playbooks and allows them to concentrate on key findings.

- **MVISION Cloud Platform.** Our industry-leading UCE connects to cloud service APIs as well as end-user devices to gain visibility into data and user activity. This integration across SWG, DLP, and CASB allows our **MVISION Cloud** to set and enforce centralized policy definitions, grant access control over managed and unmanaged devices and set cloud data and permission controls. As virtualization moves from the operating to the application level, we extended our data security, threat prevention, governance, and compliance capabilities to container-based workloads. Our container-based security technology evaluates the code for security gaps embedded in the containers, ensures the correct environment configuration, and monitors inter-container communication. With the ability to fully integrate our security technology and toolsets in the DevOps process, security risks can be addressed prior to the application development. The quality of our cloud security capabilities are underlined by our partnership with Google to integrate our security solutions with Cloud Platform (GCP). Through our partnership, we help GCP customers to gain visibility into security and compliance risks across their GCP environment, quickly identify threats and misconfigurations, and act on them before they result in a breach or data loss.

- **DXL Open Architecture.** Our architecture is open and modular and is facilitated by DXL, one of the largest open messaging fabrics in the industry, which automatically shares threat intelligence across all nodes connected to it and is supported by 30 contributing vendors with over 100 distinct integrations. Our openness is also supported by our Security Innovation Alliance, one of the largest ecosystems in the industry, features 131 partners that deliver hundreds of pre-integrated multivendor solutions, many with unified management and workflows. **CASB Connect,** the industry’s leading self-serve program, allows virtually any cloud environment to be secured within days, without writing a single line of code. It allows enterprises to securely apply a consistent set of security policies across all API-based cloud services. The

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program currently features dozens of pre-integrated cloud security options, including with Office 365, Microsoft Azure, AWS, Google Drive, Salesforce, Slack, Workday, Box, Dropbox, and more.

Our Customers

**Consumer**

We are a leading consumer security provider, protecting over 600 million consumer devices from PCs to IoT, tablets, and mobile devices worldwide. Our consumers tend to earn higher incomes, have children, and live in urban or suburban markets, according to a survey we conducted in 2018. We reach consumers through our omnichannel go-to-market approach including direct online acquisition, OEMs, physical retailers, and other channel partners. We protect over 30.1 million core subscribers; we have a direct billing relationship and subscription for at least one McAfee product with 16.6 million core direct to consumer customers as of Q2 2020. Our core direct to consumer customers account for more than 85% of our annual subscription revenue on average. In addition, as of Q2 2020, we had another 14.5 million subscribers (excluding mobile and ISP customers) who transacted with our retail/ecommerce or PC-OEM partners. We leverage our diversified go-to-market strategy to address a wide range of customers, independent on their purchasing preference, and to convert these channel led customers to core direct to consumer customers, for which we own the billing relationship, when they come up for renewal.

**Enterprise**

We protect many of the largest governments and enterprises around the world, including 86%, 78%, and 61% of Fortune 100, Fortune 500, and Global 2000 firms, as of June 27, 2020, respectively. Some of our largest customers are government entities who represent over 25% of our 250 largest Enterprise customers, with an average tenure of nearly 20 years. Our 250 largest customers have an average of seven McAfee products and an average tenure of 19 years of services as of June 2020. We have a diversified customer base, and no end customer represented more than 5% of net revenues over the past three years.

Enterprise Customer Case Studies

The examples below illustrate how enterprise customers from different industries and with different cybersecurity needs benefit from our solutions. We believe these examples are representative of the use of our solutions by our customers generally and demonstrates the breadth of our product offerings and adoption by enterprise customers across different markets, verticals, and customer size.

**Large Utility Company: Accelerates cloud adoption and reduces total cost of ownership by consolidating cyber security architecture based on McAfee platform**

**Challenge:**

A large North American electric utility company was trying to solve for two challenges. One challenge was the need to accelerate their adoption of the cloud in a safe way. The other challenge was they needed to realign their security spend, reducing operations/maintenance expenses.

**Benefits of McAfee Solutions:**

The utility had a strong relationship and trust with McAfee because of their existing McAfee footprint of endpoint and data center security and system on chip (“SOC”) technologies across 30,000 endpoints. The McAfee team collaborated closely with the customer to solidify their security architecture and migration plan across cloud and SOC solution set and substantiated that with proof of concepts. The customer was bought into McAfee’s strong integrated portfolio of products and services designed on an open platform across Device-to-Cloud, which included (i) comprehensive endpoint security including prevention, EDR, and mobile security, (ii) CASB, (iii) Network DLP, and (iv) SWG.
McAfee worked closely with the channel partner to create a winning service level agreement that allowed the customer to achieve their objective of reducing operating expense spend. The winning combination of our strong partnership with the channel partner and long-standing history of being the utility company’s trusted advisor allowed us to prevail over the incumbent CASB and EDR offerings.

**Premier Agribusiness and Food Company: Chooses McAfee for integrated cloud service solution**

**Challenge:**

One of the largest agriculture companies in the United States was struggling with monitoring threats and getting insights into the different attacks they were experiencing. They were short on resources and in need of an integrated cloud security solution that could make their lives easier to respond to web and cloud threats faster. They were not satisfied with their existing cloud proxy service provider because of the architectural complexity, overall uptime, and hidden costs. They were seeking a vendor who could provide them reliable cloud service and superior threat and data protection.

**Benefits of McAfee Solutions:**

McAfee had earned the customer’s trust as a reliable cyber security provider due to existing products such as Endpoint Security, DLP, and SIEM. McAfee was able to clearly demonstrate superior threat protection and service availability via an easy proof of concept—thereby winning the business with the customer. The customer chose McAfee because of the tight integration of core technologies such as DLP, SWG, and CASB with unified management capabilities. McAfee’s cloud SWG technologies and capabilities surpassed that of the existing cloud proxy vendor—especially on zero-day malware detection, authentication functionality, and ease of troubleshooting. The combination of a top-notch CASB solution and cloud-based web protection hit the mark. The customer particularly valued the integration and the ability to gain control over shadow IT, which was a main concern when the company adopted the cloud. In addition, the customer appreciated the easy deployment and the high performance and availability of McAfee’s cloud security solutions.

**HSBC(1): A sustained and evolving partnership**

HSBC operates more than 3,800 offices across 64 countries. McAfee has been helping HSBC protect their enterprise from cybersecurity threats for the last 20 years. As HSBC evolves its environment to the cloud, the security of its users, applications, and data from the user’s device to the cloud is its number one priority. HSBC recently upgraded to McAfee’s most advanced endpoint security solution, deploying it to 350,000+ endpoint devices so far, with a continuing rollout to the bank’s mobile estate. HSBC also selected McAfee’s cloud security offering, taking advantage of their unified management and controls across both endpoint and the cloud.

(1) An affiliate of HSBC serves as an underwriter in this offering.

**Research and Development**

Our research and development efforts begin with a focus on our customers. We listen to our customers, seek to understand their challenges, and then use technology to develop innovative solutions designed to solve their problems and protect what matters most. Our global team is responsible for the architecture, design, development, testing, and operations of our device-to-cloud security platform which includes our consumer targeted offerings, as well as our offerings for enterprises and governments. Our internal team of security experts, researchers, intelligence analysts, and threat hunters continuously analyze the evolving global threat landscape to develop products that defend against today’s most sophisticated and stealthy attacks and reports on emerging security issues.

We are continuously reinventing and disrupting ourselves to better serve our customers, as we continue to help our customers secure their digital transformation efforts with our device-to-cloud security platform. We work closely with our customers and partners to gain valuable insight into enterprise and consumer security.
needs, trends, and practices to assist us in designing new features that extend the capabilities of our platform and drive growth. Our engineering and product teams continuously monitor and test our solutions to ensure the highest efficacy and quality in the industry. We also maintain a regular release process to update and enhance all our solutions. In addition, our teams work with third-party validation groups to ensure transparent reporting on the security efficacy of our platform.

Our research and development team is also responsible for operating our cloud services, and for keeping our customers updated with information on the availability, reliability, and performance of our platform.

Our research and development expenses were $127 million, $323 million, $406 million, and $380 million for the 2017 Predecessor period, the 2017 Successor period, fiscal 2018, and fiscal 2019, respectively. Our research and development leadership team is located in Santa Clara, CA, and is responsible for a globally distributed organization spread across Santa Clara (CA), Plano (TX), Hillsboro (OR), New York (NY), Waterloo (Canada), Bengaluru (India), Hyderabad (India), Cordoba (Argentina), Cork (Ireland), Tel Aviv (Israel), Paderborn (Germany), and Aylesbury (UK).

Sales and Marketing

Consumer

Our consumer go-to-market engine consists of a digitally-led omnichannel approach to reach the consumer at crucial moments in their purchase lifecycle including direct to consumer online sales, acquisition through trial pre-loads on PC OEM devices, and other indirect modes via additional partners such as mobile providers, ISPs, electronics retailers, ecommerce sites, and search providers. In many cases, the consumer becomes a direct McAfee customer upon subscription conversion or renewal.

Direct to consumer marketing. We market directly to consumers through our website, McAfee.com, with digital sales motions and analytics-based cart conversion capabilities.

PC OEMs. We have a strong PC OEM partner ecosystem with major OEMs including Dell, HP, Lenovo, Asus, and Samsung, in which we pre-install a 30-day free trial of our security platform. Our digital and performance marketing engine engages with the purchasing customer to highlight the value of the security platform and convert the consumer to a direct McAfee customer. In some cases, PC OEMs preinstall a one-year or longer subscription and the OEM pays McAfee a royalty. During the subscription lifecycle, McAfee engages the consumer with our digital marketing engine to convert the consumer to a McAfee customer at the end of the subscription period.

Retail and ecommerce. We partner with major retailers worldwide including Office Depot, Staples, Walmart, Sam’s Club, MediaMarkt, Best Buy, and Amazon, to offer consumers a McAfee subscription for purchase through the retailer stores and ecommerce websites. During the subscription lifecycle McAfee engages the consumer with our digital marketing engine to convert the consumer to a McAfee customer at the end of the subscription period.

Communications Service Providers, ISPs and Mobile providers. We partner with major service providers worldwide including Verizon, T-Mobile, CenturyLink, Telefonica, NTT Docomo, Softbank, British Telecom, and Sky, to offer our mobile security and secure home platform products through the service providers. In some cases, we also partner with the service providers to integrate and bundle one or more of our security products into their mobile product value added service offerings. In addition to our partnerships with service providers, we partner with Samsung to pre-install one or more of our security products on their smartphones.

Search Providers. McAfee also partners with search engine providers to integrate our secure web search products.

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Our omnichannel approach and strong partnerships work together to increase McAfee’s presence at key moments of purchase and security engagement for consumers, allowing us to drive customer engagement and acquisition of new customers. We use a thoughtfully designed digital marketing motion, inclusive of search engine marketing, search engine optimization, email marketing, and retargeting techniques to engage with the consumer at different critical points in their renewal journey. This digital marketing motion drives conversion and renewal throughout the subscription lifecycle to develop multi-year relationships with the customer and increase retention rates.

**Enterprise**

Our enterprise go-to-market strategy leverages direct and indirect routes to market to support customers based on the maturity of our relationship. Our most established accounts are serviced directly by our field sales teams. These teams are focused on driving customer outcomes to increase the perceived value of our solutions and secure cross-sell and upsell opportunities from existing customers. Emerging accounts and new customers are primarily serviced through a global inside sales engine. These sales teams work with indirect routes to market to position our solutions and secure a stronger foothold in customer accounts.

Across our customer base, we deploy a multitude of resources to scale our engine. Sales engineers work across all accounts to deliver technical expertise for the most complex cybersecurity environments. Our Customer Success organization drives successful deployment, adoption, consumption, value realization, and cybersecurity posture outcomes for customers. Working in tandem with our Engineering and Sales organizations, these teams help customers to successfully maintain our products. We estimate that our support and services teams engage in more than two million hours of customer interaction per year. We estimate that our Professional Services team engages in approximately 600,000 hours per year and operates some of the world’s largest security environments through personnel deployed at customer sites. Our extensive service and support capabilities allow us to generate security outcomes with our customers and identify cross-sell and upsell opportunities across our base.

Our alternate routes to market include cloud service providers (Amazon, Google, Microsoft, and Oracle) and an ecosystem of two-tier and one-tier distribution channel partners, MSSPs and systems integrators. These relationships enable us to tap into a wide range of customers, extend our global reach, and benefit from opportunities where our partners offer their customers McAfee solutions bundled with additional service.

Our enterprise marketing strategy uses a digital mix of paid and programmatic display, search engine marketing, search engine optimization, retargeting, online media, and webinars to augment our last-mile efforts of public and private events and customer briefings. We use brand awareness campaigns, inclusive of broadcast and digital media, to increase our brand reputation and account-based marketing tactics to support demand generation for high-value customers and prospects.

**Competition**

The market for cybersecurity solutions for enterprises, governments, and consumers is intensely competitive and constantly evolving. Conditions in our market are prone to frequent and rapid changes in technology, customer requirements and preferences, and industry standards resulting in frequent new product and service offerings and improvements and the entrance of new market participants. As a result we face a broad set of competitors, representative of the diverse security domains in which we operate, including but not limited to the following in the consumer and enterprise market:

- In the consumer cybersecurity market, we face competition from players, such as NortonLifeLock, Avast/AVG, Kaspersky, Trend Micro, ESET, and Microsoft, which expanded from desktop anti-malware into mobile, security, VPN, and identity protection among others. At the same time we compete with point-tool providers, such as Cujo and Dojo in the home IoT space or AnchorFree, ExpressVPN, and ProtonVPN in the network security space, across our full consumer offering.
In the enterprise cybersecurity market, we compete both with larger integration providers, such as Symantec (a division of Broadcom), Palo Alto Networks, Sophos, Microsoft, Trend Micro, and Sentinel One in the endpoint, networking, and CASB space, as well as with point solutions focusing on a subset of the cybersecurity market. These competitors include Crowdstrike, Carbon Black (a division of VMware), Tanium, and Cylance (a division of BlackBerry) in the endpoint market, Netskope, and Bitglass in the CASB market, IBM and Cisco in network intrusion, Forcepoint, and Zscaler in the SWG market, and IBM, Splunk, Micro Focus, Dell, and LogRhythm in the security operations market.

In addition, we expect additional competition from other established and emerging companies as the market for security-as-a-service continues to develop and expand and as industry consolidation occurs.

The principal competitive factors in the markets for our solutions include:

- brand recognition and reputation;
- scale and diversity of threat intelligence network;
- tenure and strength of customer and partner relationships;
- breadth and integration of product offerings;
- unique footprint across devices;
- product features, reliability, performance, and effectiveness;
- price and total cost of ownership;
- strength and productivity of sales and marketing efforts;
- quality of customer service; and
- financial resources and stability.

We believe we compete favorably across these factors. However, certain of our current and potential competitors may have competitive advantages, such as more extensive international operations, larger product development and strategic acquisition budgets, or greater financial, technical, sales, or marketing resources than we do. For additional information about the risks to our business related to competition, see “Risk Factors — Risks Related to Our Business and Industry — We operate in a highly competitive environment and we expect competitive pressures to increase in the future, which could cause us to lose market share.”

**Intellectual Property**

Our intellectual property is an important and vital asset of the company that enables us to develop, market, and sell our products and services and enhance our competitive position. We rely on trademarks, patents, copyrights, trade secrets, license agreements, intellectual property assignment agreements, confidentiality procedures, non-disclosure agreements, and employee non-disclosure and invention assignment agreements to establish and protect our proprietary rights.

We maintain an internal patent program to identify inventions that provide the basis for new patent applications in areas of importance to our business. As of June 27, 2020, we had approximately 1,340 issued U.S. patents, in addition to approximately 680 issued foreign patents and approximately 615 pending U.S. and foreign patent applications, which generally relate to inventive aspects of our products and technology. We have filed more than 65 patent applications in 2020 alone. The duration of our issued patents is determined by the laws of the issuing country. Although we have patent applications pending, there can be no assurance that patents will issue from pending applications or that claims allowed on any future issued patents will be sufficiently broad to protect our technology. Also, these protections may not preclude competitors from independently developing products with functionality or features similar to our products.
In certain cases, we license intellectual property from third parties for use in our products and generally must rely on those third parties to protect the licensed rights. This can include open source software, which is subject to limited proprietary rights. While the ability to maintain and protect our intellectual property rights is important to our success, we believe our business is not materially dependent on any individual patent, copyright, trademark, trade secret, license, or other intellectual property right.

Employees

As of June 27, 2020, we employed more than 6,850 people worldwide. We also engage temporary employees and consultants as needed to support our operations. None of our employees in the United States are represented by a labor union or subject to a collective bargaining agreement. However, certain of our international employees are members of works councils or subject to collective bargaining agreements. We have not experienced any material work stoppages, and we consider our relations with our employees to be good.

As of the second quarter of fiscal 2019, we achieved global pay parity, defined as fair and equal pay for employees in the same job, level, and location—regardless of gender—and controlling for pay differentiators such as performance, tenure, and experience.

Facilities

Our corporate headquarters is located in San Jose, California pursuant to the terms of an 11-year lease that was entered into on April 10, 2019 for approximately 84,000 square feet of space. We also conduct finance, accounting, sales and marketing, and administration activities in Plano, Texas where we own an office building with approximately 170,000 square feet of space. In addition, we lease space for personnel in locations throughout the United States and various international locations, including significant research and development activities in India and Argentina, significant sales and operational offices in Ireland, the U.K., Canada, and Japan and smaller sales and marketing offices located in major markets around the globe. We believe that our current facilities are adequate to meet our current needs.

Legal Proceedings

From time to time, we are subject to various legal proceedings and claims, either asserted or unasserted, which arise in the ordinary course of business. While the outcome of these matters cannot be predicted with certainty, we do not believe that the outcome of any of these matters, individually or in the aggregate, will have a material adverse effect on our consolidated financial condition, results of operations, or cash flows.
MANAGEMENT

Executive Officers and Directors

Below is a list of the names, ages, positions and a brief account of the business experience of the individuals who serve as our executive officers and directors as of the date of this prospectus.

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Position</th>
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<tbody>
<tr>
<td>Peter Leav</td>
<td>49</td>
<td>President, Chief Executive Officer and Director</td>
</tr>
<tr>
<td>Venkat Bhamidipati</td>
<td>53</td>
<td>Executive Vice President and Chief Financial Officer</td>
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<tr>
<td>Ashutosh Kulkarni</td>
<td>45</td>
<td>Executive Vice President and Chief Product Officer, Enterprise Business Group</td>
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<tr>
<td>Terry Hicks</td>
<td>57</td>
<td>Executive Vice President and General Manager, Consumer Business</td>
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<tr>
<td>Lynne Doherty McDonald</td>
<td>47</td>
<td>Executive Vice President, Global Sales and Marketing, Enterprise Business Group</td>
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<tr>
<td>Sohaib Abbasi</td>
<td>64</td>
<td>Director</td>
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<tr>
<td>Mary Cranston</td>
<td>72</td>
<td>Director</td>
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<tr>
<td>Tim Millikin</td>
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<td>Jon Winkelried</td>
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<td>Director</td>
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<tr>
<td>Kathy Willard</td>
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<td>Director</td>
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<tr>
<td>Jeff Woolard</td>
<td>51</td>
<td>Director</td>
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</table>

Peter Leav has been the President and Chief Executive Officer of McAfee since February 2020. Prior to McAfee, Mr. Leav served as President and CEO of BMC Software, a software and services company that helps enterprises meet escalating digital demands and maximize IT innovation, from December 2016 to April 2019. Prior to BMC, Mr. Leav served as President and CEO of Polycom, a global collaboration business serving the enterprise market, from December 2013 to September 2016. He also served as President of Industry and Field operations at NCR Corporation, the global leader in consumer transaction technologies. Prior to NCR, Mr. Leav was Corporate Vice President and General Manager of Motorola’s enterprise business in North America, Latin America and EMEA. Earlier in his career, he held executive sales leadership positions at Symbol Technologies, Cisco Systems, and Tektronix. Mr. Leav has served on the board of Box since June 2019, and previously served on the boards of Proofpoint (July 2019 to February 2020) and HD Supply, Inc. (October 2014 to July 2017). Mr. Leav holds a bachelor’s degree from Lehigh University. Our board of directors believes that Mr. Leav’s board and industry experience qualifies him to serve on our board of directors.

Venkat Bhamidipati has been an Executive Vice President and the Chief Financial Officer at McAfee since September 2020. In this role, he oversees the finance, IT, and security operations strategy and teams that support McAfee’s business worldwide. Prior to McAfee, Mr. Bhamidipati was an Executive Vice President and the Chief Financial Officer at Providence, a healthcare system with $25B in annual revenues, from July 2017 to September 2020. Prior to Providence, Mr. Bhamidipati spent 13 years at Microsoft from June 2004 to July 2017, where he held several executive positions, including, Chief Financial Officer of the Worldwide Enterprise and Partner Group, Chief Financial Officer of the Worldwide Operations Group, and Managing Director for Business Development and Strategy. Mr. Bhamidipati earned a Master’s degree in Commerce from Osmania University and an M.B.A in Finance and Marketing from the Kelly School of Business at Indiana University.

Ashutosh Kulkarni has been an Executive Vice President and the Chief Product Officer of the Enterprise Business Group at McAfee since October 2018. Prior to joining McAfee, he was the senior vice president and general manager of the web security and web performance businesses at Akamai Technologies (“Akamai”), a publicly traded content delivery network and cloud service provider, from August 2015 to October 2018. During
his tenure at Akamai, he led the teams that delivered the leading web application firewall, bot management, and DDoS mitigation solutions in the industry. Prior to Akamai, he served in various senior leadership roles at Informatica and, as senior vice president and general manager, led Informatica’s cloud integration business, as well as their core data integration and data quality businesses. Mr. Kulkarni began his career at Sun Microsystems where he worked in various engineering, product management, and product marketing roles. Mr. Kulkarni earned an M.S. in engineering from the University of Texas at Austin and an M.B.A. degree from the University of California, Berkeley.

Terry Hicks has been the Executive Vice President of the Consumer Business Group at McAfee since November 2018. Prior to McAfee, Mr. Hicks served as Chief Operating Officer of Infusionsoft from January 2017 to November 2018, where he directly managed all functions as he translated the company’s mission and vision into strategy and execution by building and developing a team passionate about delivering innovative products that help small businesses succeed. Prior to being named Chief Operating Officer at Infusionsoft, Mr. Hicks served as their Chief Product Officer from July 2015 to December 2016. In this role, Mr. Hicks led the product and business development and payments teams for Infusionsoft’s sales and marketing software for small businesses. Prior to Infusionsoft, Mr. Hicks spent 15 years in leadership roles at Intuit.

Lynne Doherty McDonald has been the Executive Vice President of Global Sales and Marketing at McAfee since May 2020. Ms. Doherty McDonald joined McAfee from Cisco, where she most recently served as Senior Vice President of U.S. Commercial Sales from August 2018 to May 2020. In this role, she oversaw a team of more than 2,000 employees, drove $8B in revenue annually, serving 400,000+ accounts. Prior to this position, she served on Cisco’s Security Sales team for the Americas from January 2017 to October 2018, overseeing a $2B portfolio of products across the U.S., Canada and Latin America. Prior to this position, Ms. Doherty McDonald served as the Area Vice President of the Eastern United States from June 2013 to January 2017. Earlier in her career, Ms. Doherty McDonald served as a programmer at Bell Atlantic before joining Sun Microsystems as a Regional Executive in Sales and Engineering. Ms. Doherty McDonald holds a bachelor’s degree in mathematics and computer information science from Temple University.

Sohaib Abbasi has served as a Director of McAfee since November 2018. He also serves as director for StreamSets Inc. (since July 2017), Nutanix (since March 2020) and is the chair of the board for Peakon (since June 2020). Mr. Abbasi previously served as a director of Red Hat (March 2011 to July 2019), and New Relic (May 2016 to September 2019). In addition, he serves as a senior advisor to TPG. Mr. Abbasi served as president and chief executive officer of Informatica from July 2004 until August 2015. He served as chairman of Informatica from March 2005 until December 2015. Prior to Informatica, Mr. Abbasi served at Oracle Corporation for 20 years, most recently, as a member of Oracle’s executive committee and as senior vice president of two major divisions, Oracle Tools and Oracle Education. Mr. Abbasi earned a bachelor’s degree and an M.S. degree from the University of Illinois at Urbana-Champaign. Our board of directors believes that Mr. Abbasi’s board and industry experience qualifies him to serve on our board of directors.

Mary Cranston has served as a Director of McAfee since October 2018. Since December 2012 when she retired from her position as the Firm Senior Partner and Chair Emeritus of Pillsbury Winthrop Shaw Pittman LLP, an international law firm, Ms. Cranston has served on various boards of companies and non-profits, including Visa, Inc. (since 2007), where she is a member of the audit and risk committee, The Chemours Company (since 2015), MyoKardia (since May 2016), Boardspan (since March 2016), CSAA Insurance Group (since 2008). Ms. Cranston holds a bachelor’s degree in political science from Stanford University, a J.D. degree from Stanford Law School, and M.A. degree in education from the University of California, Los Angeles. Our board of directors believes that Ms. Cranston’s legal and board experience qualifies her to serve on our board of directors.

Tim Millikin has served as a Director of McAfee since April 2017. He is a Partner at TPG based in San Francisco, California, where he co-leads TPG’s investment activities in software & enterprise technology. Mr. Millikin has served on the board of Ellucian since September 2015, and previously served on the board of
Renaissance Learning from June 2018 to February 2019, INFINIDAT from March 2017 to February 2019, and Isola Group from July 2012 to January 2018. Mr. Millikin holds an M.B.A. degree from the Stanford Graduate School of Business, where he was an Arjay Miller Scholar, and a bachelor’s degree from Dartmouth College. Our board of directors believes that Mr. Millikin’s board and industry experience qualifies him to serve on our board of directors.

**Jon Winkelried** has served as a Director of McAfee since January 2018. He is the Co-Chief Executive Officer and a Partner of TPG based in San Francisco, California. Prior to joining TPG in 2015, Mr. Winkelried was with Goldman, Sachs & Co. for more than 27 years, until he retired in 2009 as Co-President and Co-Chief Operating Officer. Mr. Winkelried has served on the board of directors for Evolution Media since May 2016, Anastasia Beverly Hills since August 2018, Bounty Minerals LLC since December 2012, RealCadre LLC since September 2018, and ATTN: since March 2019, and he serves on the Board of Overseers for Memorial Sloan Kettering Cancer Center since June 2008. He was elected to the Board of Trust of Vanderbilt University in 2012, and was elected Chair for the Investment Committee in 2017. He served as a trustee at the University of Chicago from 2006 to 2012. Mr. Winkelried received a bachelor’s degree in business from the University of Chicago and an M.B.A. degree from the University of Chicago. Our board of directors believes that Mr. Winkelried’s board and industry experience qualifies him to serve on our board of directors.

**Kathy Willard** has served as a Director of McAfee since November 2019. She has served as the Chief Financial Officer of Live Nation Entertainment since September 2007. Prior to this role, Ms. Willard served in various positions at Live Nation Entertainment as well as its predecessors, Clear Channel Entertainment and SFX Entertainment, originally joining the organization in 1998. Earlier in her career, she served as an Audit Manager at Arthur Andersen from 1988 to 1993. Ms. Willard is also a member of the board of directors for the House of Blues Music Forward Foundation. Ms. Willard received a bachelor of business administration degree in accounting at the University of Oklahoma. Our board of directors believes that Ms. Willard’s financial expertise and industry experience qualify her to serve on our board of directors.

**Jeff Woolard** has served as a Director of McAfee since August 2019. Mr. Woolard has held numerous roles at Intel during the past 25 years, serving as a Corporate Vice President and the Chief Financial Officer of the Technology, Systems Architecture and Client Groups since June 2020. Prior to this role, Mr. Woolard served as a Vice President and Chief Financial Officer for Intel Capital and the New Technology Group from March 2013 until June 2020, focusing on Intel’s corporate venture investments and acquisition activities. Mr. Woolard received a bachelor’s degree in finance from Arizona State University and an M.B.A. from the University of Washington. Our board of directors believes that Mr. Woolard’s board and industry experience qualifies him to serve on our board of directors.

**Controlled Company**

Upon completion of this offering our Sponsors and Intel will continue to control a majority of the voting power of our outstanding common stock. As a result, we will be a “controlled company” under the corporate governance standards. As a controlled company, exemptions under the Exchange’s standards will exempt us from certain of the Exchange’s corporate governance requirements, including the requirements:

- that our board that is composed of a majority of “independent directors,” as defined under rules;
- that the compensation committee that is composed entirely of independent directors; and
- that the nominating and corporate governance committee that is composed entirely of independent directors.

Accordingly, for so long as we are a “controlled company,” you will not have the same protections afforded to stockholders of companies that are subject to all of the Exchange’s corporate governance requirements. In the event that we cease to be a controlled company, we will be required to comply with these provisions within the transition periods specified in the rules of the Exchange.
These exemptions do not modify the independence requirements for our audit committee, and we expect to satisfy the member independence requirement for the audit committee prior to the end of the transition period provided under the Exchange’s listing standards and SEC rules and regulations for companies completing their initial public offering.

Board Composition and Director Independence

Our business and affairs are managed under the direction of our board of directors. Upon the closing of this offering, our amended and restated certificate of incorporation will provide that our board of directors shall consist of at least three but not more than 12 directors and that the number of directors may be fixed from time to time by resolution of our board of directors. Our board of directors will initially consist of seven members. Our amended and restated certificate of incorporation will provide that our board of directors will be divided into three classes of directors, as nearly equal in number as possible. The initial division of the three classes is as follows:

• Class I, which will initially consist of Jon Winkelried, Jeff Woolard, and Kathy Willard, whose terms will expire at our annual meeting of stockholders to be held in 2021;
• Class II, which will initially consist of Tim Millikin and Sohaib Abbasi, whose terms will expire at our annual meeting of stockholders to be held in 2022; and
• Class III, which will initially consist of Peter Leav and Mary Cranston, whose terms will expire at our annual meeting of stockholders to be held in 2023.

Upon the expiration of the initial term of office for each class of directors, each director in such class shall be elected for a term of three years and serve until a successor is duly elected and qualified and until his or her earlier death, resignation or removal. Subject to the terms of the stockholders agreement that we intend to enter into in connection with this offering, any additional directorships resulting from an increase in the number of directors or a vacancy may be filled by the directors then in office, even if less than a quorum, or by a sole remaining director.

In connection with this offering, we will enter into a stockholders agreement with investment funds affiliated with our Sponsors, Intel Americas, Inc., and certain other stockholders governing certain nomination rights with respect to our board of directors following this offering. Under the agreement, we are required to take all necessary action to cause the board of directors to include individuals designated by TPG and Intel Americas, Inc. in the slate of nominees recommended by the board of directors for election by our stockholders, as follows:

• for so long as TPG owns at least 25% of the shares of our Class A and Class B common stock held by TPG upon completion of this offering (and the expected use of proceeds therefrom), including any exercise of the underwriters’ option to purchase additional shares, and the Reorganization Transactions, TPG will be entitled to designate six individuals for nomination, including three unaffiliated directors who meet the independence criteria set forth in Rule 10A-3 under the Exchange Act;
• for so long as TPG owns less than 25% but at least 10% of the shares of our Class A and Class B common stock held by TPG upon completion of this offering (and the expected use of proceeds therefrom), including any exercise of the underwriters’ option to purchase additional shares, and the Reorganization Transactions, TPG will be entitled to designate two individuals for nomination, including one unaffiliated director who meets the independence criteria set forth in Rule 10A-3 under the Exchange Act;
• for so long as Intel Americas, Inc. and its affiliates owns at least 25% of the shares of our Class A and Class B common stock held by Intel Americas, Inc. and its affiliates upon completion of this offering (and the expected use of proceeds therefrom), including any exercise of the underwriters’ option to purchase additional shares, and the Reorganization Transactions, Intel Americas, Inc. will be entitled to designate two individuals for nomination; and
• for so long as Intel Americas, Inc. and its affiliates owns less than 25% but at least 10% of the shares of our Class A and Class B common
stock held by Intel Americas, Inc. and its affiliates upon completion of this offering (and the expected use of proceeds therefrom),
including any exercise of the underwriters’ option to purchase additional shares, and the Reorganization Transactions, Intel Americas, Inc.
will be entitled to designate one individual for nomination.

TPG and Intel will have also have the exclusive right to remove their respective designees and to fill vacancies created by the removal or
resignation of their designees, and we are required to take all necessary action to cause such removals and fill such vacancies at the request of TPG or
Intel, as applicable.

Our board of directors has undertaken a review of the independence of each director. Based on the information provided by each director
concerning his or her background, employment, and affiliations, our board of directors has determined that each of Sohaib Abbasi, Mary Cranston, and
Kathy Willard are independent directors under the rules of the Exchange. In making this determination, the board of directors considered the
relationships that such directors have with our Company and all other facts and circumstances that the board of directors deemed relevant in determining
such directors’ independence, including beneficial ownership of our capital stock by each non-employee director and their affiliates, and the transactions
involving them described in “Certain Relationships and Related Party Transactions.”

Board Committees

Upon the completion of this offering, our board of directors will have three standing committees: the audit committee; the leadership development
and compensation committee; and the nominating and corporate governance committee. Each of the committees will operate under its own written
charter adopted by the board of directors, each of which will be available on our website upon completion of this offering. Members serve on these
committees until their resignation or until otherwise determined by our board of directors.

Pursuant to the terms of our stockholders agreement, following this offering, TPG and Intel Americas, Inc. will each have the right to appoint a
director to serve on each of our board committees (other than our audit committee), for so long as TPG or Intel Americas, Inc., as applicable, has the
right to designate a director for nomination, subject to applicable laws and Exchange regulations.

Audit Committee

Following this offering, our audit committee will be composed of Mary Cranston, Tim Millikin, and Kathy Willard, with Mary Cranston serving
as chairperson of the committee. We anticipate that, prior to the completion of this offering, our audit committee will determine that Mary Cranston and
Kathy Willard meets the definition of “independent director” under the rules of the Exchange and under Rule 10A-3 under the Exchange Act. Within 90
days following the effective date of the registration statement of which this prospectus forms a part, we anticipate that the audit committee will consist
of a majority of independent directors, and within one year following the effective date of the registration statement of which this prospectus forms a
part, the audit committee will consist exclusively of independent directors. Our board of directors has determined that Mary Cranston and Kathy Willard
each is an “audit committee financial expert” within the meaning of the SEC’s regulations and applicable listing standards of the Exchange. The audit
committee’s responsibilities upon completion of this offering will include:

• appointing, approving the compensation of, and assessing the qualifications, performance, and independence of our independent registered
public accounting firm;
• pre-approving audit and permissible non-audit services, and the terms of such services, to be provided by our independent registered public
accounting firm;
• reviewing the audit plan with the independent registered public accounting firm and members of management responsible for preparing our
financial statements;
reviewing and discussing with management and the independent registered public accounting firm our annual and quarterly financial statements and related disclosures as well as critical accounting policies and practices used by us;

• reviewing the adequacy of our internal control over financial reporting;
• reviewing all related person transactions for potential conflict of interest situations and approving all such transactions;
• establishing policies and procedures for the receipt and retention of accounting-related complaints and concerns;
• recommending, based upon the audit committee’s review and discussions with management and the independent registered public accounting firm, the inclusion of our audited financial statements in our Annual Report on Form 10-K;
• reviewing and assessing the adequacy of the committee charter and submitting any changes to the board of directors for approval;
• monitoring our compliance with legal and regulatory requirements as they relate to our financial statements and accounting matters;
• preparing the audit committee report required by the rules of the SEC to be included in our annual proxy statement; and
• reviewing and discussing with management and our independent registered public accounting firm our earnings releases.

Leadership Development and Compensation Committee
Following this offering, our leadership development and compensation committee will be composed of Jon Winkelried, Tim Millikin, Jeff Woolard, and Sohaib Abbasi, with Jon Winkelried, serving as chairperson of the committee. The leadership development and compensation committee’s responsibilities upon completion of this offering will include:

• determining and approving the compensation of our chief executive officer, including annually reviewing and approving corporate goals and objectives relevant to the compensation of our chief executive officer, and evaluating the performance of our chief executive officer in light of such corporate goals and objectives;
• reviewing and approving the corporate goals and objectives relevant to the compensation of our other executive officers;
• appointing, compensating, and overseeing the work of any compensation consultant, legal counsel or other advisor retained by the leadership development and compensation committee;
• conducting the independence assessment outlined in the rules of the Exchange with respect to any compensation consultant, legal counsel, or other advisor retained by the leadership development and compensation committee;
• reviewing and assessing the adequacy of the leadership development and committee charter and submitting any changes to the board of directors for approval;
• reviewing and establishing our overall management compensation philosophy and policy;
• overseeing and administering our equity compensation and similar plans;
• reviewing and approving our policies and procedures for the grant of equity-based awards and granting equity awards;
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- reviewing and making recommendations to the board of directors with respect to director compensation; and
- reviewing and discussing with management the compensation discussion and analysis to be included in our annual proxy statement or Annual Report on Form 10-K.

Nominating and Corporate Governance Committee

Following this offering, our nominating and corporate governance committee will be composed of Tim Millikin, Mary Cranston, and Jeff Woolard, with Tim Millikin serving as chairperson of the committee. The nominating and corporate governance committee’s responsibilities upon completion of this offering will include:

- developing and recommending to the board of directors criteria for board and committee membership;
- establishing procedures for identifying and evaluating board of director candidates, including nominees recommended by stockholders;
- identifying individuals qualified to become members of the board of directors;
- recommending to the board of directors the persons to be nominated for election as directors and to each of the board’s committees;
- developing and recommending to the board of directors a set of corporate governance principles;
- articulating to each director what is expected, including reference to the corporate governance principles and directors’ duties and responsibilities;
- reviewing and recommending to the board of directors practices and policies with respect to directors;
- reviewing and recommending to the board of directors the functions, duties, and compositions of the committees of the board of directors;
- reviewing and assessing the adequacy of the committee charter and submitting any changes to the board of directors for approval;
- provide for new director orientation and continuing education for existing directors on a periodic basis;
- performing an evaluation of the performance of the committee; and
- overseeing the evaluation of the board of directors and management.

Board Oversight of Risk Management

While the full board of directors has the ultimate oversight responsibility for the risk management process, its committees oversee risk in certain specified areas. In particular, our audit committee oversees management of enterprise risks as well as financial risks and is responsible for overseeing the review and approval of related party transactions. Our leadership development and compensation committee is responsible for overseeing the management of risks relating to our executive compensation plans and arrangements and the incentives created by the compensation awards it administers. Our nominating and corporate governance committee oversees risks associated with corporate governance, business conduct and ethics. Pursuant to the board of directors’ instruction, management regularly reports on applicable risks to the relevant committee or the full board of directors, as appropriate, with additional review or reporting on risks conducted as needed or as requested by the board of directors and its committees.

Leadership Development and Compensation Committee Interlocks and Insider Participation

None of the members of our leadership development and compensation committee has at any time during the prior three years been one of our officers or employees. None of our executive officers currently serves, or in
the past fiscal year has served, as a member of the board of directors or leadership development and compensation committee of any entity that has one
or more executive officers serving on our board of directors or leadership development and compensation committee. For a description of transactions
between us and members of our leadership development and compensation committee and affiliates of such members, see “Certain Relationships and
Related Party Transactions.”

**Code of Ethics**

We have adopted a code of ethics that applies to all of our employees, officers and directors. Upon the closing of this offering, our code of ethics
will be available on our website. We intend to disclose any amendments to our code of ethics, or any waivers of their requirements, on our website.
Information contained on our website is not incorporated by reference into this prospectus, and you should not consider information contained on our
website to be part of this prospectus or in deciding to purchase shares of our Class A common stock.

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EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

This Compensation Discussion and Analysis focuses on the compensation we provide to our executive officers listed in the “Summary Compensation Table for Fiscal 2019” (our “named executive officers”) and should be read in conjunction with the accompanying tables and text below. In accordance with SEC executive compensation disclosure rules, this Compensation Discussion and Analysis focuses on our compensation decisions with respect to our named executive officers for fiscal 2019, which were made while we have been privately owned. In preparing to become a public company, with the assistance of our independent compensation consultant, we have reviewed and plan to continue to review all elements of our executive compensation program. We expect that our executive compensation program and compensation governance practices will evolve to reflect our status as a newly publicly-traded company, while still supporting our overall business and compensation objectives. In this Compensation Discussion and Analysis and the accompanying tables and narratives, references to “our board” and “our compensation committee” refer to the board of managers of Foundation Technology Worldwide LLC and its compensation committee for all periods prior to the restructuring undertaken in connection with this offering and to the board of directors of the Company and its leadership development and compensation committee for all periods following the restructuring.

Our named executive officers for fiscal 2019 are:

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<tr>
<th>Name</th>
<th>Title</th>
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<tr>
<td>Christopher Young</td>
<td>Former Chief Executive Officer</td>
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<tr>
<td>Michael Berry</td>
<td>Former Executive Vice President, Chief Financial Officer</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>Former President and Chief Revenue Officer, Enterprise Business Group</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>Executive Vice President, Consumer Business Group</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>Executive Vice President and Chief Product Officer, Enterprise Business Group</td>
</tr>
</tbody>
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(1) Mr. Young’s employment with us terminated on February 3, 2020.
(2) Mr. Berry’s employment with us terminated on March 13, 2020.
(3) Mr. Giamatteo’s employment with us terminated on January 10, 2020.

Fiscal 2020 Senior Executive Hires

Earlier in fiscal 2020, we welcomed Peter Leav (whose employment with us started on February 3, 2020) as our new President and Chief Executive Officer, Venkat Bhamidipati (whose employment with us started on September 2, 2020) as our new Executive Vice President and Chief Financial Officer, and Lynne Doherty McDonald (whose employment with us started on May 4, 2020) as our new Executive Vice President, Global Sales and Marketing, Enterprise Business Group. Since they were hired, each executive has been an instrumental part of McAfee’s fiscal 2020 business plan and our efforts to help our customers navigate their rapidly changing digital behaviors and the increasing risk posed by the current environment. In recruiting Mr. Leav, Mr. Bhamidipati, and Ms. Doherty McDonald, McAfee and our compensation committee were guided by the same executive compensation philosophy as described below for fiscal 2019 and negotiated the level of their compensation and the terms of their executive compensation arrangements, which include an employment agreement (in the cases of Mr. Leav and Mr. Bhamidipati) and an offer letter (in the case of Ms. Doherty McDonald), as well as MIU and restricted equity unit (“RSU”) grants, taking into account market compensation level determined based on prior input from our independent compensation consultants and the experience of members of our compensation committee, internal pay equity considerations and the circumstances of our executives’ hirings, including their prior roles and compensation in those roles. The employment agreement, RSU agreement and MIU agreement for Mr. Leav are filed as exhibits to this registration statement. The employment agreement for Mr. Bhamidipati and the offer letter for Ms. Doherty McDonald are also filed as an exhibit to this registration statement.
In addition, following the departure of Mr. Berry, our former Chief Financial Officer, and prior to Mr. Bhamidipati’s start date, Ashish Agarwal (our Senior Vice President, Strategy and Corporate Development) served as our interim Chief Financial Officer from March 13, 2020 until September 2, 2020.

Each of Mr. Leav, Ms. Doherty McDonald, and Mr. Agarwal has also made a personal cash investment in Class A Units of Foundation Technology Worldwide LLC since his or her start date.

Industry Background and Competitive Environment

Industry Background

McAfee has been a pioneer and leader in protecting consumers, enterprises, and governments from cyberattacks for more than 30 years with integrated security, privacy and trust solutions. We built our platform through a deep, rich history of innovation and have established a leading global brand. Whether we are securing the digital experience of a consumer who is increasingly living life online, or defending many of the world’s largest enterprises and governments from sophisticated attacks and nation-state threats, McAfee is singularly committed to one mission: to protect all things digital that matter through leading-edge cybersecurity. We live in a digital world. Consumers are increasingly moving their daily lives online, interacting through multiple devices, networks and platforms, and leveraging technology in nearly every aspect of their lives. This shift is most noticeable in the way individuals are working, banking, socializing, consuming, and paying, leading to a proliferation of digital touchpoints and applications. Remote work and increasing work from home arrangements are driving a pronounced convergence of work and personal life. While people expect effective and frictionless security at work and in their personal lives, this lifestyle shift has been accompanied by a more challenging threat landscape and an increase in points of vulnerability, risking individuals’ privacy, identity, data and other vital resources. Similarly, enterprises embracing employee mobility, work from home strategies, bring your own device, and greater cloud adoption have seen the attack surface broaden and network perimeter dissolve. These drivers have led to a rapid increase in the number of workloads across endpoints and industries, making it challenging for enterprises to monitor and protect all of their workloads and applications and increasing the importance of the consumer in making security decisions for their converged digital lives.

Competitive Hiring Environment

Cybersecurity is a fast-paced and competitive industry experiencing a widely-reported shortage of skilled talent and leadership in the face of high and increasing demand. We compete for executive talent with many other cybersecurity companies, large and small. Some of our competitors are publicly-traded and are therefore able to offer equity compensation to their executives that is more liquid than the equity compensation we offer to our executives. Additionally, we compete for executive talent in geographic areas, such as Silicon Valley, and in related industries, such as software development and artificial intelligence, in which talented executives are in high demand, resulting in an increasingly competitive environment for attracting and retaining executive talent. Given the unique skillset required of our executive team as well as competition from industries beyond cybersecurity for our executives, we offer competitive compensation that accounts not only for these external factors but also for our status as a privately-held company.

Philosophy and Objectives of our Executive Compensation Program

Our global compensation philosophy is to compensate employees competitively, fairly and based on performance to incentivize actions that support achievement of our business objectives and equityholder value appreciation. To that end, we are constantly monitoring the integrity and functionality of our executive compensation program and refining it as we deem appropriate. Equitable pay practices are critical to our culture. During 2019, we continued our cybersecurity industry-leading efforts to review and bring about global pay parity, which we define as fair and equal pay for employees in the same job, level, and location, controlling for pay differentiators such as performance, tenure and experience. As part of our ongoing review of pay practices, we have engaged in extensive audits covering 45 countries and nearly 7,000 employees because we believe that every employee should be compensated fairly and equally for his or her individual contribution to the company.
Consistent with our global compensation philosophy, our goal has been to implement an executive compensation program that drives results and that is built upon our long-standing executive compensation philosophy and objectives, as outlined below:

- **Attract and retain talent**—structure executive compensation to be market competitive to attract and retain top talent and high potential employees;
- **Pay-for-performance**—empower, reward, and incentivize high performing employees for achieving, key financial, strategic, and operational goals both over the near and long-term; and
- **Align executive goals and compensation with equityholder interests**—link compensation to measurable results tied to equityholder valuation appreciation.

**Key Features of Our Executive Compensation Program**

Our executive compensation program includes the following practices, each of which our compensation committee believes reinforces our executive compensation philosophy and objectives:

*We have followed good governance practices in our executive compensation practices by:*

- Providing a significant percentage of target annual cash compensation delivered in the form of variable compensation tied to performance
- Using simple and common performance measures that we believe are core drivers of the Company’s operational performance and equityholder value appreciation
- Emphasizing future pay opportunity through equity awards, which represent a significant component of compensation
- Using multi-year vesting for equity compensation, which requires our executive officers to hold sufficient unvested equity value to provide a meaningful retention incentive
- Using comparable market data to assess the competitive market position of our executive compensation program
- Engaging independent outside consulting firms to validate market practices and trends for our industry
- Not providing tax gross-ups on change in control benefits
- Not providing excessive executive perquisites
- Not offering a defined benefit pension plan for our executives
- Not repricing profits interests or other “appreciation” awards

**Decision-making Responsibility**

Our compensation committee oversees our executive compensation program. All members of our compensation committee are employees of one of our equityholders (or their affiliates): TPG and Intel. As employees of our equityholders, we believe that each member brings a perspective aligned with our equityholders regarding executive compensation determinations.

Our compensation committee considers the views and recommendations of management, in particular those of our Chief Executive Officer and our Chief People Officer, in making decisions regarding executive compensation. Among other things, our Chief Executive Officer makes recommendations about executive performance, annual base salary levels, annual incentive targets, and payout levels and long-term incentive grants for our named executive officers (other than for himself).
During fiscal 2019, our compensation committee convened three meetings in which executive compensation matters were discussed and acted by written consent on three other occasions. Pursuant to the terms of our compensation committee charter as in effect prior to February 2019, our compensation committee did not have exclusive authority to approve decisions regarding key executive compensation matters. As a result, until that time, our compensation committee made recommendations regarding key executive compensation decisions to our board, which considered and approved those determinations during its regular quarterly meetings or through unanimous written consent. In February 2019, our board approved changes to our compensation committee charter that generally give our compensation committee greater authority to approve certain executive compensation decisions without requiring approval of the full board. After that time, our compensation committee generally acted on executive compensation matters independently.

Compensation Setting Process

Independent Compensation Consultants

In fiscal 2019, we continued to engage Compensia, a nationally known compensation consulting firm, to serve as an independent advisor to our compensation committee on executive compensation matters. In late 2018, Compensia assisted our compensation committee with an evaluation of the competitiveness of the Company’s existing executive compensation program and assisted in developing recommendations regarding executive compensation adjustments for fiscal 2019.

In fiscal 2018, we separately engaged Radford, a division of Aon plc, which is a nationally known professional services firm that specializes in collecting and analyzing compensation information, to provide input to our compensation committee on the design of the Company’s long-term incentive program.

Market Comparison

For fiscal 2019, our compensation committee considered market pay practices when setting compensation for executive officers. Our compensation committee uses market data to assess the overall competitiveness and reasonableness of the compensation elements and the Company’s overall executive compensation program. As a starting point, we assess the competitive market of our peer group on each of base salary and target annual cash incentives for our executive officers, which when combined would result in a target total direct compensation approximating the 50th percentile to 75th percentile of our peer group, though from time to time other factors described below may result in compensation elements falling outside these ranges. In assessing the competitive market, we use survey data from the peer group noted below as the primary market data source, with proxy peer group data providing a supplemental viewpoint.

Our compensation committee believes that compensation decisions are complex and require a deliberate review of Company performance, market compensation levels, and other factors it deems relevant in a given situation. Accordingly, while our compensation committee uses the above market percentiles as a guiding point, the factors that may influence the amount of compensation awarded include, but are not limited to:

- Market competition for a particular position;
- Internal pay equity considerations;
- Experience and past performance inside or outside the Company;
- Role and responsibilities within the Company;
- Long-term potential with the Company;
- Personal performance and contributions; and
- Business conditions.
Our compensation committee believes that the Company’s executive compensation peer group should reflect the markets in which the Company competes for business and executive talent. Accordingly, the Company’s peer group consists of peer companies that we believe are our most direct cybersecurity and business competitors, and software companies that are roughly comparable to the Company in terms of headcount, revenue, and enterprise value. We believe these comparisons provide us with a valuable window into the executive pay practices of companies similar to us, and we seek to use information about their compensation levels whenever available to us. As a result of these similarities, we view the companies in the custom peer group below as those that are most likely to compete with us for executive talent. We do not pre-screen members of our peer group for their compensation levels or practices. Our compensation committee, together with Compensia and our management team, expects to periodically re-evaluate and revise our selection criteria and list of peer companies, as it deems appropriate.

After soliciting input from Compensia, our compensation committee selected the following peer companies for purposes of our fiscal 2018 executive compensation program, which we continued to use as our peer group during fiscal 2019:

<table>
<thead>
<tr>
<th>CA Technologies(1)</th>
<th>Cadence Design Systems</th>
<th>Carbon Black</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citrix Systems</td>
<td>F5 Networks</td>
<td>FireEye</td>
</tr>
<tr>
<td>ForeScout Technologies</td>
<td>Fortinet</td>
<td>Juniper Networks</td>
</tr>
<tr>
<td>Open Text</td>
<td>Palo Alto Networks</td>
<td>Proofpoint</td>
</tr>
<tr>
<td>Red Hat</td>
<td>ServiceNow</td>
<td>Splunk</td>
</tr>
<tr>
<td>Symantec</td>
<td>Synopsys</td>
<td></td>
</tr>
</tbody>
</table>

(1) The compensation information used for benchmarking purposes regarding CA Technologies related to the period prior to its November 5, 2018 acquisition by Broadcom Inc.

Elements of Compensation

Consistent with our pay-for-performance philosophy and executive compensation program objectives described above, in determining the fiscal 2019 adjustments to executive compensation levels discussed below, our compensation committee considered each named executive officer’s role and responsibilities, personal performance and contributions, business performance and conditions, overall job market conditions, internal pay equity, and competitive market data.

The following is a discussion of the primary elements of the compensation for each of our named executive officers.

Annual Base Salary

Annual base salary is one element of the cash compensation that we provide to our named executive officers and is determined by the core contributions each executive is expected to make and the specific requirements for each named executive officer’s role. As noted above, we generally consider how a named executive officer’s base salary contributes to their total target direct compensation, and its resulting positioning as compared to our peer group. Under this construct, we place more emphasis on performance-linked elements of total direct compensation as we believe annual incentive pay provides a stronger connection between pay and performance.

In connection with our annual compensation review for fiscal 2019, we reviewed the annual base salaries of the named executive officers. As part of that review, our former Chief Executive Officer, in collaboration with our Chief People Officer, made recommendations to our compensation committee regarding annual base salary levels of our named executive officers (other than himself) and any adjustments. Recommendations were based...
on market considerations (including base salary levels relative to our peers described above) and a holistic assessment of the named executive officer’s performance over the prior year. Our compensation committee followed a similar process in determining our Chief Executive Officer’s annual base salary. As a result of this review, our compensation committee recommended, and our board approved, an increase in Mr. Young’s annual base salary in fiscal 2019 from $725,000 to $800,000 and in Mr. Berry’s annual base salary in fiscal 2019 from $475,000 to $500,000, in each case, effective January 1, 2019, to further align their compensation with the competitive market. As described below, Mr. Berry’s annual base salary was further increased to $600,000 effective August 16, 2019. In connection with our annual review, no changes were made to the annual base salaries of Messrs. Giamatteo, Kulkarni, or Hicks. Mr. Kulkarni and Mr. Hicks both joined us in the second half of fiscal 2018 and their annual base salaries were determined at that time in a similar manner and with special consideration given to the need to secure their hires in light of their preexisting compensation arrangements, alternative employment opportunities, the competitive market, and internal pay equity.

Our compensation committee and board may also adjust annual base salaries of our named executive officers at other times during the year in connection with promotions, increased responsibilities or to maintain market competitive compensation levels but did not do so in fiscal 2019 (except with respect to Mr. Berry, as described above). The table below sets forth the 2019 annualized base salary level for each of our named executive officers as of the end of fiscal 2019:

<table>
<thead>
<tr>
<th>Named Executive Officer</th>
<th>2019 Base Salary at Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>$800,000</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>$600,000</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>$650,000</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>$650,000</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

**Annual Incentives**

Our executive compensation program ties a substantial portion of the cash compensation that our executives are eligible to receive directly to the Company’s performance. We believe our annual incentive plan (“AIP”) is an integral component of our overall executive compensation program because, as a private company during fiscal 2019, our equity awards were illiquid. We also believe that a competitive incentive program is essential to attracting, retaining, and motivating talented leaders. Our AIP is linked to the achievement of certain individual and company goals that we believe are important for our short-term and long-term success and are key to driving increases in the value of the Company. Payouts under our AIP are based on the Company’s performance and our executives’ performance against Company and executive goals, respectively, with the AIP funding only if the Company’s performance exceeds threshold goals relating to annual gross revenues, annual business segment bookings, and annual adjusted EBITDA, as described below.

**Setting the Annual Incentive Target Opportunity**

Each of our named executive officers participates in our AIP and is eligible to receive a cash-based annual incentive at a target level that is based on a percentage of the officer’s annual base salary. These annual incentive targets are prorated for any changes in annual base salary during the fiscal year and for any partial years of service. After reviewing our named executive officers’ total on-target earning opportunities, Mr. Young’s annual incentive target for fiscal 2019 was increased from $880,000 to $1,200,000 and Mr. Berry’s annual incentive target was increased from $475,000 to $500,000. As described below, Mr. Berry’s annual incentive target was further increased to $650,000 effective August 16, 2019. No adjustment was made to the AIP target awards for Messrs. Giamatteo, Hicks, or Kulkarni. In determining the adjustments for Messrs. Young and Berry, our compensation committee considered the competitive market, internal pay equity, and the roles and responsibilities of the officers.
responsibilities for each position. For fiscal 2019, our named executive officers’ annual incentive target opportunities were as follows:

<table>
<thead>
<tr>
<th>Named Executive Officer</th>
<th>Target Annual Incentive (i)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>$556,727</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>$850,000</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>$750,000</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

(1) Amounts in this column reflect the annual incentive targets for fiscal 2019. Mr. Berry’s annual incentive target reflects a blended target based on the mid-year change in his annual incentive target described above.

**AIP Pool Funding and Attainment**

For fiscal 2019, our compensation committee and board established an AIP pool for all participants in our AIP, including our named executive officers, and the performance metrics and goals for our fiscal 2019 AIP. The initial target funding for this pool was equal to the aggregate amount that would be payable to all AIP participants if each participant received his or her full annual incentive target, subject to achievement of financial metrics, adjustment for new hires, changes in status, and changes in participant compensation as provided in the AIP. For fiscal 2019, the AIP pool was funded based on achievement of an annual adjusted EBITDA target (50% weighting), annual business segment bookings targets (30% weighting) and annual gross revenue target (20% weighting), calculated on a constant currency basis (i.e., calculated assuming no changes in the currency exchange rates from budgeted currency exchange rates). For annual business segment bookings, AIP participants are assigned to the Consumer business segment, the Enterprise business segment or McAfee overall (consisting of both the Consumer and Enterprise business segments), depending on the participant’s role within McAfee.

Under the AIP design, each of the minimum annual gross revenue, minimum annual business segment bookings and minimum annual adjusted EBITDA goals had to be achieved for any portion of the AIP pool to be funded. Our compensation committee selected annual gross revenue, annual business segment bookings and annual adjusted EBITDA as the AIP targets as each measure was viewed as supportive of the Company’s growth imperatives and long-term equityholder value appreciation and with a view toward balancing financial metrics to capture both top-line and bottom-line growth. Our compensation committee introduced the annual business segment bookings component to the AIP (and reduced the weighting of annual gross revenue from 50% for fiscal 2018 to 20% for fiscal 2019) in order to better align the AIP for senior executives associated with one of our business segments (i.e., Consumer or Enterprise) with other cash bonus programs that apply to employees in those units. Each of the fiscal 2019 AIP metrics is described below.

<table>
<thead>
<tr>
<th>Financial Metric</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Adjusted EBITDA</td>
<td>Annual Adjusted EBITDA is a non-GAAP financial measure, which is defined as net income (loss), excluding the impact of amortization of intangible assets, equity-based compensation expense, interest expense and other, net, provision for income tax expense, foreign exchange (gain) loss, net, and other costs that we do not believe are reflective of our ongoing operations, and excluding the impact of depreciation expense and other non-operating costs (as described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations”), and further adjusted to eliminate the impact of purchase accounting, capital expenditures; capitalized software expenses and other revenue that we do not believe is reflective of our ongoing operations.</td>
</tr>
<tr>
<td>Annual Business Segment Bookings</td>
<td>Annual business segment bookings are a non-GAAP financial measure, which are defined as contractual commitments for McAfee to provide subscription and/or professional services to a customer over a contractual term.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Financial Metric</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Gross Revenue</td>
<td>Annual gross revenue is a non-GAAP financial measure that represents our revenue recognized from contracts with customers before reductions to revenue for returns reserves and consideration to customers, including rebates, revenue share, product placement fees and marketing development funds.</td>
</tr>
</tbody>
</table>

The funding of the AIP pool increases or decreases for achievement above or below the target achievement level, subject to minimum achievement levels of 80% of the annual adjusted EBITDA target, 80% of annual business segment bookings and 90% of the annual gross revenue target. After all financial metrics are compared to relevant targets (and subject to these minimums), they are weighted as described above and the three weighted metrics are added together. The funding of the AIP pool is then determined by applying a slope of 5x to the resulting percentage (i.e., subject to thresholds described above, for each percentage above or below 100%, the AIP pool funding increases or decreases by 5%), subject to a maximum achievement level of 110% (which results in funding of the AIP pool at 150% of its target level).

Before determining the final AIP pool funding level, our compensation committee and board, with input from our Chief Executive Officer, may then adjust the aggregate pool funding level based upon a combination of Company performance as well as our board’s evaluation of a variety of subjective and objective Company performance metrics. For fiscal 2019, our compensation committee and our board did not adjust the achievement levels with respect to any goal or the aggregate pool funding. Our fiscal 2019 company performance goals, and our levels of achievement of those goals, were as follows:

<table>
<thead>
<tr>
<th>Performance Metric</th>
<th>Goal</th>
<th>Fiscal 2019 Actual</th>
<th>Percentage Achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Gross Revenue(1)</td>
<td>$2,784,546,510</td>
<td>$2,833,142,575</td>
<td>101.7%</td>
</tr>
<tr>
<td>Annual Adjusted EBITDA(1)</td>
<td>$643,903,288</td>
<td>$793,916,727</td>
<td>123.3%</td>
</tr>
<tr>
<td>Annual Business Segment Bookings (McAfee corporate)(1)(2)</td>
<td>$3,044,010,261</td>
<td>$2,982,607,293</td>
<td>98.0%</td>
</tr>
<tr>
<td>Annual Business Segment Bookings (Consumer business segment)(1)(3)</td>
<td>$1,484,024,341</td>
<td>$1,516,623,528</td>
<td>102.2%</td>
</tr>
<tr>
<td>Annual Business Segment Bookings (Enterprise business segment)(1)(4)</td>
<td>$1,559,985,920</td>
<td>$1,465,983,765</td>
<td>94.0%</td>
</tr>
</tbody>
</table>

(1) Calculated for AIP purposes only.
(2) Relevant for Messrs. Young and Berry.
(3) Relevant for Mr. Hicks.

After the AIP pool has been funded, individual incentives for each of our named executive officers were then determined by applying the relevant AIP pool funding percentage for the named executive officer to his individual incentive target, with 50% of the funded amount paid to the named executive officer based on achievement of the financial targets described above (including the applicable annual business segment bookings measure) and the remaining 50% of the funded amount paid to him based on a discretionary assessment of his individual performance relative to predetermined operational and strategic goals. Based on individual performance, a named executive officer was eligible to earn 50% to 150% of the total funded AIP amount.
For our named executive officers, individual goals related to our financial and operational performance, as well as adding new portfolio offerings, building out existing offerings, sales transformation, consumer initiatives, business optimization and driving a diverse and inclusive culture. These operational and strategic goals were designed to be challenging but achievable with strong management performance. The process of determining individual AIP payouts is illustrated by the following:

Following the end of the year, each of our named executive officers assessed his performance against his individual performance goals for the fiscal year. Following the end of fiscal 2019, Mr. Leav, our President and Chief Executive Officer reviewed these self-assessments and the achievement of each named executive officer (other than Mr. Young) and recommended an attainment level for the portion of each named executive officer’s annual incentive tied to individual performance. After reviewing Mr. Leav’s recommendations and these self-assessments, our compensation committee recommended individual performance factors with respect to the portion of the AIP based on individual performance ranging from 0% to 125% of the discretionary employee performance factor for each of our named executive officers. Based on our compensation committee’s recommendation, our board approved the following AIP payouts:

<table>
<thead>
<tr>
<th>Named Executive Officer</th>
<th>Actual Payout ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young(1)</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>$939,478</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>$637,504</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>$1,265,684</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>$1,012,500</td>
</tr>
</tbody>
</table>

(1) In connection with his termination of employment with McAfee, we agreed to pay Mr. Young’s 2019 AIP payout by applying 100% achievement to his individual performance goals.

**Long-Term Incentives**

Our board believes that members of senior management should hold a personally significant interest in the equity of the Company to align their interests and the interests of our equityholders. As described below, in furtherance of this philosophy, members of senior management were given the opportunity to invest in the Company and the Company established a profits interest program for senior management.
Profits interest programs are commonly issued by private equity-backed companies and allow participants to share in increases in the equity value of the Company. As described further below, since our separation from Intel, our profits interest program has formed the core of our long-term incentive program. However, we have supplemented profits interests awards with other award types and equity opportunities, including RSUs, and adjusted our overall long-term incentive program over time, in response to retention, internal equity and recruiting considerations. Consistent with practices among similarly situated private equity financed companies, executive officers are generally provided with one or more initial long-term incentive grants upon hire. This initial grant (or these grants) are generally expected to cover a multi-year period; however, executives may be provided an additional long-term incentive grant or grants upon promotion, to maintain market competitiveness, to reward outstanding performance, or to provide for internal parity among similarly-situated executives at the Company. As a result of these significant grants, long-term incentives are the most heavily weighted component of our executive compensation program for named executive officers. This reflects our focus on aligning executive interests with those of our equityholders, supporting a pay-for-performance philosophy, and encouraging executives to take actions that we believe will grow the value of the Company over time. We also believe that long-term equity awards serve an important retentive function and are essential to attract and retain talented leaders in the competitive market in which we operate.

As noted above, we grant larger, up-front equity awards to our executives with long-term vesting schedules. We also provide equity investment opportunities for our senior executives. Because of this, we believe awards we made in the 2017 Successor period and fiscal 2018, as well as our equity investment opportunities, provide important context for understanding our fiscal 2019 equity award practices related to named executives officers.

**Investment in the Company**

In connection with our separation from Intel in 2017, each of our named executive officers who was then employed was offered the opportunity to purchase Class A Units of Foundation Technology Worldwide LLC at fair market value (which, at the time, was equal to the price paid by our Sponsors). Following the separation from Intel, we have extended a similar investment opportunity to new senior executives. Accordingly, each of the named executive officers have been given this investment opportunity, with Messrs. Young, Berry, and Giamatto having made a direct investment in our equity. We believe that offering our named executive officers the opportunity to invest in our Company aligns their interests with the interests of our other equityholders, leads them to act as “employee owners” of our Company and allows them to benefit from increases in value that they helped to create. Because the Class A Units purchased by our named executive officers represent investment of personal funds by the executives, these units are not subject to a vesting requirement or reflected in the executive compensation tables below.

**2017 Successor period—Initial Equity Awards**

In connection with our separation from Intel, we adopted our 2017 Management Incentive Plan (“2017 Plan”). Our 2017 Plan permits us to grant several types of awards, but our grants to named executive officers have generally been in the form of MIUs of Foundation Technology Worldwide LLC, which are appreciation-based awards that are intended to be characterized as profits interests for federal income tax purposes, and RSUs that are generally payable in Class A Units of Foundation Technology Worldwide LLC. MIUs and Class A Units each represent an equity interest in Foundation Technology Worldwide LLC; however, the MIU grants have what is called a “return threshold” based on the value assigned to a Class A Unit at the time of the MIU grant. Much like a stock option shares in equity appreciation above an exercise price, the MIUs only share in equity appreciation above the return threshold. This places the MIU grants in a secondary position to the Class A Units in that for any event in which the equity is valued and paid out, holders of the MIU grants are paid only if an amount at least equal to the return threshold has first been allocated to the Class A Units. The Class A Units and the MIU grants share equally in valuation amounts, if any, above the return threshold.
In fiscal 2018, our compensation committee reviewed the structure and effectiveness of our equity compensation program, taking into account our compensation philosophy, the goals of our executive compensation program, our historic and anticipated burn rate, levels of executive equity ownership and how those levels relate to our peer group. As a private equity-backed company, our equity compensation program is not readily comparable to programs of our public peers because both the timing and form of our equity awards are different than those of our peers.

In assessing the competitiveness of our equity compensation program in fiscal 2018, our compensation committee, with input from Compensia, estimated the four-year value of long-term equity awards granted by our peer companies by position, assuming one larger “new hire” grant (which generally was valued at one and one-half times the value of the annual awards) and annual awards thereafter, and taking into account only the portion of the annual awards that are scheduled to vest during this four-year period. Our compensation committee then compared the value determined by using this methodology to the value of the equity awards held by our executives holding the same or similar positions over this same time period, based on the projected value of our equity awards at the end of the four-year period. Using this methodology, we generally aimed to provide our executives with target payouts from their equity awards that would deliver two and a half to three times the value of equity awards granted at the 60th percentile of our custom peer group over a four-year period (“peer group multiple”).

In the 2017 Successor period, other than the Intel replacement awards discussed above, our grants under our long-term incentive program to our most senior executives were in the form of MIUs. In fiscal 2018, we also reassessed the mix of award types used under our executive compensation program based on analysis provided to our compensation committee by Radford regarding the equity grant practices of our peers. As a result of that analysis, following the fiscal 2018 annual grants, we began providing a mix of MIUs and RSUs to our executive officers, targeting that 75% of target value would be provided by MIUs, with the remaining 25% of the target value provided in the form of RSUs.

In fiscal 2018, we granted equity awards to Messrs. Berry and Giamatteo in the form of additional MIUs to further align their incentive equity ownership with our peer group multiple and to encourage retention. In addition, in connection with his promotion in June 2018, we granted Mr. Giamatteo RSUs and additional MIUs to reflect the competitive market for compensation for his position as well as to recognize Mr. Giamatteo’s increased roles and responsibilities within the Company. In connection with their hires, Messrs. Hicks and Kulkarni were granted MIUs and RSUs. In determining the size and form of these awards, our compensation committee considered the peer data described above, each executive’s targeted position relative to the market and our other executives, as well as, for Messrs. Hicks and Kulkarni, their preexisting compensation arrangements and alternative employment opportunities. The equity awards granted to our named executive officers during fiscal 2018 are summarized below:

<table>
<thead>
<tr>
<th>Named Executive Officer</th>
<th>MIUs</th>
<th>RSUs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Berry (Annual Grant)</td>
<td>294,192</td>
<td>—</td>
</tr>
<tr>
<td>John Giamatteo (Annual Grant)</td>
<td>496,440</td>
<td>—</td>
</tr>
<tr>
<td>John Giamatteo (Promotion Grant)</td>
<td>459,288</td>
<td>276,560</td>
</tr>
<tr>
<td>Terry Hicks (New Hire Grant)</td>
<td>1,589,828</td>
<td>300,000</td>
</tr>
<tr>
<td>Ashutosh Kulkarni (New Hire Grant)</td>
<td>1,245,364</td>
<td>235,000</td>
</tr>
</tbody>
</table>

(1) Granted in fiscal 2018 in connection with the fiscal 2019 annual compensation review.
(2) Granted in fiscal 2018 in connection with the fiscal 2018 annual compensation review.

The awards granted to our named executive officers in fiscal 2018 generally vest 50% based on continued employment over four years and 50% based on achievement of specified investment returns, while the promotion RSU grant to Mr. Giamatteo vests based on his continued employment over three years.
Fiscal 2019 Equity Awards

In fiscal 2019, we granted RSUs to Messrs. Berry, Hicks, and Kulkarni in connection with our annual executive compensation review process. Consistent with our compensation philosophy and processes described above, the compensation committee made these awards based on its review of compensation practices among our peer companies and the executives’ performance in fiscal 2019. In addition, RSUs were granted to Messrs. Giamatteo, Hicks, and Kulkarni as part of an adjustment related to a distribution made to our equityholders. The grant of additional RSUs maintained the same value of the holder’s aggregate RSU holdings as of immediately prior to and immediately following the distribution.

The equity awards granted to our named executive officers during fiscal 2019 are summarized below:

<table>
<thead>
<tr>
<th>Named Executive Officer</th>
<th>RSUs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Berry (Success Grant)(1)</td>
<td>289,272</td>
</tr>
<tr>
<td>John Giamatteo (Distribution Adjustment Grant)(2)</td>
<td>43,368</td>
</tr>
<tr>
<td>Terry Hicks (Annual Grant)(3)</td>
<td>88,888</td>
</tr>
<tr>
<td>Terry Hicks (Distribution Adjustment Grant)(2)</td>
<td>58,808</td>
</tr>
<tr>
<td>Ashutosh Kulkarni (Annual Grant)(3)</td>
<td>177,776</td>
</tr>
<tr>
<td>Ashutosh Kulkarni (Distribution Adjustment Grant)(2)</td>
<td>46,064</td>
</tr>
</tbody>
</table>

(1) In August 2019, as a reflection of Mr. Berry’s leadership and contributions to our financial success, Mr. Berry received the RSUs described above. Mr. Berry forfeited 253,116 of these RSUs upon his resignation.
(2) Reflects “make whole” RSU grants in connection with a distribution made to our equityholders during fiscal 2019.
(3) Granted in fiscal 2019 in connection with the fiscal 2020 annual compensation review.

Other than the “make whole” grants referenced above (which vest on the same basis as the awards to which they relate), the awards granted to our named executive officers in fiscal 2019 generally vest based on continued employment over four years.

Sign-On and Retention Bonuses

Our compensation committee may elect to award special bonuses as it deems appropriate for recruitment, retention, or incentive purposes. Our compensation committee determines the level of the bonuses as well as the specific terms based on its review of the competitive market, including compensation offered by competing employers, as well as compensation to be forfeited by the executive upon joining the Company.

During fiscal 2018, Mr. Giamatteo became eligible to receive retention bonuses totaling $1,500,000, payable in three $500,000 increments on June 1st in each of 2019, 2020 and 2021 if he remained in continuous service with us through the applicable payment date. In fiscal 2019, Mr. Giamatteo was paid $500,000 under this arrangement. Pursuant to the terms of his employment offer letter, in fiscal 2019, Mr. Kulkarni received two installments of his retention bonus: $1,000,000 in February 2019 and $800,000 in August 2019.

Employee Benefits

Employee health and wellbeing are of great importance to us, therefore ensuring our benefits remain highly competitive is a key focus for McAfee. We continuously review our benefit offerings with the goal of providing competitive benefits that have our employees and their unique family needs in mind. In addition to standard medical and retirement offerings, we offer on a global basis benefits like tuition reimbursement programs, domestic partner coverage and other family-friendly initiatives. We strive to maintain market competitive employee benefits to attract and retain top talent. Our named executive officers are eligible to participate in our broad-based employee benefit plans on the same terms as our other salaried U.S.-based employees, including our 401(k) retirement plan and our health and welfare benefit plans.
We also provide a nonqualified deferred compensation plan, the McAfee Nonqualified Deferred Compensation Plan (the “NQDC Plan”). The NQDC Plan provides a vehicle for additional deferred compensation with discretionary matching contributions from the Company. We believe that this type of plan is consistent with competitive pay practices and is an important element in attracting and retaining talent in a competitive market. Please see “—Nonqualified Deferred Compensation for Fiscal 2019” and accompanying narrative disclosure for further information regarding the NQDC Plan.

Perquisites and Executive Benefits

We offer limited perquisites and executive benefits to our named executive officers, including financial planning services and enhanced business travel benefits. While we generally weight executive compensation heavily toward total direct compensation (and particularly performance-based compensation), we believe the modest costs associated with these perquisites and benefits enhance executive retention.

Employment Arrangements

The Company generally executes an offer of employment before an executive joins the Company and, if applicable, will generally provide an updated offer of employment at the time of promotion. This offer describes the basic terms of the executive’s employment, including his or her start date, starting salary and bonus target. As discussed below, in some cases, the offer letters will include certain severance protections. The terms of the offer and promotion letters are based on competitive market data, including compensation that would be paid by a competing employer or forfeited upon separation from the executive’s prior employer. During fiscal 2019, in recognition of his leadership and contributions to our financial success, we entered a letter agreement with Mr. Berry pursuant to which his annual base salary was increased from $500,000 to $600,000 and his AIP target was increased to $650,000, in each case, effective August 16, 2019. This letter also entitled Mr. Berry to the RSU grant described above.

Employment agreements, offer letters and other letter agreements with our named executive officers that were entered into prior to fiscal 2019 remained in effect during fiscal 2019, and are described further below.

Severance and Change in Control Arrangements

As described in further detail under “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” below, we entered into employment or letter agreements with certain of our named executive officers that provide for severance benefits in the event their employment is terminated in certain circumstances and provide change in control benefits related to their equity awards. We believe that reasonable severance and change in control benefits are appropriate in certain circumstances to attract and retain top talent.

2020 Employment Arrangements with Mr. Leav and Mr. Bhamidipati

Employment Agreement with Mr. Leav

In connection with his commencement of employment as our President and Chief Executive Officer, Mr. Leav entered into an employment agreement that became effective on February 3, 2020. His employment agreement provides him with an annual base salary of $900,000, a target bonus equal to 150% of his annual base salary and an entitlement to participate in our employee benefit plans and programs made available to executive level employees. Pursuant to his employment agreement, he was also granted 1,874,456 RSUs and 1,249,636 MIUs with a return threshold of $8.64 per unit, and he purchased 57,856 Class A Units.

If we terminate Mr. Leav’s employment without cause (as defined in the employment agreement) or if Mr. Leav resigns for good reason (as defined in the employment agreement), in either case, other than within two years following a change in control, Mr. Leav would be entitled to: (i) a sum equal to one and one-half times his
then current annual base salary plus target bonus, payable over an 18-month period; (ii) any earned but unpaid annual bonus related to the completed fiscal year preceding the fiscal year in which termination of employment occurs, payable in accordance with regular payroll practices; (iii) an annual bonus for the year in which the termination date occurs, with payment based on actual performance during the year of termination, pro-rated to reflect the number of days during the bonus year in which Mr. Leav was employed by us, payable in accordance with regular payroll practices; and (iv) provided that Mr. Leav timely elects under the Consolidated Omnibus Budget Reconciliation Act (“COBRA”), a COBRA subsidy that, on an after-tax basis, is equal to the employer-paid portion of the premium equivalent for active employees who elect the same type of coverage during the 18-month period that follows his termination of employment (or, if earlier, the time at which he becomes eligible for group health coverage from another employer), payable on a monthly basis during such period. In the event such a termination of employment occurs during the two-year period following a change in control, Mr. Leav would be entitled to the same payments (subject to the same requirements), except that the severance multiplier would be two (rather than one and one-half) and would be paid over a 24-month period (instead of an 18-month period), and the COBRA subsidy would paid for up to 24 months (instead of 18 months). In addition, in each case, Mr. Leav would also be entitled to: (i) any earned but unpaid base salary accrued through the date of termination; (ii) unreimbursed business expenses; and (iii) employee benefits, if any, to which Mr. Leav or his dependents may be entitled under the employee benefit plans or programs of the Company (“Mr. Leav’s Accrued Rights”).

Upon a termination of employment due to Mr. Leav’s death or disability, he would be entitled to: (i) Mr. Leav’s Accrued Rights; (ii) any earned but unpaid annual bonus related to the completed fiscal year preceding the fiscal year in which termination of employment occurs, payable in accordance with regular payroll practices; and (iii) an annual bonus for the year in which the termination date occurs, with payment based on actual performance during the year of termination, pro-rated to reflect the number of days during the bonus year in which Mr. Leav was employed by us, payable in accordance with regular payroll practices.

Upon a resignation without good reason or a termination for cause, Mr. Leav would be entitled only to Mr. Leav’s Accrued Rights.

Mr. Leav’s receipt of the severance payments described above (other than Mr. Leav’s Accrued Rights) are subject to his signing (and not revoking) a release of all claims against us and that he continue to comply with the limited liability company agreement of Foundation Technology Worldwide LLC, the 2017 Plan, the award agreements governing the awards granted under the 2017 Plan, his subscription agreement, and his employment agreement, the latter of which includes a covenant not to compete with us or to solicit our customers or employees during and, subject to certain limitations, for 18 months following his employment with us, as well as a perpetual confidentiality covenant.

In addition, any compensation paid to Mr. Leav is subject to recoupment to the extent required by law, the limited liability company agreement of Foundation Technology Worldwide LLC, the 2017 Plan, the award agreements governing the awards granted under the 2017 Plan, his subscription agreement, any clawback policy we adopt, or the requirements of the exchange on which the shares of an affiliate of ours are listed.

Employment Agreement with Mr. Bhamidipati

In connection with his commencement of employment, Mr. Bhamidipati entered into an employment agreement, effective September 2, 2020, that provides him with an annual base salary of $650,000, a target annual bonus equal to 100% of his annual base salary and an entitlement to participate in our employee benefit plans and programs made available to executive level employees. Pursuant to his employment agreement, he was also granted 800,000 RSUs and 800,000 MIUs with a return threshold of $8.64 per unit.

If we terminate Mr. Bhamidipati’s employment without cause (as defined in his employment agreement) or if Mr. Bhamidipati resigns for good reason (as defined in his employment agreement), Mr. Bhamidipati would be
entitled to: (i) a sum equal to his then current annual base salary plus target annual bonus, payable over a 12-month period and (ii) provided that Mr. Bhamidipati timely elects COBRA, monthly COBRA enrollment premiums that are equal to the employer-paid portion for active employees who elect the same type of coverage during the 12-month period that follows his termination of employment (or, if earlier, the time at which he becomes eligible for group health coverage from another employer), payable directly to our COBRA provider. In addition, if we terminate Mr. Bhamidipati’s employment without cause, Mr. Bhamidipati would be entitled to any earned but unpaid annual bonus related to (i) the fiscal year on which the termination date occurs if Mr. Bhamidipati was employed through the end of the third quarter of such fiscal year, or (ii) the completed fiscal year preceding the fiscal year in which termination of employment occurs, in each case based on actual performance for the applicable fiscal year and payable in accordance with regular payroll practices. In each case, Mr. Bhamidipati would also be entitled to: (i) any earned but unpaid base salary accrued through the date of termination; (ii) unreimbursed business expenses; (iii) any earned and unused vacation; and (iv) employee benefits, if any, to which Mr. Bhamidipati, Mr. Bhamidipati’s estate, or his dependents may be entitled under the employee benefit plans or programs of the Company (“Mr. Bhamidipati’s Accrued Rights”).

Upon a termination of employment due to Mr. Bhamidipati’s death or disability, a resignation without good reason, or a termination for cause, Mr. Bhamidipati would be entitled only to Mr. Bhamidipati’s Accrued Rights.

Mr. Bhamidipati’s receipt of the severance payments described above (other than Mr. Bhamidipati’s Accrued Rights) are subject to his signing (and not revoking) a release of all claims against us and that he continue to comply with the limited liability company agreement of Foundation Technology Worldwide LLC, the 2017 Plan, the award agreements governing the awards granted under the 2017 Plan, and the employment agreement, the latter of which includes a covenant not to compete with us or to solicit our customers or employees during and, subject to certain limitations, for 12 months following his employment with us, as well as a perpetual confidentiality covenant.

In addition, any compensation paid to Mr. Bhamidipati is subject to recoupment to the extent required by law, the limited liability company agreement of Foundation Technology Worldwide LLC, the 2017 Plan, the award agreements governing the awards granted under the 2017 Plan, his subscription agreement, any clawback policy we adopt, or the requirements of the exchange on which the shares of an affiliate of ours are listed.

Compensation Changes Related to our IPO

In connection with this offering, we expect to make a number of changes to our compensation policies and plans.

Changes to Certain Equity Incentive Awards

In connection with this offering and the Reorganization Transactions, each of our named executive officers is expected to enter into an equity adjustment agreement that provides for certain adjustments to their equity and equity-based awards issued by Foundation Technology Worldwide LLC, the parent company of our operating subsidiaries prior to the Reorganization Transactions. Under each of these equity adjustment agreements, (i) Class A Units issued to the named executive officer before the completion of this offering (whether purchased directly or issued in connection with the vesting of awards) may, at the election of the applicable named executive officer, be exchanged for Class A common stock, (ii) vested MIUs, including MIUs that become vested following the Reorganization Transactions, may, at the election of the participant but not earlier than January 1, 2021 be exchanged for Class A common stock, (iii) MIUs that are not vested as of immediately before the completion of this offering will generally be settled in shares of Class A common stock, and (v) outstanding MEPUs and RSUs that are not vested as of immediately before the completion of this offering will generally be settled in shares of Class A common stock, and (v) outstanding MEPUs and RSUs that are not vested as of immediately before the completion of this offering will generally be settled in shares of Class A common stock, and (v) outstanding MEPUs and RSUs that are not vested as of immediately before the completion of this offering will generally be settled in shares of Class A common stock.
offering will be converted into restricted stock units in respect of Class A common stock ("Converted RSUs"), and such Converted RSUs will continue to vest on and be subject to the same terms and conditions that applied to the RSU being converted prior to the Reorganization Transactions, except that upon vesting the Converted RSU will generally be settled in Class A common stock.

The portion of any award subject to vesting based on TPG and certain co-investors receiving specified returns will be adjusted so that the vesting is based solely on the returns received by TPG.

Additionally, after the expiration of the lock-up period described above, our named executive officers who are currently employed will be subject to additional transfer restrictions on all MIUs, as well as all Class A Units and Class A common stock that they acquired prior to this offering (or under awards originally granted prior to this offering). Specifically, after the lock-up described above expires, the named executive officers will each be limited to selling the sum of the following on a quarterly basis: (i) 5.0% of vested Class A common stock received in respect of vested equity awards (or upon exchange of vested MIUs or Class A Units as described above), (ii) 5.0% of the shares of Class A common stock the applicable executive is eligible to receive in respect of his or her exchanged of vested Class A Units, and (iii) the shares of Class A common stock the applicable named executive officer is eligible to receive in respect of the exchange of 5.0% of the number of vested MIUs subject to each of the applicable MIU grants to each such executive. Furthermore, on each date on which TPG sells any portion of its shares of Class A common stock, to the extent it would result in the ability sell more shares of Class A common stock than the remaining amounts available for sale as described in the immediately preceding sentence, the applicable named executive officer will be permitted to sell a pro rata portion of such Class A common stock or Class A common stock he or she could receive upon exchange of his or her Class A Units or MIUs, in each case, based on the percentage of Class A common stock and Class A Units sold by TPG.

As described above, the Company effected a 4-for-1 split of outstanding LLC Units on October 12, 2020, which unit split also applied to any outstanding equity-based awards and is reflected in all share, unit, per share, and per unit amounts presented in this prospectus.

New 2020 Omnibus Incentive Plan

As described in more detail below, in connection with this offering, we expect to adopt the 2020 Omnibus Incentive Plan (our “2020 Plan”). We anticipate that following this offering, future equity-based incentive awards will be granted under our 2020 Plan and we will no longer make new grants under our 2017 Plan.

IPO Option Grants

In connection with this offering and the Reorganization Transactions, 209 holders of MEPUs that have a deemed return threshold that has not been fully satisfied as of immediately prior to this offering are expected to be granted options to purchase Class A common stock ("IPO Restructuring Options") under our 2020 Plan. The purpose of the IPO Restructuring Options is to allow the recipients to retain awards after the Reorganization Transactions take place that, in the aggregate, provide for the right to participate in future growth of our equity value on a basis that is comparable to the awards they held as of immediately prior to the initiation of the Reorganization Transactions. None of our non-employee directors or named executive officers will be granted IPO Restructuring Options. The IPO Restructuring Options are expected to have an exercise price equal to the price of a share of Class A common stock on the date of grant and are expected to vest on the same schedule as the MEPUs to which the IPO Restructuring Options relate. The total number of IPO Restructuring Options granted in connection with this offering is expected to be 1,878,100.

New 2020 Cash Incentive Plan

In connection with this offering, we expect to adopt the 2020 Cash Incentive Plan. We anticipate that following this offering future cash-based incentive awards granted to our executive officers and key employees will be granted under our 2020 Cash Incentive Plan.
New Executive Severance Arrangement

In connection with the Reorganization Transactions we expect to enter into severance agreements (the “New Severance Agreements”) with our current executive officers (other than Mr. Leav) that we believe are more in line with market and industry practice. Under the expected terms of the New Severance Agreements eligible senior management team members (each a “Covered Executive”) will be eligible to receive severance in the event their employment is terminated by the Company without cause (as defined in the New Severance Agreement) or terminates his or her employment with the Company for good reason (as defined in the New Severance Agreement), in either case, at a time other than during the period beginning 3 months prior to, and ending 18 months following, the consummation of a change in control, in an amount equal to the sum of (i) an amount equal to 1.0x the Covered Executive’s base salary and target annual bonus as in effect on the date of the Covered Executive’s termination (or, if higher, the base salary and target annual bonus in effect immediately before any reduction in such amounts which resulted in good reason), payable in substantially equal installments over a period of 12 months after the Covered Executive’s termination of employment in accordance with the Company’s regular payroll practices, and (ii) if the Covered Executive elects continuation coverage under our health plan, a monthly amount equal to the employer portion of the monthly premiums paid under our group health plan (as of the date of the Covered Executive’s termination of employment) for up to 12 months.

Under the New Severance Agreements, in the event a Covered Executive’s employment is terminated without cause (as defined in the New Severance Agreement) or terminates his or her employment with the Company for good reason (as defined in the New Severance Agreement), in either case, during the period beginning 3 months prior to, and ending 18 months following the consummation of a change in control (“Qualifying Change in Control Termination”), the Covered Executive will be eligible to receive severance in an amount equal to the sum of (i) 1.5x the Covered Executive’s base salary and target annual bonus (in each case at the highest level in effect during the 12-month period leading up to the date of the Covered Executive’s termination of employment), payable in a lump sum, (ii) the pro rata portion of the Covered Executive’s annual bonus, based on actual performance for the year in which termination occurs, payable at the time at the time annual bonuses are payable to senior executives of the Company and its affiliates generally, and (iii) if the Covered Executive elects continuation coverage under our health plan, a monthly amount equal to the employer portion of the monthly premiums paid under our group health plan (as of the date of the Covered Executive’s termination of employment) for up to 18 months. Furthermore, in the event of a Qualifying Change in Control Termination, all unvested time-based equity shall accelerate and vest in full as of the date of the Covered Executive’s termination of employment and all performance-based equity granted following our offering shall vest as of the separation date based on target performance or, if higher and if determinable, based on our actual performance through the date of termination of employment, as applicable, in accordance with the documents governing such performance-based equity award.

The payments provided under the New Severance Agreement are in lieu of and will supersede any severance or similar payments or benefits that the Covered Executive may otherwise be entitled to upon termination of the Covered Executive’s employment, but if payments or benefits become payable under the New Severance Agreement and if the severance payments and benefits provided under the Covered Executive’s employment agreement, offer letter, or prior severance agreement (the “Prior Agreement”) remained payable, to the extent such payments and benefits would be greater than the payments and benefits payable under the New Severance Agreement (the “Excess Payments”), the Excess Payments will, subject to terms and conditions of the New Severance Agreement, be payable under the New Severance Agreement but in accordance with the payment schedule that would have applied to them under the Prior Agreement.

All severance payable under the New Severance Agreement is contingent upon the executive officer’s compliance with the restrictive covenants related to non-competition, non-solicitation and no-hire and material compliance with other restrictive covenants that apply to him or her, and his or her execution and non-revocation of a general release of claims.
In addition, each Covered Executive’s New Severance Agreement provides that in the event the Covered Executive’s then unvested time-based equity awards are not continued, assumed or substituted for in connection with a change in control with awards or rights having the same intrinsic value (determined as of the change in control), such time-based equity awards shall vest in full effective as of the change in control.

**New Corporate Governance Policies**

**Equity Ownership Requirements**

Each of our executive officers has a significant interest in our equity, whether held directly or as the result of outstanding equity-based awards. Our compensation committee believes that equity ownership by management and non-employee directors aligns executive officer and shareholder interests and accordingly, we expect to adopt equity ownership requirements for our executive officers and the non-employee directors (other than those associated with TPG, Thoma Bravo and Intel) in connection with this offering. Our minimum equity ownership requirements for our executive officers and non-employee directors require holdings of vested equity and equity-based awards with the following values:

<table>
<thead>
<tr>
<th>Position</th>
<th>Applicable Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive Officer</td>
<td>2.5x of target annual cash compensation</td>
</tr>
<tr>
<td>Executive Vice Presidents</td>
<td>1.5x of target annual cash compensation</td>
</tr>
<tr>
<td>Employees at the level of Senior Vice President or above who have been designated by our board</td>
<td>1.0x of target annual cash compensation</td>
</tr>
<tr>
<td>Non-employee director</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

The value of a share of our capital stock (other than Class B common stock) will be determined based on the average calendar month-end closing price over the 12 calendar months of the calendar year immediately preceding the relevant measurement date. The value of a Foundation Technology Worldwide LLC unit will be based on its implied value determined by applying the foregoing methodology to value a share of Class A common stock (and, where applicable, taking into account any unsatisfied return threshold). A stock option will be valued at the value of the underlying shares of Class A common stock under the foregoing methodology less the applicable exercise price. Any shares that would be withheld or sold to pay any applicable withholding tax upon exercise of an option or delivery of shares shall nonetheless be considered owned for purposes determining an executive officer’s ownership level.

Any executive officer or non-employee director who does not meet or exceed the foregoing requirements will be subject to a 50% retention requirement that restricts the sale by such executive officer or non-employee directors’ equity. The retention requirements do not apply to equity that was vested prior to our initial public offering, or shares withheld or sold to satisfy tax or exercise price payment obligations. Each executive officer is required to achieve the applicable level of ownership by the 5th anniversary of the date on which he or she was first employed. An executive officer who due to a promotion becomes subject to a higher level of ownership is required to achieve such higher level of ownership within 18 months of the date of such promotion (and during such one-year period shall continue to be subject to the ownership requirements previously applicable). Each covered non-employee director is required to achieve the applicable level of ownership by the 4th anniversary of the date on which he or she was first appointed.

Once the requisite level has been achieved, ownership of the required amount must be maintained for as long as the individual remains subject to the minimum equity ownership requirements, except that an executive officer or non-employee director will not be considered out of compliance if the value of his or her equity declines between one measurement date and the next so long as he or she brings himself or herself into compliance by the subsequent measuring date.
## Summary Compensation Table for Fiscal 2019

The following table provides information regarding the compensation earned by our named executive officers for fiscal 2019 and 2018.

<table>
<thead>
<tr>
<th>Name and principal position</th>
<th>Year</th>
<th>Salary ($)(1)</th>
<th>Bonus ($)(2)</th>
<th>Stock Awards ($)(3)</th>
<th>Non-equity Incentive Plan Compensation ($)(4)</th>
<th>Nonqualified Deferred Compensation Earnings($)(5)</th>
<th>All Other Compensation ($)(6)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young, Chief Executive Officer</td>
<td>2019</td>
<td>800,000</td>
<td>—</td>
<td>—</td>
<td>1,800,000</td>
<td>—</td>
<td>56,000</td>
<td>2,656,000</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>725,000</td>
<td>—</td>
<td>—</td>
<td>1,047,206</td>
<td>—</td>
<td>25,815</td>
<td>1,798,021</td>
</tr>
<tr>
<td>Michael Berry, Executive Vice President and Chief Financial Officer</td>
<td>2019</td>
<td>537,500</td>
<td>—</td>
<td>2,500,033</td>
<td>939,478</td>
<td>—</td>
<td>5,500</td>
<td>3,982,511</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>475,000</td>
<td>—</td>
<td>542,851</td>
<td>607,644</td>
<td>—</td>
<td>8,505</td>
<td>1,634,000</td>
</tr>
<tr>
<td>John Giamatteo, President and Chief Revenue Officer, Enterprise Business Group</td>
<td>2019</td>
<td>650,000</td>
<td>500,000</td>
<td>291,494</td>
<td>637,504</td>
<td>—</td>
<td>29,642</td>
<td>2,108,640</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>575,625</td>
<td>500,000</td>
<td>4,806,293</td>
<td>858,424</td>
<td>—</td>
<td>10,010</td>
<td>6,750,352</td>
</tr>
<tr>
<td>Terry Hicks, Executive Vice President, Consumer Business Group</td>
<td>2019</td>
<td>650,000</td>
<td>—</td>
<td>768,215</td>
<td>1,265,684</td>
<td>—</td>
<td>3,885</td>
<td>2,687,784</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>103,409</td>
<td>160,000</td>
<td>4,560,708</td>
<td>139,377</td>
<td>—</td>
<td>2,167</td>
<td>4,965,661</td>
</tr>
<tr>
<td>Ashutosh Kulkarni, Executive Vice President and Chief Product Officer, Enterprise Business Group</td>
<td>2019</td>
<td>600,000</td>
<td>1,800,000</td>
<td>1,536,429</td>
<td>1,012,500</td>
<td>—</td>
<td>50,596</td>
<td>4,999,525</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>122,917</td>
<td>1,000,000</td>
<td>3,572,551</td>
<td>148,669</td>
<td>—</td>
<td>2,986</td>
<td>4,847,123</td>
</tr>
</tbody>
</table>

(1) Amounts reported in this column reflect the base salaries earned during fiscal 2019 and 2018, as applicable. The base salary for Mr. Berry was prorated in fiscal 2019 to reflect the mid-year changes in his base salary rate and our payroll periods. The base salaries for Messrs. Kulkarni and Hicks were prorated in fiscal 2018 to reflect their mid-year employment commencement dates with the Company.

(2) The amounts reported in this column for Mr. Giamatteo in fiscal 2018 and 2019 represent two installments of a one-time recognition bonus paid in connection with his promotion in June 2018. The amounts reported in this column for Messrs. Kulkarni and Hicks in fiscal 2018 represent sign-on bonuses paid in the applicable year in connection with the commencement of their employment with the Company. The amount reported in this column for Mr. Kulkarni in fiscal 2019 represents two installments of a one-time retention bonus. Please see “Compensation Discussion and Analysis” above for further information regarding the bonuses that were paid in fiscal 2019.

(3) Amounts reported in this column reflect the aggregate grant date fair value of RSUs and MIUs awarded in fiscal 2018 and 2019, as applicable, computed in accordance with FASB ASC Topic 718, Compensation—Stock Compensation and, in the case of the performance-based awards, calculated based on the probable level of achievement of the underlying performance conditions. Because the performance conditions applicable to the performance-based awards included market-based vesting conditions outside of the control of the Company, the grant date fair value of the awards based on the probable level of achievement of the performance conditions was zero under applicable accounting rules. Assuming satisfaction of the underlying performance conditions, the grant date fair value of the fiscal 2018 performance-based awards would be as follows for each of the recipient named executive officers: Mr. Berry, $247,489; Mr. Giamatteo, $804,006; Mr. Hicks, $2,964,571; and Mr. Kulkarni, $2,322,247. Excluded from this table are the cash payments of $1,709,001 and $657,506 received by Messrs. Young and Giamatteo, respectively, in connection with the Company’s June 2019 distribution, which were treated as adjustments to previously granted awards and did not result in any incremental charge under FASB ASC Topic 718 for 2019 or any prior fiscal year. Mr. Giamatteo also received 43,368 RSUs in connection with our June 2019 distribution as an adjustment to his June 2018 RSU grant. The issuance of those RSUs resulted in a recognition of the grant date fair value shown above. See Note 12 to our consolidated financial statements for a discussion of the relevant assumptions used in calculating these amounts.
Amounts reported in this column represent cash awards paid to the named executive officers under the AIP. In the case of Messrs. Kulkarni and Hicks, their respective fiscal 2018 AIP pay outs were prorated to reflect their mid-year employment commencement dates. In connection with his termination of employment with McAfee, we agreed to pay Mr. Young’s 2019 AIP payout by applying 100% achievement to his individual performance goals. Please see “Compensation Discussion and Analysis” for further information regarding the AIP.

While Mr. Young participated in our nonqualified deferred compensation plan (as described below), his fiscal 2019 earnings on his balance were not “above-market” as determined under applicable SEC rules and no amount is required to be disclosed here.

The amount reported in this column for 2019 consists of (i) 401(k) matching contributions for each of the named executive officers, (ii) financial planning services provided to Messrs. Young and Kulkarni during fiscal 2019, (iii) a nominal points-based recognition program award provided to Mr. Young and (iv) tax reimbursements for Messrs. Young, Giamatteo, Hicks, and Kulkarni of $10,059, $9,500, $155, and $12,451, respectively, associated with executive and spousal attendance at a Company sales event and the points-based recognition program in the case of Mr. Young.

### Grants of Plan-Based Awards Table for Fiscal 2019

The following table provides information regarding the possible payouts to our named executive officers in fiscal 2019 under the AIP and the annual equity awards granted in fiscal 2019 to our named executive officers under the 2017 Plan.

<table>
<thead>
<tr>
<th>Name</th>
<th>Grant Date</th>
<th>Estimated Possible Payouts Under Non-equity Incentive Plan Awards(1)</th>
<th>Estimated Potential Payouts Under Equity Incentive Plan Awards</th>
<th>All Other Stock Awards: Number of Shares of Stock or Units</th>
<th>Grant Date Fair Value of Stock Awards ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>9/19/2019</td>
<td>600,000 1,200,000 2,700,000</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>6/22/2019</td>
<td>278,363 556,727 1,252,636</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>6/22/2019</td>
<td>425,000 850,000 1,912,500</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>6/22/2019</td>
<td>375,000 750,000 1,687,500</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>6/22/2019</td>
<td>300,000 600,000 1,350,000</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(1) These amounts represent threshold, target and maximum cash award levels set in fiscal 2019 under the AIP. For Mr. Berry, the AIP threshold, target and maximum cash award levels for 2019 were based on his blended target annual bonus for the year. The amount actually paid to each named executive officer under the AIP is reported as Non-Equity Incentive Plan Compensation in the “Summary Compensation Table for Fiscal 2019.”

(2) These amounts represent the grant date fair value of RSUs awarded in fiscal 2019, computed in accordance with FASB ASC Topic 718, Compensation—Stock Compensation and, in the case of the performance-based awards, calculated based on the probable level of achievement of the underlying performance conditions. Because the performance conditions applicable to the performance-based awards included market-based vesting conditions outside of the control of the Company, the grant date fair value of the awards based on the probable level of achievement of the performance conditions was zero under applicable accounting rules. See Note 12 to our consolidated financial statements for a discussion of the relevant assumptions used in calculating these amounts.

(3) These amounts represent time-based RSUs, which were scheduled to vest 6.25% per quarter beginning on the last day of the quarter in which the vesting commencement date fell provided that the named executive officer remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting.

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vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).

(4) This amount represents additional time-based RSUs granted to Mr. Giamatteo in connection with our June 2019 distribution, which were scheduled to vest on a quarterly basis through June 30, 2021 (11.11% per quarter, beginning June 30, 2019) provided that he remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements). Mr. Giamatteo’s 43,968 RSUs were received in connection with our June 2019 distribution as an adjustment to his June 2018 RSU grant but due to a provision of his June 2018 promotion letter allowing him certain equity sale opportunities, the issuance of those RSUs resulted in a recognition of the grant date fair value shown above.

(5) These amounts represent additional performance-based RSUs granted in connection with our June 2019 distribution, which were eligible to vest 100% upon TPG receiving a specified investment return, provided that the named executive officer remained continuously employed by the Company through the vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements). These additional performance-based RSUs were treated as an adjustment to an award of RSUs granted to the applicable named executive officer in 2017 and, as a result, have a grant date fair value, computed in accordance with FASB ASC Topic 718, of zero.

(6) These amounts represent additional time-based RSUs granted in connection with our June 2019 distribution, which vest on a quarterly basis through September 30, 2022 (7.14% per quarter beginning on the last day of the quarter in which the grant date fell) provided that the named executive officer has remained continuously employed by the Company through each vesting date, unless they meet certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements). These additional RSUs were treated as an adjustment to an award of RSUs granted to the applicable named executive officer in 2017 and, as a result, have a grant date fair value, computed in accordance with FASB ASC Topic 718, of zero.

### Outstanding Equity Awards at Fiscal Year-End for Fiscal 2019

The following table summarizes unvested stock awards held by each named executive officer on December 28, 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Grant Date</th>
<th>Number of Units That Have Not Vested (#)</th>
<th>Market Value of Units That Have Not Vested ($)</th>
<th>Equity Incentive Plan Awards: Number of Unearned Units that Have Not Vested (#)</th>
<th>Equity Incentive Plan Awards: Market or Payout Value of Unearned Units that Have Not Vested ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>6/1/2017</td>
<td>1,137,500</td>
<td>9,830,844</td>
<td></td>
<td>1,820,000</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>6/1/2017</td>
<td>188,252</td>
<td>1,626,968</td>
<td>502,000</td>
<td>4,338,353</td>
</tr>
<tr>
<td></td>
<td>11/14/2018</td>
<td>110,324</td>
<td>60,678</td>
<td>147,096</td>
<td>80,903</td>
</tr>
<tr>
<td></td>
<td>9/19/2019</td>
<td>271,196(8)</td>
<td>2,343,811</td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>6/1/2017</td>
<td>186,252</td>
<td>1,609,683</td>
<td>298,000</td>
<td>2,575,465</td>
</tr>
<tr>
<td></td>
<td>3/27/2018</td>
<td>139,624</td>
<td>76,793</td>
<td>248,220</td>
<td>136,521</td>
</tr>
<tr>
<td></td>
<td>7/31/2018</td>
<td>157,884(3)</td>
<td>86,836</td>
<td>229,644</td>
<td>126,304</td>
</tr>
<tr>
<td></td>
<td>7/31/2018</td>
<td>161,328(6)</td>
<td>1,394,277</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6/22/2019</td>
<td>33,732(3)</td>
<td>291,529</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>11/14/2018</td>
<td>596,184</td>
<td>327,901</td>
<td>794,916</td>
<td>437,204</td>
</tr>
<tr>
<td></td>
<td>11/14/2018</td>
<td>112,500</td>
<td>972,281</td>
<td>150,000</td>
<td>1,296,375</td>
</tr>
<tr>
<td></td>
<td>6/22/2019</td>
<td>23,524(9)</td>
<td>203,306</td>
<td>31,364</td>
<td>271,063</td>
</tr>
<tr>
<td></td>
<td>11/22/2019</td>
<td>88,888(8)</td>
<td>768,215</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>11/14/2018</td>
<td>467,012</td>
<td>256,857</td>
<td>622,684</td>
<td>342,476</td>
</tr>
<tr>
<td></td>
<td>11/14/2018</td>
<td>88,128(8)</td>
<td>761,646</td>
<td>117,500</td>
<td>1,015,494</td>
</tr>
<tr>
<td>Name</td>
<td>Grant Date(1)</td>
<td>Number of Units That Have Not Vested (9)</td>
<td>Market Value of Units That Have Not Vested ($) (2)</td>
<td>Equity Incentive Plan Awards: Number of Unearned Units that Have Not Vested (7)</td>
<td>Equity Incentive Plan Awards: Market or Payout Value of Unearned Units that Have Not Vested ($) (2)</td>
</tr>
<tr>
<td>------</td>
<td>--------------</td>
<td>--------------------------------------</td>
<td>-----------------------------------------------</td>
<td>-----------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>6/22/2019</td>
<td>18,428(9)</td>
<td>159,264</td>
<td>24,568(7)</td>
<td>212,329</td>
</tr>
<tr>
<td></td>
<td>11/22/2019</td>
<td>177,776(8)</td>
<td>1,536,429</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(1) Reflects RSUs and MIUs granted under our 2017 Plan.
(2) Because the Company was not publicly traded during fiscal 2019, there is no ascertainable public market value for these units. The market value reported in this table is based upon our board’s determination of the fair market value of the Company’s equity, $8.64 per Class A Unit, which was determined taking into account an independent valuation analysis performed in June 2019, the closest valuation date to fiscal year-end. Where applicable, the fair market value of an MIU reflects the value of a Class A Unit less any unsatisfied return threshold.
(3) Represents time-based MIUs, which were scheduled to vest 6.25% per calendar quarter beginning on the last day of the quarter in which the vesting commencement date fell (or, in the case of Mr. Young, the last date of the quarter in which the first anniversary of the vesting commencement date fell) provided that the named executive officer has remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(4) Represents performance-based MIUs, which were scheduled to vest based upon TPG’s investment vehicle receiving specified investment returns, provided that the named executive officer remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(5) Represents time-based RSUs, which were scheduled to vest on a quarterly basis through June 30, 2021 (11.10% per quarter beginning on June 30, 2019) provided that Mr. Giamatteo remained continuously employed by the Company through each vesting date, unless he met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(6) Represents time-based RSUs, which were eligible to vest 8.33% per quarter over the three-year period following the grant date provided that Mr. Giamatteo remained continuously employed by the Company through each vesting date, unless he met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(7) Represents performance-based RSUs, which were eligible to vest 100% upon TPG’s investment vehicle receiving a specified investment return, provided that the named executive officer remained continuously employed by the Company through the vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(8) Represents time-based RSUs, which vest 6.25% per quarter beginning on the last day of the quarter in which the vesting commencement date fell, provided that the named executive officer has remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
(9) Represents time-based RSUs, which vest on a quarterly basis through September 30, 2022 (7.14% per quarter beginning on at the end of the quarter in which the grant date fell) provided that the named executive officer has remained continuously employed by the Company through each vesting date, unless they met certain requirements for accelerated vesting (see “—Potential Payments Upon Termination or Change in Control for Fiscal 2019” narrative for a description of these requirements).
Units Vested in Fiscal 2019

The following table summarizes the number and market value of equity awards held by each named executive officer that vested during fiscal 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Units Acquired on Vesting(1) (#)</th>
<th>Value Realized on Vesting(2) ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>840,372</td>
<td>8,260,537</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>180,348</td>
<td>1,298,146</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>514,168</td>
<td>4,072,225</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>240,148</td>
<td>488,492</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>188,108</td>
<td>382,597</td>
</tr>
</tbody>
</table>

(1) Amounts reported in this column represent the number of the named executive officer’s Class A Units and MIUs that vested during fiscal 2019. These Class A Units and MIUs remain subject to transfer restrictions pursuant to the terms of the underlying agreements.

(2) Because the Company was not publicly traded during fiscal 2019, there is no ascertainable public market value for these units. The market value reported in this table, is based upon our board’s determination of the fair market value of the Company’s equity, taking into account the most recent independent valuation analysis performed prior to each respective vesting date. Where applicable, the fair market value of an MIU reflects the value of a Class A Unit less any unsatisfied return threshold.

Pension Benefits for Fiscal 2019

None of our named executive officers participated in or was entitled to receive benefits under a defined benefit pension plan in fiscal 2019.

Nonqualified Deferred Compensation for Fiscal 2019

The following table provides information regarding compensation that has been deferred by our named executive officers pursuant to the terms of the NQDC Plan.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>—</td>
<td>—</td>
<td>9,218</td>
<td>—</td>
<td>532,821</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

We maintain the NQDC Plan, for certain of our employees, including each of our named executive officers. Under the NQDC Plan, participants may defer up to 50% of their compensation, as defined in the Company’s 401(k) plan, and incentive bonuses other than retention, relocation and sign-on bonuses. The NQDC also provides the Company with discretion to make matching and discretionary contributions into the NQDC Plan. Participants may specify the timing of the payment of their accounts by choosing either a specified payment date or electing payment upon separation from service, and in either case, may elect to receive their accounts in a lump sum or in annual installments over a period of up to ten years, with accelerated payouts in the event of death or disability of the participant. Participants are generally permitted to choose from among the mutual funds available for investment under the 401(k) plan for purposes of determining the imputed earnings, gains, and losses applicable to their NQDC Plan accounts.

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Potential Payments Upon Termination or Change in Control for Fiscal 2019

During fiscal 2019, certain of our named executive officers were entitled to receive certain benefits upon a qualifying termination of employment and upon certain change in control transactions, as described below.

Agreements with Executives

Employment Agreement with Mr. Young

Under the terms of Mr. Young’s employment agreement, as in effect prior to his termination of employment, if we terminated Mr. Young’s employment without cause (as defined in the employment agreement) or if Mr. Young resigned for good reason (as defined in the employment agreement), Mr. Young would have been entitled to: (i) severance in an amount equal to the sum of one year of his base salary and annual incentive target (payable in substantially equal installments over the 12-month period following the termination of his employment); (ii) his annual incentive based on actual performance for the year in which the termination occurs, pro-rated based on the number of days he was employed by us during such year; and (iii) if Mr. Young elected coverage under COBRA, a monthly taxable subsidy to participate in the Company’s medical, dental and vision plans equal to the employer-paid portion for active employees who elect the same type of coverage for the earlier of 12 months or the time at which he becomes eligible for health coverage from another employer. Mr. Young would have also been entitled to any earned but unpaid base salary through the date of termination, unreimbursed business expenses, earned but unpaid annual incentive relating to the year preceding the year in which the termination occurred, any earned and unused vacation (to the extent required by applicable law), and employee benefits, if any, to which Mr. Young, Mr. Young’s estate or his dependents may be entitled under the employee benefit plans or programs of the Company (the “Accrued Rights”).

Upon a resignation without good reason, or a termination of employment due to Mr. Young’s death or disability, he would have been entitled only to the Accrued Rights. Upon a termination for cause, Mr. Young would have been entitled only to the Accrued Rights, except for any unpaid annual incentive for the prior year.

It was a condition to Mr. Young’s receipt of the severance payments described above (other than the Accrued Rights) that he timely execute and deliver (without revoking) a release of all claims against us and that he continue to comply with the limited liability company agreement of Foundation Technology Worldwide LLC, the 2017 Plan, the award agreements governing the awards granted under the 2017 Plan, and the employment agreement, the latter of which included a covenant not to compete with us or to solicit our clients or employees during and, subject to certain limitations, for 12 months following his employment with us, as well as a perpetual confidentiality covenant.

In connection with his termination of employment in February 2020, we entered into a separation agreement with Mr. Young, which will be filed as an exhibit to the registration statement of which this prospectus forms a part.

Offer Letter with Mr. Berry

Under the terms of his offer letter, as in effect prior to his termination of employment, if we terminated Mr. Berry’s employment without cause (as defined in the offer letter) or if Mr. Berry resigned for good reason (as defined in the offer letter), Mr. Berry would be entitled to (i) an amount equal to the sum of one year of his base salary and annual incentive target, (ii) a payment equal to the employer contribution rate in effect for Mr. Berry and his eligible dependents to continue healthcare coverage under COBRA for one year, and (iii) if we terminated Mr. Berry’s employment without cause prior to the payment of any annual incentive relating to any prior fiscal year or during the fourth quarter of any fiscal year, an annual incentive based on actual performance and prorated based on the number of days employed that fiscal year, with such severance payable as salary continuation following the termination of his employment.

It was a condition to Mr. Berry’s receipt of the severance payment described above that he timely execute a release of claims against us and that he comply with certain restrictive covenants set forth in his restrictive
covenant agreement attached as an addendum to the offer letter, including a covenant not to compete with us or to solicit our clients or employees during and, subject to certain limitations, for 12 months following his employment with us and covenants relating to confidentiality and non-disparagement.

**Promotion Letter Agreement with Mr. Giamatteo**

Under the terms of his promotion letter agreement, as in effect prior to his termination of employment, if we terminated Mr. Giamatteo’s employment without cause (as defined in the offer letter), Mr. Giamatteo would have been entitled to severance in the form of: (i) one year of base salary; (ii) his annual incentive target; (iii) a payment equal to the employer contribution rate in effect for similarly-situated active employees for Mr. Giamatteo and his eligible dependents to continue healthcare coverage under COBRA for one year following his termination; (iv) any remaining unpaid portion of his retention bonuses described in his offer letter; and (v) a cash amount equal to the fair market value of any unvested RSUs subject to the award in the offer letter. Such amounts would have been paid as salary continuation over the one-year period following termination in accordance with our regular payroll schedule. It was a condition to Mr. Giamatteo’s receipt of the severance payment described above that he timely execute (without revoking) a release of claims against us. If Mr. Giamatteo’s employment were terminated without cause (as defined in the award agreement underlying his MIU grant) within two years following a change in control, all MIUs granted pursuant to his June 2018 letter agreement that were subject to time-based vesting would have automatically vested in full as of immediately prior to such termination of employment. In connection with his termination of employment in January 2020, we entered into a separation agreement with Mr. Giamatteo, which will be filed as an exhibit to the registration statement of which this prospectus forms a part.

**Offer Letters with Messrs. Kulkarni and Hicks**

Under the terms of the offer letters with Messrs. Kulkarni and Hicks, if we terminate the employment with the applicable executive without cause or he resigns for good reason, in either case, within two years following a change in control, all of his time-vesting awards would vest in full.

**Acceleration of Equity-Based Awards in Connection with a Change in Control**

During fiscal 2019, all our named executive officers held unvested MIUs and unvested RSUs that were subject to certain time-based and/or performance-based vesting conditions. Messrs. Kulkarni and Hicks continue to hold unvested MIUs and RSUs. Generally, the award agreements evidencing time-based MIU and RSU awards provide that if the executive’s employment with us is terminated without cause or for good reason (each, as defined in the underlying award agreement) within the two-year period following a change in control (as such term is defined in our 2017 Plan), all outstanding MIUs and RSUs subject to time-based vesting will automatically become vested in full as of immediately prior to such termination of employment. Certain outstanding MIUs and RSUs subject to time-based vesting held by Messrs. Young and Berry were would have automatically vested in full as of immediately prior to the consummation of a change in control. As described above, Mr. Giamatteo’s June 2018 letter agreement also provided for accelerated vesting of MIUs subject to time-based vesting that were granted pursuant to that letter agreement in connection with a termination of his employment without cause within two years following a change in control. Unvested MIUs and RSUs subject to performance-based vesting were only eligible to vest to the extent the applicable performance vesting criteria set forth in the underlying award agreement evidencing such MIU or RSU was satisfied upon such change in control.
The amounts that would have been payable by us to each of the named executive officers under their agreements with us that were then in effect, assuming that each individual’s employment had terminated on December 28, 2019, the last business day of fiscal 2019 fiscal, are set forth below:

## Potential Payments Upon a Qualifying Termination of Employment(1)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young</td>
<td>2,000,000</td>
<td>1,800,000</td>
<td>—</td>
<td>—</td>
<td>11,851</td>
<td>3,811,851</td>
</tr>
<tr>
<td>Michael Berry</td>
<td>1,250,000</td>
<td>939,478</td>
<td>—</td>
<td>—</td>
<td>6,740</td>
<td>2,196,218</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>1,500,000</td>
<td>—</td>
<td>1,000,000</td>
<td>1,685,783</td>
<td>12,739</td>
<td>4,198,522</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(1) A qualifying termination means, for Messrs. Young, Berry, and Giamatteo, termination of the named executive officer’s employment by the Company without cause, or, for Messrs. Young and Berry only, by the named executive officer for good reason.
(2) Amounts reported in this column represent the sum of the named executive officer’s base salary and the named executive officer’s annual incentive target, in each case, as in effect on the last business day of fiscal 2019.
(3) Under the terms of their offer letters, Messrs. Young and Berry were entitled to a prorated incentive payout for the year of termination based on actual performance. The amounts reported in this column represent the fiscal 2019 annual incentive award, which is also reported in the “Summary Compensation Table for Fiscal 2018” as 2019 compensation. Mr. Young was also entitled to this amount upon a termination of his employment without good reason or due to his death or disability.
(4) Pursuant to Mr. Giamatteo’s promotion letter, he was entitled to the unpaid portion of his retention bonus in the event his employment was terminated without cause by the Company.
(5) Amounts reported in this column represent the value of the accelerated vesting of certain of the named executive officer’s time-based RSUs that were outstanding and unvested as of the last day of fiscal 2019. Because the Company was not publicly traded during fiscal 2019, there is no ascertainable public market value for these units. The market value reported in this table is based upon our board’s determination of the fair market value of the Company’s equity, taking into account a valuation analysis performed in June 2019, the closest valuation date to fiscal year-end.
(6) Amounts reported in this column represent the estimated value of continued welfare benefits that the indicated named executive officers would have been entitled to receive upon a qualifying termination of employment.
### Potential Payments Upon a Change in Control or a Qualifying Termination of Employment in Connection with a Change in Control(1)

The amounts that would have been payable by us to each of the named executive officers, assuming that each individual’s employment had terminated and/or a change in control of the Company had occurred on the last business day of our 2019 fiscal year, are as set forth below. Except where noted below that the payment would have been made regardless of a termination of employment, these amounts are payable in connection with a qualifying termination of employment and would be in addition to the amounts in the table directly above.

<table>
<thead>
<tr>
<th>Name</th>
<th>Value of Accelerated Equity Awards ($)</th>
<th>Aggregate Payments ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Young(3)</td>
<td>9,830,844</td>
<td>9,830,844</td>
</tr>
<tr>
<td>Michael Berry(3)</td>
<td>4,031,457</td>
<td>4,031,457</td>
</tr>
<tr>
<td>John Giamatteo</td>
<td>3,459,118</td>
<td>3,459,118</td>
</tr>
<tr>
<td>Terry Hicks</td>
<td>2,271,703</td>
<td>2,271,703</td>
</tr>
<tr>
<td>Ashutosh Kulkarni</td>
<td>2,714,196</td>
<td>2,714,196</td>
</tr>
</tbody>
</table>

(1) A qualifying termination means a termination of the named executive officer’s employment by the Company without cause or by the named executive officer for good reason, in either case, within the two-year period following a change in control. Messrs. Young, Berry, and Giamatteo were also entitled to additional payments if they were terminated without cause or, in the case of Messrs. Young and Berry, resign for good reason, whether or not such termination is following a change in control. These payments are reflected in the previous table.

(2) Amounts reported in this column represent the value of the accelerated vesting of the named executive officer’s time-based RSUs and/or MIUs that were outstanding and unvested as of our last business day of fiscal 2019. Because the Company was not publicly traded during fiscal 2019, there is no ascertainable public market value for these units. The market value reported in this table, $8.64 per Class A Unit, is based upon our board’s determination of the fair market value of the Company’s equity, taking into account the most recent independent valuation analysis performed prior to each respective vesting date. Because the Company was not publicly traded during fiscal 2019, there is no ascertainable public market value for these units. Where applicable, the fair market value of an MIU reflects the value of a Class A Unit less any unsatisfied return threshold.

(3) Upon a change in control that occurs prior to the termination of the applicable named executive officer’s employment, outstanding MIUs from Mr. Berry’s June 2017 grant and all MIUs held by Mr. Young that were subject to time-based vesting would have automatically vested in full as of immediately prior to the consummation of the change in control. If a change in control occurred as of our last business day of fiscal 2019 prior to a termination of employment, the value of the accelerated vesting of such MIUs and RSUs would equal $9,830,844 for Mr. Young and $1,626,968 for Mr. Berry, determined based on the assumptions described in footnote 2 above.

### 2017 Plan

Our 2017 Plan was originally adopted by our board of managers in April 2017 and is expected to be amended and restated in connection with this offering, effective upon the completion of this offering (the “Effective Time”). As described below, we expect to adopt the 2020 Plan in connection with this offering. Upon the completion of this offering, while existing awards (as adjusting in connection with our offering) will remain under our 2017 Plan, we will no longer make new awards under our 2017 Plan.

Our 2017 Plan provides for the grant of MIUs, MEPUs, restricted Class A Units, RSUs, and other cash- and equity-based awards to our key employees, partners, officers, directors, consultants and advisors. Prior to the consummation of this offering, our 2017 Plan is administered by the board of managers of Foundation
Technology Worldwide LLC (or its delegate), which has discretionary authority to, among other things, prescribe such forms, rules, and procedures relating to the 2017 Plan and awards granted thereunder, as it deems advisable. The terms of awards granted under the 2017 Plan regarding vesting, the effect of a termination of employment, MIU return thresholds (if applicable), and settlement of awards (if applicable) are set forth in the underlying award agreements. Following the consummation of this offering, we expect that our compensation committee will serve as the administrator of our 2017 Plan.

Under our 2017 Plan, a maximum of 28,404,000 MIUs and MEPUs, collectively, and 26,205,668 RSUs and restricted Class A Units, collectively, are available for grant, pending its expected closure to new awards in connection with this offering. MIUs are profits interests that must have a per unit return threshold that is equal to the fair market value of a Class A unit on the date of grant. MEPUs represent an unfunded and unsecured promise, denominated in MIUs, to deliver an amount in cash based on the value of notional MIUs if they were granted on the same date as the MEPUs, subject to certain conditions, including specified performance or other vesting conditions. Prior to the adjustments expected to be undertaken in connection with this offering, RSUs represent an unfunded and unsecured promise, denominated in Class A Units, to deliver Class A Units or cash in lieu of Class A Units in the future, subject to certain conditions, including specified performance or other vesting conditions. As of the Effective Time, awards consisting or in respect of (a) 14,782,684 MIUs, and (b) 1,505,400 Class A Units are expected to be outstanding under our 2017 Plan, and (c) 47,475,582 shares of our Class A common stock (including shares of our Class A common stock, available to be issued in respect of time and performance based restricted stock units) (“PubCo RSUs”) and up to 16,288,084 shares of Class A common stock that may be issued in exchange for the MIUs and Class A Units described in clauses (a) and (b) have been issued or are available for issuance under the 2017 Plan.

In the event of any stock or unit split, stock or unit dividend, combination of units, recapitalization or other similar change in the Company’s or Foundation Technology Worldwide LLC’s capital structure that constitutes an equity restructuring within the meaning of FASB ASC Topic 718 (or any successor provision), the number and kind of securities and MEPUs subject to awards then outstanding, or subsequently granted under our 2017 Plan, any MIU return threshold applicable to a MIU grant, or any other provisions of outstanding awards determined by the administrator to be affected by such change will be appropriately adjusted in a manner determined by our 2017 Plan’s administrator.

In the event of a covered transaction (which generally includes any transaction in which (i) one or more classes of securities issued by the Company or Foundation Technology Worldwide LLC are converted into, or exchanged for, securities in another form issued by it, any of its direct or indirect subsidiaries, a newly formed parent or affiliated persons, (ii) the Company or Foundation Technology Worldwide LLC merges or otherwise combines with one or more affiliates with the Company or Foundation Technology Worldwide LLC surviving any such merger or combination, or (iii) any other transaction our 2017 Plan’s administrator determines to be a covered transaction), outstanding awards shall be subject to the agreement or arrangement governing the terms of the covered transaction, which may include (but is not limited to) assumption or substitution of awards for similar awards by an acquiring or surviving entity, cash-out of awards or the termination of unvested awards, provided, however, if unvested awards are to be terminated without payment in connection with a covered transaction that does not constitute a change in control under the terms of our 2017 Plan (which includes any transaction or series of transactions in which (i) Manta Holdings, L.P. and its affiliates and Intel Americas, Inc. and any of their subsidiaries and affiliates sell (A) more than 60% of their aggregate interests to an unrelated third party who is a financial buyer (and do not directly or indirectly hold 40% or more of the acquiring person after the transaction) or (B) more than 50% of their aggregate interests to an unrelated third party who is a strategic buyer, or (ii) there is a sale or exclusive license of substantially all of our assets to an unrelated third party), 100% of all such awards generally will immediately vest as of the date preceding such covered transaction that constitutes a change in control unless such unvested awards are assumed or substituted in such transaction.

The administrator of our 2017 Plan may amend our 2017 Plan or any outstanding award for any purpose which may at the time be permitted by applicable law, and may at any time terminate our 2017 Plan as to any future grants of awards, generally subject to a participant’s consent if such action materially and adversely affects the participant.
New Compensation Plans

2020 Plan

In connection with this offering, we intend to adopt our 2020 Plan, the expected terms of which are as follows:

**Administration.** The 2020 Plan will be administered by our compensation committee, which will have the discretionary authority to interpret the plan; determine eligibility for and grant awards; determine the exercise price, base value from which appreciation is measured or purchase price applicable to an award; determine, modify, accelerate or waive the terms and condition of any award; determine the form of settlement of awards; prescribe forms, rules and procedures relating to the plan and awards; and otherwise do all things necessary or desirable to carry out the purposes of the plan.

Except in connection with a corporate transaction involving the Company, the Company may not, without obtaining stockholder approval, (i) amend the terms of outstanding options or stock appreciation rights (“SARs”) to reduce the exercise price or base value of such options or SARs, (ii) cancel outstanding options or SARs in exchange for options or SARs that have an exercise price or base value that is less than the exercise price or base value of the original options or SARs, or (iii) cancel outstanding options or SARs that have an exercise price or base value greater than the fair market value of a share of Class A common stock on the date of such cancellation in exchange for cash or other consideration.

Our compensation committee may delegate certain of its powers under the 2020 Plan, to the extent permitted by law, to one or more of its members or members of the board of directors, officers, employees or other persons. As used in this summary, the term “Administrator” refers to our compensation committee or its authorized delegates, as applicable.

**Eligibility to Receive Awards.** Current and prospective employees, consultants and advisors of ours and our affiliates and non-employee directors are eligible to receive awards under our 2020 Plan. Eligibility for stock options intended to be incentive stock options within the meaning of Section 422 of the Code (“ISOs”) will be limited to employees of the Company or a parent corporation or a subsidiary corporation of the Company.

**Authorized Shares.** Subject to adjustment as described below, the maximum number of shares of Class A common stock that may be issued in satisfaction of awards under our 2020 Plan will be 46,949,043 shares, which we refer to as the “Share Pool.” The Share Pool shall increase annually on the first day of each fiscal year during the term of the 2020 Plan, beginning with the second fiscal year that begins during the term of the 2020 Plan and ending with the tenth fiscal year that begins during the term of the 2020 Plan, in each case, with such increase equal to the lesser of (i) 5% of the sum of (A) the number of shares of Class A common stock and (B) the number of units of FTW (that are not held by us), in each case, that are outstanding as of the last day of the preceding fiscal year and (ii) the amount determined by the our Board. All of the shares in the original Share Pool, without regard to the increases provided for in the prior sentence may be issued in satisfaction of ISOs.

The following rules will apply in respect of the Share Pool:

- When an award is issued, the Share Pool will be reduced by the maximum number of shares of common stock that can delivered under an award (even if the award is denominated in a lesser number of shares).
- Any shares of common stock withheld in payment of the exercise price or purchase price of an award, or in satisfaction of tax withholding requirements with respect to an award, will increase the Share Pool.
All shares of common stock covered by a SAR any portion of which is settled in common stock will reduce the Share Pool.

Any shares of common stock underlying any portion of an award (or award issued under the 2017 Plan) that is settled in cash or that expires, becomes unexercisable, terminates or is forfeited to or repurchased by the Company without the issuance of common stock (or retention, in the case of restricted or unrestricted common stock), will increase the Share Pool.

The Share Pool will not be increased by any shares that are delivered under the 2020 Plan that are subsequently repurchased by the Company using proceeds directly attributable to stock option exercises.

Shares issued under awards of an acquired company that are converted, replaced or adjusted in connection with the acquisition will not reduce the Share Pool.

Annual Non-Employee Director Limits. The aggregate value of all equity awards or compensation granted or paid to any non-employee director with respect to any fiscal year, including awards granted under the 2020 Plan and cash fees or other compensation paid by the Company, in each case, for service as a director, may not exceed $600,000 calculating the value of any equity awards based on the grant date fair value in accordance with applicable accounting rules, assuming maximum payout levels to the extent applicable and determined without regard to any deferrals in accordance with any deferred compensation arrangement of the Company or any of its affiliates. This limit will not apply to an award or shares of Class A common stock granted pursuant to a non-employee director’s election to receive an award or shares of Class A common stock in lieu of cash retainers or other fees, to the extent such award or shares of Class A common stock have a grant date fair value equal to the value of such cash retainers or other fees.

Types of Awards. Our 2020 Plan provides for the grant of incentive stock options, nonqualified stock options, SARs, restricted stock awards, PubCo RSUs or other stock-based awards, cash-based awards and performance awards which we refer to collectively as “awards.” Dividends or dividend equivalents may also be granted or paid in connection with awards other than stock options and SARs under our 2020 Plan, provided that any dividends or dividend equivalents will be subject to the same risk of forfeiture, if any, as applies to the underlying award except as otherwise provided by the Administrator.

- **Stock Options and SARs.** The Administrator may grant stock options intended to qualify as ISOs, stock options not intended to qualify as ISOs (which are referred to as nonstatutory stock options or “NSOs”) and SARs.

- **Stock Awards and Restricted Stock Awards.** The Administrator may grant stock awards, which may, but need not be, subject to forfeiture if specified vesting conditions are not satisfied.

- **Stock Unit and PubCo RSUs.** The Administrator may grant stock unit awards, which may, but need not be, subject to forfeiture if specified vesting conditions are not satisfied.

- **Cash Awards.** The Administrator may grant awards denominated in cash.

- **Other Stock-Based Awards.** The Administrator may grant other awards that are convertible into or otherwise based on Class A common stock on such terms and conditions as it determines.

- **Performance Awards.** The Administrator may grant awards subject to performance vesting conditions and such other terms and conditions as may be determined by the Administrator.

Vesting and Other Terms and Conditions of Awards. The Administrator will determine the terms and conditions of all awards granted under the 2020 Plan, including the time or times an award will vest, become exercisable and remain exercisable, and may at any time accelerate the vesting or exercisability of an award or limit the vesting or exercisability of an award.

The exercise price (or the base value from which appreciation is to be measured) per share of each award requiring exercise must be no less than 100% (in the case of an ISO granted to an employee who owns more than
10% of the voting power of all classes of our or any parent or subsidiary of ours, 110% of the fair market value of a share of Class A common stock, determined as of the date of grant of the award, or such higher amount as the Administrator may determine in connection with the grant.

The maximum term of options and SARs must not exceed ten years from the date of grant (or five years from the date of grant in the case of an ISO granted to an employee who owns more than 10% of the voting power of all classes of our or any parent or subsidiary of ours), except that if a participant is still holding an outstanding but unexercised NSO or SAR ten years from the date of grant (or, in the case of an NSO or SAR with a maximum term of less than ten years, such maximum term), is prohibited by applicable law or a written policy of the Company applicable to similarly situated employees from engaging in any open-market sales of Class A common stock, and if at such time the Class A common stock (or other securities received in respect of an award or any portion thereof) is publicly traded (as determined by the Administrator), the maximum term of such award will instead be deemed to expire on the 30th day following the date the participant is no longer prohibited from engaging in such open market sales.

Termination of Employment or Other Status. The Administrator will determine the effect of a termination of employment or other service relationship of a participant on an award. After the termination of a participant’s employment or other service relationship, the vested portion of the his or her option generally will immediately terminate upon a termination for cause (or a termination that occurs in circumstances that the Administrator determines would have constituted grounds for termination for cause), will remain exercisable for one year following a termination due to death or disability, or will remain exercisable for three months following a termination for any other reason.

Transferability of Awards. Except as the Administrator may otherwise provide, awards may not be transferred, other than by will or the laws of descent and distribution, and, during the life of the participant, may be exercised only by the participant.

Effect of certain changes in capitalization. In the event of a stock dividend, stock split or combination of shares (including a reverse stock split), merger, spin-off transaction, extraordinary dividend or distribution, recapitalization or other change in the Company’s capital structure constituting an equity restructuring under applicable accounting rules, appropriate adjustments (as determined by the Administrator in its sole discretion) will be made to the Share Pool under the 2020 Plan, the number and kind of shares of stock or securities underlying equity awards then outstanding or subsequently granted, any exercise or purchase prices (or base values) relating to awards and any other provision of awards affected by such change. For the avoidance of doubt, the Administrator may determine in its sole discretion in any such case that no adjustment is appropriate to avoid distortion in the operation of the 2020 Plan or any award, taking into account the qualification of options as ISOs, the requirements of Section 409A, to the extent applicable, and the applicable accounting rules.

The Administrator may also make similar adjustments to take into account other distributions to stockholders or any other event, if the Administrator determines that adjustments are appropriate to avoid distortion in the operation of the 2020 Plan or any award, taking into account the qualification of options as ISOs, the requirements of Section 409A, to the extent applicable, and the applicable accounting rules.

Effect of certain corporate transactions. Subject to the terms of the applicable award agreements, the Administrator may determine the effect of a change in control (as defined in our 2020 Plan) on then-outstanding awards in its discretion, including, without limitation, whether some or all outstanding options and stock appreciation rights will become exercisable in full or in part, whether the restriction period and performance period applicable to some or all outstanding restricted stock awards and restricted stock unit awards will lapse in full or in part, and whether the performance measures applicable to some or all outstanding awards will be deemed to be satisfied. The Administrator may further require that shares of stock of the corporation resulting from such a change in control, or a parent corporation thereof, or other award types be assumed, continued or substituted for some or all of our shares subject to an outstanding award and that any outstanding awards in
whole or in part, vested or unvested, be surrendered to us by the holder, to be immediately cancelled by us, in exchange for a cash payment, shares of
capital stock of the corporation resulting from or succeeding us or other property or rights or a combination of the foregoing. Except as the
Administrator may otherwise determine, each award will automatically terminate (and in the case of outstanding shares of restricted stock, will
automatically be forfeited) immediately upon the consummation of the change in control, other than (i) any award that is assumed, continued or
substituted, and (ii) any cash award that by its terms, or as a result of action taken by the Administrator, continues following the change in control. The
Administrator does not need to take the same action with respect to all awards, all awards held by a participant or all awards of the same type.

Recovery of Compensation. Subject to the terms of any applicable award agreement, the Administrator may cause any outstanding award (whether
or not vested or exercisable), the proceeds from the exercise or disposition of any award or Class A common stock acquired under any award, and any
other amounts received in respect of any award or Class A common stock acquired under any award to be forfeited and disgorged to the Company (or its
designated affiliate), with interest and other related earnings, if the participant to whom the award was granted is not in compliance with any provision
of the 2020 Plan or any applicable award agreement or any noncompetition, non-solicitation, no-hire, non-disparagement, confidentiality, invention
assignment, or other restrictive covenant by which he or she is bound. Subject to the terms of any applicable award agreement, each award will be
subject to any policy of the Company or any of its subsidiaries or affiliates that provides for forfeiture, disgorgement, recoupment or clawback with
respect to incentive compensation that includes awards under the 2020 Plan and will be further subject to forfeiture and disgorgement to the extent
required by law or applicable stock exchange listing standards.

Amendment or Termination. No award may be granted under our 2020 Plan on or after the tenth anniversary of the earlier of the date the 2020
Plan was approved by the Company’s stockholders or adopted by the Board. The Administrator may at any time amend the 2020 Plan or any
outstanding award, subject to the participant’s consent if it would materially and adversely affect the participant’s rights under the award and subject to
any applicable stockholder approval requirements. We are required to obtain stockholder approval for any amendment to the 2020 Plan to the extent
necessary to comply with applicable laws, including the rules of Nasdaq, as determined by the Administrator. The Administrator may at any time
terminate the 2020 Plan as to future grants of awards.

The foregoing summary is not a complete description of all of the terms of our 2020 Plan and is qualified in its entirety by reference to our 2020
Plan, which will be filed as an exhibit to the registration statement of which this prospectus forms a part.

Employee Stock Purchase Plan

In connection with this offering, we expect to adopt the McAfee Corp. Employee Stock Purchase Plan (our ESPP) with expected terms of which
are as follows:

Authorized shares. A total of 9,389,809 shares will be available for sale under our ESPP. In addition, subject to adjustments described below, the
maximum number of shares which shall be made available for sale under the ESPP shall automatically increase on the first day of each fiscal year
during the term of the ESPP, beginning with the second fiscal year that begins during the term of the ESPP and ending with the tenth fiscal year that
begins during the term of the ESPP, by an amount equal to the lesser of (i) 1% of the sum of (A) the number of shares of Class A common stock and (B)
the number of units of FTW (that are not held by us), in each case, that are outstanding as of the last day of the preceding fiscal year, or (ii) such number
of shares as may be established by our Board; provided that in no event will the aggregate number of shares added to the ESPP under these automatic
increases exceed 51,643,947.

Plan administration. Our compensation committee will administer our ESPP and will have full and exclusive discretionary authority to construe,
interpret, and apply the terms of our ESPP, to delegate ministerial
duties to any of our employees, to designate separate offerings under our ESPP, to designate our subsidiaries and affiliates as participating in the ESPP, to determine eligibility, to adjudicate all disputed claims filed under our ESPP, and to establish procedures that it deems necessary or advisable for the administration of the ESPP. As used in this summary, the term “Administrator” refers to our compensation committee or its authorized delegates, as applicable.

Eligibility. Generally, all our employees will be eligible to participate if they are customarily employed by us, or any participating subsidiary or affiliate, for more than 20 hours per week and at least five months in any calendar year.

However, an employee may not be granted rights to purchase our shares under our ESPP if such employee:

- immediately after the grant would own shares possessing 5% or more of the total combined voting power or value of all classes of our share capital; or
- holds rights to purchase shares under all our employee share purchase plans that accrue at a rate that exceeds $25,000 worth of our shares for each calendar year.

The Administrator may modify the foregoing limitations or provide for additional limitations or restrictions on eligibility to the extent offerings are made under the component of the plan that is not intended to be tax-qualified under Section 423 of the Code.

Offering periods; purchase periods. Our ESPP includes a component that allows us to make offerings intended to qualify under Section 423 of the Code and a component that allows us to make offerings not intended to qualify under Section 423 of the Code, as described in our ESPP. No offerings have been authorized to date by the Administrator under the ESPP. However, if any such offerings are so authorized in the future, we anticipate that for at least some period following our initial public offering that such ESPP offerings would be made under the non-qualified component of the plan. If the Administrator authorizes an offering period under the ESPP, the Administrator is authorized to establish the duration of offering periods and purchase periods, including the starting and ending dates of offering periods and purchase periods, provided that no offering period under the qualified component may have a duration exceeding 27 months.

Contributions. Our ESPP permits participants to purchase our shares through contributions (in the form of payroll deductions or otherwise to the extent permitted by the Administrator) of up to 15% of their eligible compensation, which includes participants’ base pay, commissions, overtime and regular annual, quarterly and monthly cash bonuses payable pursuant to a short-term cash incentive plan and vacation, holiday and sick pay, in each case, from the Company, Foundation Technology Worldwide LLC, or any of their respective subsidiaries. For any offering period, no participant will be permitted to purchase more than the number of shares that is equal to $30,000, divided by the closing transaction price of a share of Class A common stock on the immediately preceding date prior to the first day of the offering period on which a closing transaction price was reported. In addition, in no event during any purchase period may ESPP participants purchase an aggregate number of shares of Class A common stock that is equal to more than 1% of the sum of (A) the number of shares of Class A common stock and (B) the number of units of FTW (that are not held by us), in each case, that are outstanding as of the last day of the preceding fiscal year. If such aggregate limitation applies, the number of shares of Class A common stock purchasable by ESPP participants would be reduced on a pro rata basis in accordance with their respective contributions during the offering period.

Exercise of purchase right. If the Administrator authorizes an offering and purchase period under our ESPP, amounts contributed and accumulated by the participant during any offering period will be used to purchase our shares at the end of each purchase period established by the Administrator. Unless otherwise determined by the administrator, the purchase price of the shares will be 85% of the lower of the fair market value of our shares on the first trading day of each offering period or on the exercise date. Participants may end their participation at any time during an offering period and will be paid their accrued contributions that have not yet been used to purchase our shares. Participation ends automatically upon termination of employment with us.
Effect of certain changes in capitalization.

Subject to any required action by the stockholders of the Company, the maximum number and kind of securities available for purchase under the ESPP, as well as the price per security, the number of securities covered by each option under the ESPP which has not yet been exercised and all limits denominated in shares under the ESPP will be appropriately adjusted in the event of any equity restructuring (within the meaning of applicable accounting rules), such as a stock split, reverse stock split, stock dividend, recapitalization through a large, nonrecurring cash dividend, combination or reclassification of the common stock of the Company. Options intended to qualify under Section 423 of the Code will not be adjusted in a manner that causes such options to fail to so qualify.

Merger or change in control. Our ESPP provides that in the event of a change in control or merger, each outstanding option will be assumed or substituted for, unless it is otherwise provided by the Board or our compensation committee in its sole discretion that either (i) the offering period in progress will end as of a date fixed by the Administrator and each participant is given the right to purchase shares under our ESPP on the last business day of such shortened offering period or (ii) our ESPP will be terminated and all amounts accumulated under our ESPP prior to such termination are returned to participants.

Amendment; termination. The Administrator has the authority to amend, suspend, or terminate our ESPP. Our ESPP automatically will terminate on the tenth anniversary of its effective date, unless we terminate it sooner.

The foregoing summary is not a complete description of all of the terms of our ESPP and is qualified in its entirety by reference to our ESPP, which will be filed as an exhibit to the registration statement of which this prospectus forms a part.

Director Compensation for Fiscal 2019

The following table shows information regarding the compensation earned by our non-employee directors during our fiscal 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Fees Earned or Paid in Cash ($)</th>
<th>Stock Awards ($)</th>
<th>All Other Compensation ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sohaib Abbasi</td>
<td>75,000</td>
<td>225,016</td>
<td></td>
<td>300,016</td>
</tr>
<tr>
<td>Mary Cranston</td>
<td>75,000</td>
<td>225,016</td>
<td></td>
<td>300,016</td>
</tr>
<tr>
<td>Tim Millikin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kathy Willard</td>
<td>7,624</td>
<td>225,016</td>
<td></td>
<td>232,640</td>
</tr>
<tr>
<td>Jon Winkelried</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jeff Woolard</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) Non-employee directors designated by our Sponsors (unless unaffiliated) or Intel Americas, Inc. do not receive compensation for their services on our board.

(2) Under our non-employee director compensation program, non-employee directors earn cash fees of $18,750 per quarter, payable in arrears. The amounts reported in this column reflect the director fees earned during fiscal 2019. For Ms. Willard, the amount reported in this column reflects the pro-rata portion of the director fees earned by her during fiscal 2019. Mr. Abbasi elected to receive his annual cash retainer in the form of RSUs. The number of shares subject to Mr. Abbasi’s quarterly RSU-in-lieu-of-cash award is determined based upon the most recent board determination of the fair market value of total Company equity, taking into account a valuation analysis most recently performed prior to each quarterly payment. The director fees earned by Mr. Abbasi during fiscal 2019 resulted in the vesting of 1,940 RSUs.

(3) These amounts represent the grant date fair value associated with the grant of RSUs, as computed in accordance with FASB ASC Topic 718. See Note 11 to our consolidated financial statements for a
discuss the relevant assumptions used in calculating these amounts. As of December 28, 2019, Mr. Abbasi, Ms. Cranston, and Ms. Willard had outstanding RSUs with respect to 37,184 shares, 37,184 shares, and 26,036 shares respectively, and Mr. Abbasi had rights to receive additional RSUs in lieu of his cash retainer as described in footnote (2) above.

Non-Employee Director Compensation Program Prior to the Offering

Under our current non-employee director compensation program, each non-employee director who is not designated by TPG, Intel Americas, Inc., or employed by Thoma Bravo or who is designated by TPG but is not affiliated therewith is eligible to receive an annual cash retainer of $75,000 or, at the election of such non-employee director, a number of RSUs that have a reasonably equivalent value and are paid out at a reasonably equivalent time as the annual retainer in lieu of the cash payment (determined based upon the fair market value of Class A Units at each quarterly vesting date).

Each non-employee director who is not designated by TPG or Intel Americas, Inc. or who is designated by TPG but is not affiliated therewith also receives an annual grant of RSUs with a value of $225,000, with the actual number of RSUs granted determined by the fair market value of Class A Units at the time of grant. These RSUs vest in full on the first anniversary of the grant date, subject to continued service on such vesting date. The RSUs become fully vested upon a change in control event. Eligible non-employee directors are also provided with the opportunity to purchase Class A Units based upon the fair market value at the time of purchase, up to a mutually agreed upon amount.

New Non-Employee Director Compensation Program

In connection with this offering, our board of directors is expected to adopt a non-employee director compensation policy covering non-employee directors who are not designated by TPG, Intel Americas, Inc. or employed by Thoma Bravo or any of their affiliates (each a “Covered Director”), which policy will become effective upon the completion of this offering. Non-employee directors who are designated by TPG, Intel Americas, Inc. or employed by Thoma Bravo or who is designated by TPG but is not affiliated therewith or any of their affiliates are not eligible to receive any compensation in respect of their service to our board of directors. The following summary describes the material terms of our new non-employee director compensation policy.

Each Covered Director will receive an annual cash retainer for service to our board of directors and an additional annual cash retainer for service on any committee of our board of directors or for serving as the chair of our board of directors or any of its committees, in each case, pro-rated for partial years of service, as follows:

<table>
<thead>
<tr>
<th>Annual cash retainer</th>
<th>Board or Committee Member</th>
<th>Board or Committee Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$75,500</td>
<td>$0</td>
</tr>
<tr>
<td>Additional annual cash retainer for compensation committee</td>
<td>$7,500</td>
<td>$20,000</td>
</tr>
<tr>
<td>Additional annual cash retainer for nominating and governance committee</td>
<td>$5,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>Additional annual cash retainer for audit committee</td>
<td>$10,000</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

All cash fees will be payable in arrears on a quarterly basis (or, if earlier, within 30 days following the earlier resignation or removal of the Covered Director).

If approved by the board of directors, each Covered Director may elect to receive vested shares of Class A common stock in lieu of all or a portion of his or her annual cash fees payable under our non-employee director compensation policy on terms that the board of directors or the compensation committee may determine.

Under our new non-employee director policy, commencing in calendar year 2021, on the date of the first meeting of our board of directors following each annual meeting of our stockholders, each Covered Director shall be granted PubCo RSUs having a fair market value of $225,000. The PubCo RSUs shall vest on the earliest of the following to occur: (i) the first anniversary of the date the restricted stock units were granted, (ii) the non-
employee director’s death or permanent disability, or (iii) a change in control (as defined in our 2020 Plan), subject, in each case, to the non-employee
director’s continued service as a member of the board of directors through the applicable vesting date; provided that if our next annual meeting of
stockholders that follows the grant date is less than one year after the prior annual meeting of our stockholders, and the Covered Director continues to
serve on our board of directors through immediately prior to such meeting, but does not stand for re-election, is not elected or is not nominated for re-
election at such meeting, any then unvested PubCo RSUs granted in the immediately preceding 12 months shall accelerate and vest in full as of the
immediately prior to such meeting.

All cash fees will be prorated for any fiscal quarter of partial service, based on the number of calendar days the Covered Director was a member of
the Board or the applicable committee, in a manner determined by the Board or our compensation committee. Covered Directors may also receive
prorated equity awards if they are appointed or elected other than at the Company’s annual meeting of stockholders. In addition, Covered Directors who
served on the board of managers of Foundation Technology Worldwide LLC prior to the IPO will receive a pro-rated grant of PubCo RSUs to cover the
period from the date such Covered Director’s last grant of RSUs of Foundation Technology Worldwide LLC vests (or, if he or she received no such
grant, the date of his or her appointment or election, as applicable) until the Company’s next annual meeting of stockholders, with the manner of
proration and other applicable terms and conditions determined by the Board or our compensation committee.

The aggregate value of cash compensation and the grant date fair value of shares of capital stock of the Company that may be paid or granted
during any fiscal year of the Company will not exceed the amount prescribed in the 2020 Plan (or any successor plan).
CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

In addition to the compensation arrangements, including employment, termination of employment and change of control arrangements and indemnification arrangements, discussed in the sections titled “Management” and “Executive Compensation,” the following is a description of each transaction since January 1, 2017 and each currently proposed transaction in which:

• McAfee Corp., Foundation Technology Worldwide LLC, or any of our respective subsidiaries have been or will be a participant;
• the amount involved exceeded or will exceed $120,000; and
• any of our directors, executive officers, or beneficial holders of more than 5% of any class of our capital stock, or their affiliates, or any immediate family member of, or person sharing the household with, any of these individuals, had or will have a direct or indirect material interest.

Related Party Agreements in Effect Prior to this Offering

Management Services Agreement

On April 3, 2017, Foundation Technology Worldwide LLC and certain of its subsidiaries entered into a Management Services Agreement with our Sponsors and Intel, pursuant to which certain affiliates of our Sponsors and Intel (the “Managers”) provide certain management, advisory, consulting, strategic planning, and/or specialized (operational or otherwise) services to the Company. In exchange for these services, the Company is required to pay to the Managers (or their respective designees) an aggregate annual retainer fee equal to $7,500,000, until December 31, 2027. Such annual fee is paid on a quarterly basis in arrears on the 90th day following the end of the applicable quarter. Payments will be made to the Managers on a pro rata basis in accordance with the Managers’ direct or indirect equity ownership of Foundation Technology Worldwide LLC. Under the Management Services Agreement, the Company must also reimburse the Managers for all reasonable and documented out-of-pocket expenses incurred by the Managers or their designees in connection to the services provided by the Managers or their respective designees under the Management Services Agreement, all reasonable and documented out-of-pocket legal expenses incurred by the Managers or their respective designees in connection with the enforcement of rights or taking of actions under the Management Services Agreement, the Subscription Agreement, and related documents or instruments, and all reasonable and documented out-of-pocket expenses incurred by the Managers, their respective affiliates or their respective designees on behalf of the Company. For the 2017 Successor period, fiscal 2018, and fiscal 2019, we paid a total of $7.6 million, $11.9 million, and $12.6 million, respectively, to the Managers under the Management Services Agreement. In addition, we agreed to indemnify the Managers and certain persons affiliated with the Managers from and against any and all actions, causes of action, suits, claims, liabilities, losses, damages and costs, and reasonable out-of-pocket expenses in connection therewith (including, without limitation, attorneys’ fees and expenses) incurred by the Managers and such affiliated persons before or after the date of the Management Services Agreement arising out of any action, cause of action, suit, arbitration, investigation, or claim (whether involving the Company or a third party), or in any way arising out of or relating to operations of, or services provided by any of the Managers or their respective designees to, the Company or its affiliates.

In connection with the completion of this offering, the Management Services Agreement will be terminated, and we will pay a one-time termination fee of $22 million to the Managers in accordance with the terms of the agreement.

Repurchase of LLC Units

In April 2020, we repurchased 1,091,172 Class A Units and 111,500 MIUs held by our former Chief Executive Officer upon termination of his employment at a per unit purchase price of $8.64, for an aggregate repurchase price of $10,394,092.76.
In December 2018, we repurchased 250,728 Class A Units and 125,000 MIUs held by our former Executive Vice President and Chief Legal Officer upon termination of her employment at a per unit purchase price of $10.85 and $8.95, respectively, for an aggregate repurchase price of $3,837,896.98.

Agreements to be Entered in Connection with the Reorganization Transactions and this Offering

Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC

In connection with the Reorganization Transactions, we will enter into the New LLC Agreement. As a result of the Reorganization Transactions and this offering, we will hold (directly or indirectly) LLC Units in Foundation Technology Worldwide LLC and will be the sole managing member of Foundation Technology Worldwide LLC. Accordingly, we will operate and control all of the business and affairs of Foundation Technology Worldwide LLC and, through Foundation Technology Worldwide LLC and its operating subsidiaries, conduct our business. Pursuant to the LLC Agreement, the Continuing Owners will have the right, from time to time and subject to certain restrictions, to exchange their LLC Units for cash (determined based upon the market price of our Class A common stock) or, at our option, shares of our Class A common stock on a one-for-one basis (and McAfee Corp. will cancel an equal number of shares of Class B common stock to the exchanging member, subject to the succeeding sentence), subject to customary conversion rate adjustments for stock splits, stock dividends, reclassifications, and other similar transactions. The holders of MIUs will also have the right, from time to time and subject to certain restrictions, to exchange their MIUs for LLC Units, which will then be immediately redeemed for shares of Class A common stock, based on the value of such MIUs relative to their applicable distribution threshold.

Tax Receivable Agreement

The contribution by the Continuing Owners and the Management Owners to McAfee Corp. of the equity of certain corporate entities in the Reorganization Transactions and future exchanges of LLC Units for cash or, at our option, shares of our Class A common stock are expected to produce or otherwise deliver to us favorable tax attributes that can reduce our taxable income. Upon the completion of this offering, we will be a party to a tax receivable agreement, under which we generally will be required to pay to the TRA Beneficiaries % of the applicable cash savings, if any, in U.S. federal, state, and local income tax that we actually realize or, in certain circumstances, are deemed to realize as a result of (i) all or a portion of McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) acquired in connection with the Reorganization Transactions, (ii) increases in McAfee Corp.’s allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) and tax basis adjustments in the assets of Foundation Technology Worldwide LLC (and its subsidiaries) as a result of sales or exchanges of LLC Units after this offering, (iii) certain tax attributes of the corporations McAfee Corp. acquires in connection with the Reorganization Transactions (including their allocable share of existing tax basis in the assets of Foundation Technology Worldwide LLC (and its subsidiaries)), and (iv) certain other tax benefits related to entering into the tax receivable agreement, including tax benefits attributable to payments under the tax receivable agreement. We generally will retain the benefit of the remaining % of the applicable tax savings.

Pursuant to the exchange mechanics, from time to time we may be required to acquire LLC Units of Foundation Technology Worldwide LLC from the holders thereof in exchange for cash or, at our option, shares of our Class A common stock. An exchange of LLC Units is intended to be treated as a purchase of such LLC Units for U.S. federal income tax purposes. Each of Foundation Technology Worldwide LLC and McAfee Finance 2, LLC, a subsidiary of Foundation Technology Worldwide LLC intended to be treated as a partnership for U.S. federal income tax purposes and through which Foundation Technology Worldwide LLC owns its interests in the assets of the McAfee business, intends to have an election under Section 754 of the Code in effect for taxable years in which such sales or exchanges of LLC Units occur. Pursuant to the Section 754 election, sales of LLC Units are expected to result in an increase in the tax basis of tangible and intangible assets of

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Foundation Technology Worldwide LLC and certain of its subsidiaries, including McAfee Finance 2, LLC. When we acquire LLC Units from the Continuing LLC Owners, we expect that both the existing basis for certain assets and the anticipated basis adjustments will increase depreciation and amortization deductions allocable to us for tax purposes from Foundation Technology Worldwide LLC, and therefore reduce the amount of income tax we would otherwise be required to pay in the future to various tax authorities. This increase in tax basis may also decrease gain (or increase loss) on future dispositions of certain assets of Foundation Technology Worldwide LLC and its subsidiaries to the extent increased tax basis is allocated to those assets.

Stockholders Agreement

In connection with this offering, we intend to enter into a stockholders agreement with investment funds affiliated with our Sponsors, Intel Americas, Inc., and certain other stockholders. Pursuant to the stockholders agreement, we will be required to take all necessary action to cause the board of directors and its committees to include director candidates designated by TPG and Intel Americas, Inc. in the slate of director nominees recommended by the board of directors for election by our stockholders. These nomination rights are described in this prospectus in the sections titled “Management—Board Composition and Director Independence” and “Management—Board Committees.” The stockholders agreement will also provide that we will obtain customary director indemnity insurance. Pursuant to the stockholders agreement, each of TPG, Intel, and Thoma Bravo also agree to certain standstill provisions pursuant to which it is restricted from, among other things, acquiring our securities if that would result in it owning more than 49% of our outstanding voting power without our consent.

Registration Rights Agreement

We intend to enter into a registration rights agreement with our Sponsors, Intel, certain other stockholders, and our Chief Executive Officer in connection with this offering. The registration rights agreement will provide the stockholders party thereto certain registration rights as described below.

Demand registration rights

At any time after the completion of this offering, each of our Sponsors and Intel Americas, Inc. will have the right to demand that we file registration statements. These registration rights are subject to specified conditions and limitations, including the right of the underwriters, if any, to limit the number of shares included in any such registration under specified circumstances. Upon such a request, we will be required to use reasonable best efforts to promptly effect the registration.

Piggyback registration rights

At any time after the completion of this offering, if we propose to register any shares of our equity securities under the Securities Act either for our own account or for the account of any other person, then the parties to the registration rights agreement will be entitled to notice of the registration and will be entitled to include their shares of Class A common stock in the registration statement. These piggyback registration rights are subject to specified conditions and limitations, including the right of the underwriters, if any, to limit the number of shares included in any such registration under specified circumstances.

Shelf registration rights

At any time after we become eligible to file a registration statement on Form S-3, our Sponsors and Intel will be entitled to have their shares of Class A common stock registered by us on a Form S-3 registration statement at our expense. These shelf registration rights are subject to specified conditions and limitations.

Expenses and indemnification

We will pay all expenses relating to any demand, piggyback or shelf registration, other than underwriting discounts and commissions and any transfer taxes, subject to specified conditions and limitations. The
registration rights agreement will include customary indemnification provisions, including indemnification of the participating holders of shares of Class A common stock and their directors, officers and employees by us for any losses, claims, damages or liabilities in respect thereof and expenses to which such holders may become subject under the Securities Act, state law or otherwise.

**Indemnification Agreements**

Prior to the completion of this offering, we expect to enter into indemnification agreements with each of our directors. These agreements will require us to indemnify these individuals and, in certain cases, affiliates of such individuals, to the fullest extent permissible under Delaware law against liabilities that may arise by reason of their service to us or at our direction, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, we have been informed that in the opinion of the SEC such indemnification is against public policy and is therefore unenforceable.

**Certain Relationships**

From time to time, Intel, our Sponsors and/or their affiliates have entered into, and may continue to enter into, arrangements with us to use our products and services. We believe that all such arrangements (other than transactions pursuant to a commercial services agreement) have been entered into in the ordinary course of business and have been negotiated on commercially reasonable terms.

**Related Party Transactions Policy**

In connection with this offering, we have adopted a policy with respect to the review, approval, and ratification of related person transactions. Under the policy, our audit committee is responsible for reviewing and approving related person transactions. In the course of its review and approval of related person transactions, our audit committee will consider the relevant facts and circumstances to decide whether to approve such transactions. Related person transactions must be approved or ratified by the audit committee based on full information about the proposed transaction and the related person’s interest.
The following table sets forth information with respect to the beneficial ownership of our Class A common stock and Class B common stock immediately following the Reorganization Transactions for (a) each person, or group of affiliated persons, known by us to own beneficially more than 5% of our outstanding shares of Class A common stock and Class B common stock, (b) each member of our board of directors, (c) each of our named executive officers, (d) all of our directors and executive officers as a group, and (e) each of the selling stockholders.

Beneficial ownership is determined in accordance with SEC rules. The information is not necessarily indicative of beneficial ownership for any other purpose. In general, under these rules a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares voting power or investment power with respect to such security. A person is also deemed to be a beneficial owner of a security if that person has the right to acquire beneficial ownership of such security within 60 days. To our knowledge, except as otherwise indicated, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all shares of Class A common stock and Class B common stock beneficially owned by that person.

In connection with the Reorganization Transactions, we will issue to the Continuing Owners one share of our Class B common stock for each LLC Unit that they hold. Each Continuing LLC Owner will have the right to exchange their LLC Units for cash (based upon the market price of the shares of our Class A common stock) or, at our option, for shares of our Class A common stock on a one-for-one basis (and McAfee Corp. will cancel an equal number of shares of Class B common stock to the exchanging member). See “The Reorganization Transactions” and “Certain Relationships and Related Party Transactions.”

The percentage of shares beneficially owned is computed on the basis of 134,459,278 shares of our Class A common stock outstanding as of immediately following the Reorganization Transactions, and 266,415,205 LLC Units and shares of our Class B common stock outstanding as of immediately following the Reorganization Transactions. Shares of our Class A common stock that a person has the right to acquire within 60 days of October 21, 2020 are deemed outstanding for purposes of computing the percentage ownership of such person’s holdings, but are not deemed outstanding for purposes of computing the percentage ownership of any other person, except with respect to the percentage ownership of all directors and executive officers as a group. The amount of shares of Class A and Class B common stock beneficially owned after the offering reflects the use of a portion of the net proceeds that we will receive from this offering to directly or indirectly purchase issued and outstanding LLC Units and an equal number of Class B common stock from certain Continuing LLC Owners. Unless otherwise indicated below, the address for each beneficial owner listed is c/o McAfee Corp., 6220 America Center Drive, San Jose, California 95002.
Pursuant to the terms of the Stockholders Agreement, following the completion of this offering, the TPG Funds will have the right to appoint a majority of the directors serving on our board. As a result, TPG may be deemed to control the Company’s exercise of its option to settle exchanges of shares of Class B common stock into shares of Class A common stock or cash with respect to any such exchange by the TPG Funds. As a result of this control, the TPG Funds will be deemed to beneficially own all shares of Class A common stock underlying its shares of Class B common stock. The beneficial ownership percentages reflected in the table below accordingly aggregate such shares of Class A common stock underlying the shares of Class B common stock held by the TPG Funds.

<table>
<thead>
<tr>
<th>Name of beneficial owner</th>
<th>Shares of Class A common stock beneficially owned after giving effect to the Reorganization Transactions and before this offering</th>
<th>Shares of Class A common stock beneficially owned after giving effect to the Reorganization Transactions and after this offering</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percentage</td>
</tr>
<tr>
<td>5% Stockholder</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parties to the Stockholders Agreement(3)</td>
<td>184,565,307</td>
<td>95.3%</td>
</tr>
<tr>
<td>TPG Funds(4)</td>
<td>127,058,167</td>
<td>65.6%</td>
</tr>
<tr>
<td>Intel Americas, Inc.(5)</td>
<td>9,485,368</td>
<td>7.1%</td>
</tr>
<tr>
<td>Thoma Bravo Funds(6)</td>
<td>21,624,644</td>
<td>16.1%</td>
</tr>
<tr>
<td>Snowlake Investment Pte Ltd(7)</td>
<td>26,397,128</td>
<td>19.6%</td>
</tr>
<tr>
<td>Directors and Named Executive Officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peter Leav(8)</td>
<td>234,304</td>
<td>*</td>
</tr>
<tr>
<td>Venkat Bhamidipati(9)</td>
<td>51,968</td>
<td>*</td>
</tr>
<tr>
<td>Ashutosh Kulkarni(10)</td>
<td>311,340</td>
<td>*</td>
</tr>
<tr>
<td>Terry Hicks(11)</td>
<td>397,456</td>
<td>*</td>
</tr>
<tr>
<td>Lynne Doherty McDonald(12)</td>
<td>304,436</td>
<td>*</td>
</tr>
<tr>
<td>Jon Winkelried(13)</td>
<td>—</td>
<td>*</td>
</tr>
<tr>
<td>Tim Millikin(13)</td>
<td>—</td>
<td>*</td>
</tr>
<tr>
<td>Mary Cranstoun(14)</td>
<td>50,868</td>
<td>*</td>
</tr>
<tr>
<td>Sohaib Abbasi(15)</td>
<td>65,884</td>
<td>*</td>
</tr>
<tr>
<td>Kathy Willard(16)</td>
<td>27,404</td>
<td>*</td>
</tr>
<tr>
<td>Jeff Woolard</td>
<td>—</td>
<td>*</td>
</tr>
<tr>
<td>All directors and executive officers as a group (12 people)(17)</td>
<td>1,497,048</td>
<td>*</td>
</tr>
<tr>
<td>Name of beneficial owner</td>
<td>Shares of Class B common stock beneficially owned after giving effect to the Reorganization Transactions and before this offering</td>
<td>Class B Shares being repurchased (with no option)</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td><strong>5% Stockholder</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parties to the Stockholders Agreement <em>(1)</em></td>
<td>261,770,192</td>
<td>260,055,927</td>
</tr>
<tr>
<td>TPG Funds <em>(4)</em></td>
<td>59,177,635</td>
<td>57,933,633</td>
</tr>
<tr>
<td>Intel Americas, Inc. <em>(5)</em></td>
<td>180,222,000</td>
<td>180,222,000</td>
</tr>
<tr>
<td>Thoma Bravo Funds <em>(6)</em></td>
<td>22,370,557</td>
<td>21,900,294</td>
</tr>
<tr>
<td>Snowlake Investment Pte Ltd <em>(7)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Directors and Named Executive Officers</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peter Leav <em>(8)</em></td>
<td>252,464</td>
<td>252,464</td>
</tr>
<tr>
<td>Venkat Bhamidipati <em>(9)</em></td>
<td>37,444</td>
<td>37,444</td>
</tr>
<tr>
<td>Ashutosh Kulkarni <em>(10)</em></td>
<td>58,932</td>
<td>58,932</td>
</tr>
<tr>
<td>Lynne Doherty McDonald <em>(12)</em></td>
<td>152,704</td>
<td>152,704</td>
</tr>
<tr>
<td>Jon Winkelried <em>(13)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tim Milliken <em>(13)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mary Cranston <em>(14)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sohaib Abbasi <em>(15)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kathy Willard <em>(16)</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jeff Woolard</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**All directors and executive officers as a group (12 people) <em>(17)</em></td>
<td>564,208</td>
<td>564,208</td>
</tr>
</tbody>
</table>

* Represents beneficial ownership of less than 1%.

(1) The LLC Units held by Continuing Owners are exchangeable for cash or, at our option, shares of our Class A common stock on a one-for-one basis. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Exchange Mechanics.” In these tables, other than with respect to the TPG Funds, beneficial ownership of LLC Units has not been reflected as beneficial ownership of shares of our Class A common stock for which such LLC Units may be exchanged. When a LLC Unit is exchanged for cash or, at our option, our Class A common stock by a Continuing LLC Owner who holds shares of Class B common stock, a corresponding share of Class B common stock will be cancelled. Accordingly, in the first table above, the percentages of Class A common stock provided with respect to the TPG Funds also reflects combined voting power for the TPG Funds. See “Description of Capital Stock.”

(2) The holders of shares of Class B common stock reflected in this table also reflect an equal number of LLC Units beneficially owned by or repurchased from such holder in connection with this offering, as applicable.

(3) In connection with this offering, we will enter into a stockholders agreement whereby, among other things, TPG and Intel will have the right to nominate directors and the stockholders party thereto, which include the TPG Funds (as defined below), Intel Americas, Inc., the Thoma Bravo Funds (as defined below) and the GIC Investor (as defined below), will agree to vote for such nominees. See “Certain Relationships and Related Transactions—Stockholders Agreement.”

(4) Shares of Class A common stock shown as beneficially owned by the TPG Funds (as defined below) after giving effect to the Reorganization Transactions and before this offering include: (a) 28,215,867 shares of
Class A common stock held by TPG VII Manta Blocker Co-Invest I, L.P., a Delaware limited partnership (“TPG Co-Invest I”); (b) 31,108,473 shares of Class A common stock held by TPG VII Manta AIV I, L.P., a Delaware limited partnership (“TPG AIV I”); (c) 5,441,584 shares of Class A common stock held by TPG VII Side-by-Side Separate Account I, L.P. (“TPG Side-by-Side”); (d) 213,376 shares of Class A common stock and 4,054,159 shares of Class A common stock underlying an identical number of LLC Units and shares of Class B common stock held by TPG VII Manta Holdings II, L.P., a Delaware limited partnership (“TPG Manta Holdings II”, and, together with TPG Co-Invest I, TPG AIV I, TPG Side-by-Side, and TPG Manta AIV Co-Invest, the “TPG Funds”). Shares of Class B common stock shown as beneficially owned by the TPG Funds after giving effect to the Reorganization Transactions and before this offering include: (a) 4,054,159 shares of Class B common stock held by TPG Manta AIV Co-Invest; and (b) 55,123,476 shares of Class B common stock by TPG Manta Holdings II. In this offering: (a) TPG Co-Invest I will sell 563,483 shares of Class A common stock (or 967,964 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares); (b) TPG AIV I will sell 621,249 shares of Class A common stock (or 1,067,196 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares); and (c) TPG Side-by-Side will sell 108,671 shares of Class A common stock (or 186,677 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares). In connection with this offering, (a) TPG Manta AIV Co-Invest will sell 85,224 LLC Units and an equivalent number of shares of Class B common stock to us (or 146,400 LLC Units and an equivalent number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares); and (b) TPG Manta Holdings II will sell 1,158,778 LLC Units and an equivalent number of shares of Class B common stock to us (or 1,900,576 LLC Units and an equivalent number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares). The general partner of each of (i) TPG Co-Invest I, (ii) TPG AIV I, (iii) TPG VII Manta AIV Co-Invest, and (iv) TPG Manta Holdings II is TPG VII Manta GenPar Advisors, LLC, a Delaware limited liability company, whose sole member is TPG Holdings II, L.P., a Delaware limited partnership, whose general partner is TPG Holdings II-A, LLC, a Delaware limited liability company, whose sole member is TPG Group Holdings (SBS), L.P., a Delaware limited partnership, whose general partner is TPG Group Holdings (SBS) Advisors, LLC, a Delaware limited liability company, whose sole member is TPG Group Holdings (SBS) Advisors, Inc., a Delaware corporation (“TPG Group Holdings”). The general partner of TPG VII Side-by-Side Separate is TPG GenPar VII SBS SA I, L.P., a Delaware limited partnership, whose general partner is TPG GenPar VII SBS SA I Advisors, LLC, a Delaware limited liability company, whose sole member is TPG Holdings III, L.P., a Delaware limited partnership, whose general partner is TPG Holdings III-A, L.P., a Cayman Islands limited partnership, whose general partner is TPG Holdings III-A, Inc., a Cayman Islands exempted company, whose sole shareholder is TPG Group Holdings. David Bonderman and James G. Coulter are the sole shareholders of TPG Group Holdings (SBS) Advisors, Inc. and may therefore be deemed to beneficially own the securities held by the TPG Funds. Messrs. Bonderman and Coulter disclaim beneficial ownership of the securities held by the TPG Funds except to the extent of their pecuniary interest therein. The address of each of the TPG Funds and Messrs. Bonderman and Coulter is c/o TPG Global, LLC, 301 Commerce Street, Suite 3300, Fort Worth, TX 76102.

(5) Intel Corporation may also be deemed to beneficially own these shares due to its ownership of Intel Americas Inc. Intel Corporation’s and Intel Americas, Inc. has an address c/o Intel Corporation, 2200 Mission College Boulevard, Santa Clara, California 95054.

(6) Shares of Class A common stock shown as beneficially owned by the Thoma Bravo Funds after giving effect to the Reorganization Transactions and before this offering include: (a) 2,658,140 shares of Class A common stock held by Thoma Bravo Partners XII AIV, L.P. (“TB Partners XII”); and (b) 17,789,112 shares of Class A common stock held by Thoma Bravo Fund XII-A AIV, L.P. (“TB XII-A”). Shares of Class B common stock shown as beneficially owned by the Thoma Bravo Funds after giving effect to the Reorganization Transactions and before this offering include: (a) 21,964,598 Class B common stock held by Thoma Bravo Fund XII AIV, L.P. (“TB XII”); (b) 214,954 Class B common stock held by Thoma Bravo
Executive Fund XII AIV, L.P. (“TB Executive XII”); and (c) 191,005 shares of Class B common stock held by Thoma Bravo Executive Fund XII-a AIV, L.P. (“TB Executive XII-a” and, together with TB Partners XII, TB XII-A, TB XII, and TB Executive XII, the “Thoma Bravo Funds”). In this offering: (a) TB Partners XII will sell 53,084 shares of Class A common stock (or 91,189 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares); and (b) TB XII-A will sell 355,256 shares of Class A common stock (or 610,267 shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares). In connection with this offering: (a) TB XII will sell 461,729 LLC Units and an equivalent number of shares of Class B common stock to us (or 793,170 LLC Units and an equivalent number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares); (b) TB Executive XII will sell 4,519 LLC Units and an equivalent number of shares of Class B common stock to us (or 7,763 LLC Units and an equivalent number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares); and (c) TB Executive XII-a will sell 4,015 LLC Units and an equivalent number of shares of Class B common stock to us (or 6,897 LLC Units and an equivalent number of shares of Class B common stock if the underwriters exercise in full their option to purchase additional shares).

The general partner of each of the Thoma Bravo Funds (other than TB Partners XII) is TB Partners XII. Thoma Bravo UGP, LLC is the ultimate general partner of TB Partners XII. By virtue of the relationships described in this footnote, Thoma Bravo UGP, LLC may be deemed to exercise shared voting and dispositive power with respect to the shares held directly by the Thoma Bravo Funds The address of each of the Thoma Bravo Funds and Thoma Bravo UGP, LLC is c/o Thoma Bravo, L.P., 150 North Riverside Plaza, Suite 2800, Chicago, Illinois 60606.

(7) Snowlake Investment Pte Ltd. (the “GIC Investor”) shares the power to vote and the power to dispose of these shares with GIC Special Investments Pte. Ltd. (“GIC SI”), and GIC Pte. Ltd. (“GIC”), both of which are private limited companies incorporated in Singapore. GIC SI is wholly owned by GIC and is the private equity investment arm of GIC. GIC is wholly owned by the Government of Singapore and was set up with the sole purpose of managing Singapore’s foreign reserves. The Government of Singapore disclaims beneficial ownership of these shares. The business address for the GIC Investor is 168 Robinson Road, #37-01 Capital Tower, Singapore 068912.”

(8) Includes 234,304 shares of Class A common stock underlying MIUs held by Mr. Leav that have vested or will vest within 60 days.

(9) Includes 50,000 shares of Class A common stock underlying MIUs held by Mr. Bhamidipati that have vested or will vest within 60 days.

(10) Includes 311,340 shares of Class A common stock underlying MIUs held by Mr. Kulkarni that have vested or will vest within 60 days.

(11) Includes 397,456 shares of Class A common stock underlying MIUs held by Mr. Hicks that have vested or will vest within 60 days.

(12) Includes 304,436 shares of Class A common stock underlying MIUs held by Ms. Doherty McDonald that have vested or will vest within 60 days.

(13) Does not include shares of Class A common stock beneficially owned by the TPG Funds. Mr. Winkelried is Co-Chief Executive Officer and Partner of TPG. Mr. Millikin is a Partner of TPG. The address of each of Messrs. Winkelried and Millikin is c/o TPG Global, LLC, 301 Commerce Street, Suite 3300, Fort Worth, TX 76102.

(14) Includes 27,404 shares of Class A common stock underlying RSUs held by Ms. Cranston that have vested or will vest within 60 days.

(15) Includes 27,404 shares of Class A common stock underlying RSUs held by Mr. Abbasi that have vested or will vest within 60 days.

(16) Includes 27,404 shares of Class A common stock underlying RSUs held by Ms. Willard that have vested or will vest within 60 days.

(17) Includes 106,616 shares of Class A common stock, 1,297,536 shares of Class A common stock underlying MIUs that have vested or will vest within 60 days, 82,212 shares of Class A common stock underlying RSUs that have vested or will vest within 60 days, 10,684 options to purchase shares of Class A common stock exercisable within 60 days and 564,208 shares of Class B common stock, in each case held by our current directors, our current executive officers, and our named executive officers as a group.
DESCRIPTION OF CERTAIN INDEBTEDNESS

The following is a summary of certain of our indebtedness that is currently outstanding. This summary does not purport to be complete and is qualified by reference to the agreements and related documents referred to herein, copies of which have been filed as exhibits to the registration statement of which this prospectus is a part, and may be obtained under “Where You Can Find More Information” in this prospectus.

First Lien Credit Facilities

General

On September 29, 2017, McAfee, LLC (the “Borrower”) entered into a First Lien Credit Agreement among the Borrower, the other credit parties party thereto, Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent (the “First Lien Agent”) and the lenders from time to time party thereto. Prior to amendments in January 2018, November 2018, and June 2019, the First Lien Credit Agreement provided for a U.S. dollar-denominated First Lien USD Term Loan tranche of $2,555 million, a Euro-denominated First Lien EUR Term Loan tranche of €507 million, and a $500 million Revolving Credit Facility (the “First Lien Credit Facilities”). The First Lien Credit Agreement was amended: (w) on January 3, 2018 to increase the amount of the First Lien USD Term Loan by $324 million and the First Lien EUR Term Loan by €150 million; (x) on November 1, 2018 to make changes to the pricing terms and to increase the amount of the First Lien EUR Term Loan by €46 million to prepay $50 million of the Second Lien Term Loan (as defined below); (y) on June 13, 2019 to increase the amount of the First Lien USD Term Loan by $300 million and the First Lien EUR Term Loan by €355 million; and (z) on October 12, 2020 to, subject to the closing of this offering, extend the maturity date of, and increase the amount by $164 million of, a portion of the commitments under the Revolving Credit Facility. The Revolving Credit Facility includes a $50 million sublimit for the issuance of letters of credit. As of June 27, 2020, the aggregate outstanding principal amount of the First Lien USD Term Loan and the First Lien EUR Term Loan were $3,048 million and €1,078 million, respectively. As of June 27, 2020, we had $496 million of unused borrowing capacity under our revolving credit facility.

The First Lien Credit Agreement provides us the right to request additional commitments for new incremental term loans and revolving loans, in an aggregate principal amount not to exceed (w) $500 million (the “First Lien Fixed Basket”) less the amount of any other incremental borrowings incurred in reliance on that amount or the Second Lien Fixed Basket (as defined below), plus (x) in the case of any incremental facilities that serve to effectively extend the maturity of, or refinance or replace any term loans or revolving commitments, an amount equal to the reductions in the term loans or commitments to be replaced thereby or terminated, plus (y) the amount of certain voluntary prepayments, redemptions, or repurchases of any term loans and/or previously incurred incremental equivalent debt and any permanent reduction of the commitments under any revolving facility or incremental equivalent debt consisting of a revolving credit facility, plus (z) an unlimited amount (the “First Lien Ratio Basket”) so long as (1) if such incremental indebtedness is secured by a lien on the collateral on a pari passu basis with the First Lien Credit Facilities, (i) we are in compliance on a pro forma basis with a first lien net leverage ratio of no greater than 4.75:1.00 or (ii) if such incremental indebtedness is incurred in connection with an acquisition or other similar investment permitted under the First Lien Credit Agreement, the first lien net leverage ratio would not be greater on a pro forma basis after giving effect to such acquisition or similar investment than the first lien net leverage ratio immediately prior to the incurrence of such incremental indebtedness, (2) if such incremental indebtedness is secured by a lien on the collateral by a lien that is junior to the lien securing the First Lien Credit Facilities, (i) we are in compliance on a pro forma basis with a secured net leverage ratio of no greater than 5.75:1.00 (ii) if such incremental indebtedness is incurred in connection with an acquisition or other similar investment permitted under the First Lien Credit Agreement, the secured net leverage ratio would not be greater on a pro forma basis after giving effect to such acquisition or similar investment than the secured net leverage ratio immediately prior to the incurrence of such incremental indebtedness, or (3) if such incremental indebtedness is unsecured, (i) we are in compliance on a pro forma basis with a total net leverage ratio of no greater than 6.00:1.00 or (ii) if such incremental indebtedness is incurred in connection with an acquisition or other similar investment permitted under the First Lien Credit Agreement, the total net leverage...
ratio would not be greater on a pro forma basis after giving effect to such acquisition or similar investment than the total net leverage ratio immediately prior to the incurrence of such incremental indebtedness; provided that amounts borrowed under the First Lien Fixed Basket may later be reclassified as having been borrowed under the First Lien Ratio Basket. In addition, the First Lien Credit Agreement provides that we have the right to replace and extend existing loans or commitments with new commitments from existing or new lenders under the First Lien Credit Agreement. The lenders under the First Lien Credit Facilities are not under any obligation to provide any such additional commitments, and any increase in, or replacement or extension of, commitments is subject to customary conditions precedent and limitations.

Following the closing of this offering, $500 million of the commitments under the Revolving Credit Facility will mature on September 29, 2024 and $164 million of the commitments under the Revolving Credit Facility will mature on September 29, 2022. The First Lien Term Loans will mature on September 29, 2024.

**Amortization, Interest Rates and Fees**

The First Lien Term Loans require equal quarterly repayments of, (1) with respect to the First Lien USD Term Loan, $7,756,303.62 and, (2) with respect to the First Lien EUR Term Loan, €2,743,965.25.

The borrowings under the Revolving Credit Facility bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 3.75% or (2) a base rate plus an applicable margin of 2.75%. The applicable margins for Eurodollar rate and base rate borrowings are subject to reductions to 3.50% and 3.25% and 2.50% and 2.25%, respectively, based on our first lien net leverage ratio. The Eurodollar rate applicable to the Revolving Credit Facility is subject to a “floor” of 0.00%.

The borrowings under the First Lien USD Term Loan bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 3.75% or (2) a base rate plus an applicable margin of 2.75%. The borrowings under the First Lien EUR Term Loan bear interest at a floating rate which is a EURIBOR rate for a specified interest period plus an applicable margin of 3.50%. The Eurodollar rate and EURIBOR rate applicable to the First Lien Term Loans are subject to a “floor” of 0.00%.

The base rate for any day is a fluctuating rate per annum equal to the highest of (a) the federal funds effective rate in effect on such day, plus 0.50%, (b) the rate of interest in effect for such day as publicly announced by the First Lien Agent as its “prime rate,” and (c) the Eurodollar rate with a one-month interest period plus 1.00%. The base rate applicable to the First Lien USD Term Loan is subject to a “floor” of 1.00%.

In addition to paying interest on loans outstanding under the Revolving Credit Facility and the First Lien Term Loans, we are required to pay a commitment fee of 0.50% per annum of unused commitments under the Revolving Credit Facility. The commitment fee is subject to reductions to 0.375% per annum and 0.25% per annum based on our first lien net leverage ratio. We are also required to pay letter of credit fees on the maximum amount available to be drawn under all outstanding letters of credit in an amount equal to the applicable margin for Eurodollar loans under the Revolving Credit Facility on a per annum basis. We are also required to pay customary fronting fees and other customary documentary fees in connection with the issuance of letters of credit.

**Voluntary Prepayments**

We are permitted to voluntarily prepay or repay outstanding loans under the Revolving Credit Facility or First Lien Term Loans at any time, in whole or in part, subject to prior written notice, minimum amount requirements, and customary “breakage” costs with respect to Eurodollar loans. Amounts prepaid under the Revolving Credit Facility may subsequently be reborrowed.

We are permitted to reduce commitments under the Revolving Credit Facility at any time, in whole or in part, subject to minimum amounts.
Mandatory Prepayments

The First Lien Credit Agreement requires us to prepay, subject to certain exceptions, the First Lien Term Loans with:

- 100% of net cash proceeds above a threshold amount of certain asset sales and casualty events, subject to (i) step-downs to (x) 50% if our first lien net leverage ratio is less than or equal to 3.25 to 1.00, but greater than 2.50 to 1.00 and (y) 0% if our first lien net leverage ratio is less than or equal to 2.50 to 1.00 and (ii) reinvestment rights and certain other exceptions;
- 100% of net cash proceeds of the incurrence of certain debt, other than certain debt permitted under the First Lien Credit Agreement; and
- 50% of annual excess cash flow, subject to (i) a step-down to 25% if our first lien net leverage ratio is less than or equal to 3.25 to 1.00, but greater than 2.50 to 1.00, and (ii) a step-down to 0% if our first lien net leverage ratio is less than or equal to 2.50 to 1.00; provided that such a prepayment is required only in the amount (if any) by which such prepayment exceeds $35 million in such fiscal year.

Guarantees

Subject to certain exceptions, all obligations under the First Lien Credit Agreement, including certain hedging and cash management arrangements, are jointly and severally, fully and unconditionally, guaranteed on a senior secured basis by each of McAfee Finance 2, LLC and certain of the Borrower’s existing and future direct and indirect domestic subsidiaries (other than unrestricted subsidiaries, our joint ventures, subsidiaries prohibited by applicable law from becoming guarantors, immaterial subsidiaries, and certain other exempted subsidiaries).

Security

Our obligations and the obligations of the guarantors of our obligations under the First Lien Credit Facilities are secured by perfected first priority pledges of and security interests in (i) substantially all of the existing and future equity interests of our and each guarantor’s material wholly-owned restricted domestic subsidiaries and 65% of the equity interests in the material restricted first-tier foreign subsidiaries held by the Borrower or the guarantors of our obligations under the First Lien Credit Facilities and (ii) substantially all of the Borrower’s and each guarantor’s tangible and intangible assets, in each case, subject to certain exceptions.

Certain Covenants

The First Lien Credit Agreement contains a number of covenants that, among other things, restrict, subject to certain exceptions, our ability to:

- incur additional indebtedness;
- create or incur liens;
- engage in consolidations, amalgamations, mergers, liquidations, dissolutions, or dispositions;
- pay dividends and distributions on, or purchase, redeem, defease, or otherwise acquire or retire for value, our capital stock;
- make acquisitions, investments, loans (including guarantees), advances, or capital contributions;
- create negative pledges or restrictions on the payment of dividends or payment of other amounts owed from subsidiaries;
- sell, transfer or otherwise dispose of assets, including capital stock of subsidiaries;
- make prepayments or repurchases of debt that is contractually subordinated with respect to right of payment or security;
engage in certain transactions with affiliates;
• modify certain documents governing debt that is subordinated with respect to right of payment;
• change our fiscal year; and
• change our material lines of business.

In addition, the First Lien Credit Agreement includes a financial covenant which requires that, at the end of each fiscal quarter, for so long as the aggregate principal amount of borrowings under the Revolving Credit Facility exceeds 35% of the aggregate commitments under the Revolving Credit Facility, our first lien net leverage ratio cannot exceed 6.30 to 1.00. A breach of this financial covenant will not result in a default or event of default under the First Lien Term Loans unless and until the lenders under the Revolving Credit Facility have terminated the commitments under the Revolving Credit Facility and declared the borrowings under the Revolving Credit Facility due and payable.

Events of Defaults
The First Lien Credit Agreement includes certain customary events of default, including, among others, failure to pay principal, interest or other amounts; material inaccuracy of representations and warranties; violation of covenants; specified cross-default and cross-acceleration to other material indebtedness; certain bankruptcy and insolvency events; certain Employee Retirement Income Security Act of 1974 (“ERISA”) events; certain undischarged judgments; material invalidity of guarantees or grant of security interest; and change of control.

Second Lien Credit Facility
General
On September 29, 2017, the Borrower entered into a Second Lien Credit Agreement among the Borrower, the other credit parties party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent (the “Second Lien Agent”) and the lenders from time to time party thereto. The Second Lien Credit Agreement provides for a U.S. dollar-denominated Second Lien Term Loan tranche of $600 million (the “Second Lien Credit Facility” and, together with the First Lien Credit Facilities, the “Senior Secured Credit Facilities”). As of June 27, 2020, the aggregate outstanding principal amount of the Second Lien Term Loan was $525 million, which does not reflect the repayment of approximately $525 million of the Second Lien Term Loan using a portion of the net proceeds from this offering.

The Second Lien Credit Agreement provides us the right to request additional commitments for new incremental term loans in an aggregate principal amount not to exceed (w) $500 million (the “Second Lien Fixed Basket”) less the amount of any other incremental borrowings incurred in reliance on that amount or the First Lien Fixed Basket, plus (x) in the case of any incremental facilities that serve to effectively extend the maturity, or refinance or replace, any existing term loans or commitments, an amount equal to the reductions in the term loans or commitments to be replaced thereby or terminated, plus (y) the amount of certain voluntary prepayments, redemptions or repurchases of any term loans and/or previously incurred incremental equivalent debt and any permanent reduction of the commitments under any revolving facility or incremental equivalent debt consisting of a revolving credit facility, plus (z) an unlimited amount (the “Second Lien Ratio Basket”) so long as (1) if such incremental indebtedness is secured by a lien on the collateral, (i) we are in compliance on a pro forma basis with a secured net leverage ratio of no greater than 5.75:1.00 or (ii) if such incremental indebtedness is incurred in connection with an acquisition or other similar investment permitted under the Second Lien Credit Agreement, the secured net leverage ratio would not be greater on a pro forma basis after giving effect to such acquisition or similar investment than the secured net leverage ratio immediately prior to the incurrence of such incremental indebtedness or (2) if such incremental indebtedness is unsecured, (i) we are in compliance on a pro forma basis with a total net leverage ratio of no greater than 6.00:1.00; or (ii) if such
incremental indebtedness is incurred in connection with an acquisition or other similar investment permitted under the Second Lien Credit Agreement, the total net leverage ratio would not be greater on a pro forma basis after giving effect to such acquisition or similar investment than the total net leverage ratio immediately prior to the incurrence of such incremental indebtedness; provided that amounts borrowed under the Second Lien Fixed Basket may later be reclassified as having been borrowed under the Second Lien Ratio Basket. In addition, the Second Lien Credit Agreement provides that we have the right to replace and extend existing loans or commitments with new commitments from existing or new lenders under the Second Lien Credit Agreement. The lenders under the Second Lien Credit Agreement are not under any obligation to provide any such additional commitments, and any increase in, or replacement or extension of, commitments is subject to customary conditions precedent and limitations. The Second Lien Term Loan will mature on September 29, 2025.

**Interest Rates and Fees**

The borrowings under the Second Lien Credit Agreement bear interest at a floating rate which can be, at our option, either (1) a Eurodollar rate for a specified interest period plus an applicable margin of 8.50% or (2) a base rate plus an applicable margin of 7.50%. The Eurodollar rate applicable to the Second Lien Credit Facility is subject to a “floor” of 1.00%. The base rate applicable to the Second Lien Credit Facility is subject to a “floor” of 2.00%.

The base rate for any day is a fluctuating rate per annum equal to the highest of (a) the federal funds effective rate in effect on such day, plus 0.50%, (b) the rate of interest in effect for such day as publicly announced by the Second Lien Agent as its “prime rate,” and (c) the Eurodollar rate with a one-month interest period plus 1.00%.

**Voluntary Prepayments**

We are permitted to voluntarily prepay or repay outstanding loans under the Second Lien Credit Facility at any time, in whole or in part, subject to prior written notice, minimum amount requirements, and customary “breakage” costs with respect to Eurodollar loans.

**Mandatory Prepayments**

The Second Lien Credit Agreement requires us to prepay, subject to certain exceptions, the Second Lien Term Loan with:

- 100% of net cash proceeds above a threshold amount of certain asset sales and casualty events, subject to (i) step-downs to (x) 50% if our secured net leverage ratio is less than or equal to 4.25 to 1.00, but greater than 3.50 to 1.00 and (y) 0% if our secured net leverage ratio is less than or equal to 3.50 to 1.00 and (ii) reinvestment rights and certain other exceptions;
- 100% of net cash proceeds of the incurrence of certain debt, other than certain debt permitted under the Second Lien Credit Agreement; and
- 50% of annual excess cash flow, subject to (i) a step-down to 25% if our secured net leverage ratio is less than or equal to 4.25 to 1.00, but greater than 3.50 to 1.00, and (ii) a step-down to 0% if our secured net leverage ratio is less than or equal to 3.50 to 1.00; provided that such a prepayment is required only in the amount (if any) by which such prepayment exceeds $35 million in such fiscal year.

Such mandatory prepayments of the Second Lien Credit Agreement (other than with respect to net cash proceeds of the incurrence of certain refinancing indebtedness) are required only (i) if the First Lien Term Loans (and any refinancing thereof) have been paid in full or (ii) with net cash proceeds of asset sales or casualty events or excess cash flow that have been declined by any lender under the First Lien Term Loans.
Guarantees

Subject to certain exceptions, all obligations under the Second Lien Credit Agreement are jointly and severally, fully and unconditionally, guaranteed on a secured basis by each of McAfee Finance 2, LLC and certain of the Borrower’s existing and future direct and indirect domestic subsidiaries (other than unrestricted subsidiaries, our joint ventures, subsidiaries prohibited by applicable law from becoming guarantors, immaterial subsidiaries, and certain other exempted subsidiaries).

Security

Our obligations and the obligations of the guarantors of our obligations under the Second Lien Credit Agreement are secured by perfected second priority pledges of and security interests in (i) substantially all of the existing and future equity interests of our and each guarantor’s material wholly-owned restricted domestic subsidiaries and 65% of the equity interests in the material restricted first-tier foreign subsidiaries held by the Borrower or the guarantors of our obligations under the Second Lien Credit Agreement and (ii) substantially all of the Borrower’s and each guarantor’s tangible and intangible assets, in each case subject to certain exceptions.

Certain Covenants

The Second Lien Credit Agreement contains a number of covenants that, among other things, restrict, subject to certain exceptions, our ability to:

• incur additional indebtedness;
• create or incur liens;
• engage in consolidations, amalgamations, mergers, liquidations, dissolutions, or dispositions;
• pay dividends and distributions on, or purchase, redeem, defease, or otherwise acquire or retire for value, our capital stock;
• make acquisitions, investments, loans (including guarantees), advances, or capital contributions;
• create negative pledges or restrictions on the payment of dividends or payment of other amounts owed from subsidiaries;
• sell, transfer, or otherwise dispose of assets, including capital stock of subsidiaries;
• make prepayments or repurchases of debt that is contractually subordinated with respect to right of payment or security;
• engage in certain transactions with affiliates;
• modify certain documents governing debt that is subordinated with respect to right of payment;
• change our fiscal year; and
• change our material lines of business.

Events of Defaults

The Second Lien Credit Agreement includes certain customary events of default, including, among others, failure to pay principal, interest or other amounts; material inaccuracy of representations and warranties; violation of covenants; specified cross-default and cross-acceleration to other material indebtedness; certain bankruptcy and insolvency events; certain ERISA events; certain undischarged judgments; material invalidity of guarantees or grant of security interest; and change of control.
DESCRIPTION OF CAPITAL STOCK

General
The following description of our capital stock is intended as a summary only and is qualified in its entirety by reference to our certificate of incorporation and bylaws to be in effect at the completion of this offering, which are filed as exhibits to the registration statement of which this prospectus forms a part, and to the applicable provisions of Delaware law. Under “Description of Capital Stock,” “we,” “us,” “our,” “McAfee,” and “our Company” refer to McAfee Corp.

As of the consummation of this offering, our authorized capital stock will consist of 1,500,000,000 shares of Class A common stock, par value $0.001 per share, 300,000,000 shares of Class B common stock, par value $0.001 per share, and 200,000,000 shares of preferred stock, par value $0.001 per share. Upon the completion of this offering, there will be 165,441,836 shares of our Class A common stock issued and outstanding and 264,700,940 shares of our Class B common stock issued and outstanding. See “The Reorganization Transactions.”

Common Stock

Voting Rights. Holders of our Class A common stock and Class B common stock will be entitled to cast one vote per share on all matters submitted to stockholders for their approval. Holders of our Class A common stock and Class B common stock will not be entitled to cumulate their votes in the election of directors. Holders of our Class A common stock and Class B common stock will vote together as a single class on all matters submitted to stockholders for their vote or approval, except with respect to the amendment of certain provisions of our certificate of incorporation that would alter or change the powers, preferences or special rights of the Class B common stock so as to affect them adversely, which amendments must be approved by a majority of the votes entitled to be cast by the holders of the Class B common stock, voting as a separate class, or as otherwise required by applicable law. The voting power of the outstanding Class B common stock (expressed as a percentage of the total voting power of all common stock) will be equal to the percentage of LLC Units not held directly or indirectly by McAfee Corp. Shares of Class B common stock will be canceled on a one-for-one basis upon the exchange of LLC Units for shares of Class A common stock, and accordingly, the voting power afforded to holders of LLC Units by their shares of Class B common stock will automatically be reduced as the number of LLC Units held by such holder of Class B common stock decreases.

Generally, all matters to be voted on by stockholders must be approved by a majority of the votes entitled to be cast on a matter by stockholders (or, in the case of election of directors, by a plurality), voting together as a single class. Delaware law would require our Class A stockholders and Class B stockholders to vote separately as a single class in the following circumstances:

• if we amend our amended and restated certificate of incorporation to increase the authorized shares of a class of stock, or to increase or decrease the par value of a class of stock, then such class would be required to vote separately to approve the proposed amendment; or
• if we amend our amended and restated certificate of incorporation in a manner that alters or changes the powers, preferences or special rights of a class of stock in a manner that affects holders of such class of stock adversely, then such class would be required to vote separately to approve such proposed amendment.

Except as otherwise provided by law, amendments to the certificate of incorporation must be approved by a majority or, in some cases, a super-majority of the combined voting power of all shares entitled to vote, voting together as a single class.

Dividend Rights. Holders of Class A common stock will share ratably (based on the number of shares of Class A common stock held) if and when any dividend is declared by the board of directors out of funds legally
available therefor, subject to any statutory or contractual restrictions on the payment of dividends and to any restrictions on the payment of dividends imposed by the terms of any outstanding preferred stock. The holders of shares of our Class B common stock will not have any right to receive dividends other than dividends consisting of shares of our Class B common stock paid proportionally with respect to each outstanding share of our Class B common stock.

**Liquidation Rights.** On our liquidation, dissolution, or winding up and after payment in full of all amounts required to be paid to creditors and to the holders of preferred stock having liquidation preferences, if any, each holder of Class A common stock will be entitled to a pro rata distribution of any assets available for distribution to common stockholders. Other than their par value, the holders of shares of our Class B common stock will not have any right to receive a distribution upon a liquidation or dissolution of our Company.

**Other Matters.** No shares of Class A common stock or Class B common stock will be subject to redemption or have preemptive rights to purchase additional shares of Class A common stock or Class B common stock. Holders of shares of our Class A common stock and Class B common stock do not have subscription, redemption or conversion rights. There will be no redemption or sinking fund provisions applicable to the Class A common stock or Class B Common Stock. Upon consummation of this offering, all the outstanding shares of Class A common stock and Class B common stock will be validly issued, fully paid, and non-assessable.

**Transfers of Class B Common Stock.** Pursuant to our amended and restated certificate of incorporation and the New LLC Agreement, each holder of Class B common stock agrees that:

- the holder will not transfer any shares of Class B common stock to any person unless the holder transfers an equal number of LLC Units to the same person; and
- in the event the holder transfers any LLC Units to any person, the holder will transfer an equal number of shares of Class B common stock to the same person.

**Preferred Stock**

Our board of directors may, without further action by our stockholders, from time to time, direct the issuance of shares of preferred stock in series and may, at the time of issuance, determine the designations, powers, preferences, privileges and relative participating, optional or special rights, as well as the qualifications, limitations or restrictions thereof, including dividend rights, conversion rights, voting rights, terms of redemption and liquidation preferences, any or all of which may be greater than the rights of the Class A common stock. Satisfaction of any dividend preferences of outstanding shares of preferred stock would reduce the amount of funds available for the payment of dividends on shares of our Class A common stock. Holders of shares of preferred stock may be entitled to receive a preference payment in the event of our liquidation before any payment is made to the holders of shares of our Class A common stock. Under certain circumstances, the issuance of shares of preferred stock may render more difficult or tend to discourage a merger, tender offer or proxy contest, the assumption of control by a holder of a large block of our securities or the removal of incumbent management. Upon the affirmative vote of a majority of the total number of directors then in office, our board of directors, without stockholder approval, may issue shares of preferred stock with voting and conversion rights which could adversely affect the holders of shares of our Class A common stock and the market value of our Class A common stock. Upon consummation of this offering, there will be no shares of preferred stock outstanding, and we have no present intention to issue any shares of preferred stock.

**Stockholders Agreement**

In connection with this offering, we intend to enter into a stockholders agreement with Intel Americas, Inc., investment funds affiliated with our Sponsors, and certain other stockholders pursuant to which such parties will have specified board representation rights, governance rights and other rights. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Stockholders Agreement.”
Registration Rights

Following the completion of this offering, Intel, certain investment funds affiliated with our Sponsors, certain other stockholders, and our Chief Executive Officer will be entitled to rights with respect to the registration of shares of Class A common stock, including shares received in exchange for a corresponding number of LLC Units and shares of Class B common stock under the Securities Act. These registration rights will be contained in our registration rights agreement. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Registration Rights Agreement.”

Anti-Takeover Effects of Our Certificate of Incorporation and Our Bylaws

Our certificate of incorporation and our bylaws contain provisions that may delay, defer, or discourage another party from acquiring control of us. We expect that these provisions will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with the board of directors, which we believe may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they may also discourage acquisitions that some stockholders may favor.

These provisions include:

• **Classified board.** Our amended and restated certificate of incorporation provides that our board of directors is divided with respect to the time for which directors severally hold office into three classes of directors. As a result, approximately one-third of our board of directors is elected each year. The classification of directors has the effect of making it more difficult for stockholders to change the composition of our board. Our board of directors is currently composed of seven members.

• **No cumulative voting.** The DGCL provides that stockholders are not entitled to the right to cumulate votes in the election of directors unless the certificate of incorporation specifically authorizes cumulative voting. Our amended and restated certificate of incorporation does not authorize cumulative voting.

• **Requirements for removal of directors.** Directors may only be removed for cause; provided, however, TPG or Intel Americas, Inc. may remove any director nominated by TPG or Intel Americas, Inc., respectively, without cause upon affirmative vote of the holders of a majority of the outstanding voting power.

• **Advance notice procedures.** Our bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to the board of directors. Stockholders at an annual meeting will only be able to consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of the board of directors or by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our secretary timely written notice, in proper form, of the stockholder’s intention to bring that business before the meeting. Although our bylaws do not give the board of directors the power to approve or disapprove stockholder nominations of candidates or proposals regarding other business to be conducted at a special or annual meeting, the bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of our Company.

• **Actions by written consent; special meetings of stockholders.** Our amended and restated certificate of incorporation provides that stockholder action can be taken only at an annual or special meeting of stockholders and cannot be taken by written consent in lieu of a meeting. Our amended and restated certificate of incorporation also provides that, except as otherwise required by law, special meetings of the stockholders can only be called by or at the direction of the board of directors pursuant to a resolution approved by a majority of the entire board of directors.
Supermajority approval requirements. Certain amendments to our certificate of incorporation and shareholder amendments to our bylaws will require the affirmative vote of at least 66 2/3% of the voting power of the outstanding shares of our capital stock entitled to vote thereon.

Authorized but unissued shares. Our authorized but unissued shares of common and preferred stock are available for future issuance without stockholder approval. The existence of authorized but unissued shares of preferred stock could render more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Exclusive Forum

Our amended and restated certificate of incorporation requires, to the fullest extent permitted by law, that (i) derivative actions or proceedings brought on behalf of the Company, (ii) actions against directors, officers and employees asserting a claim of breach of a fiduciary duty owed to the Company or the Company’s stockholders, (iii) actions asserting a claim against the Company arising pursuant to the DGCL or the Company’s amended and restated certificate of incorporation or bylaws, (iv) actions to interpret, apply, enforce or determine the validity of the Company’s amended and restated certificate of incorporation or bylaws or (v) actions asserting a claim against the Company governed by the internal affairs doctrine, may be brought only in specified courts in the State of Delaware. Our amended and restated certificate of incorporation also provides that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action against us or any of our directors, officers, employees or agents and arising under the Securities Act. However, Section 22 of the Securities Act provides that federal and state courts have concurrent jurisdiction over lawsuits brought the Securities Act or the rules and regulations thereunder. To the extent the exclusive forum provision restricts the courts in which claims arising under the Securities Act may be brought, there is uncertainty as to whether a court would enforce such a provision. We note that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. This provision does not apply to claims brought under the Exchange Act. See "Risk Factors—Our certificate of incorporation after this offering will designate courts in the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, and also provide that the federal district courts will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act, each of which could limit our stockholders’ ability to choose the judicial forum for disputes with us or our directors, officers, stockholders, or employees."

Section 203 of the DGCL

We are subject to the provisions of Section 203 of the DGCL. In general, Section 203 prohibits a publicly-held Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a three-year period following the time that such stockholder becomes an interested stockholder, unless the business combination is approved in a prescribed manner. A “business combination” includes, among other things, a merger, asset or stock sale or other transaction resulting in a financial benefit to the interested stockholder. An “interested stockholder” is a person who, together with affiliates and associates, owns, or did own within three years prior to the determination of interested stockholder status, 15% or more of the corporation’s voting stock.

Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions: before the stockholder became interested, the board of directors approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder; upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, shares owned by persons who are directors and also officers, and employee stock plans, in some instances; or at or after the time the stockholder became interested, the business combination was approved by board of directors of the corporation and authorized at an annual or special meeting of the stockholders by the
affirmative vote of at least two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

A Delaware corporation may “opt out” of these provisions with an express provision in its original certificate of incorporation or an express provision in its certificate of incorporation or by-laws resulting from a stockholders’ amendment approved by at least a majority of the outstanding voting shares. We have not opted out of these provisions. As a result, mergers or other takeover or change in control attempts of us may be discouraged or prevented.

Corporate Opportunities

Our amended and restated certificate of incorporation provides that we renounce any interest or expectancy in the business opportunities of our Sponsors and Intel Americas, Inc. and its affiliates and each of their respective partners, principals, directors, officers, members, managers and/or employees, including any of the foregoing who serve as officers or directors of the Company, and each such party shall not have any obligation to offer us those opportunities unless presented to one of our directors or officers in his or her capacity as a director or officer.

Limitations on Liability and Indemnification of Directors and Officers

Our certificate of incorporation limits the liability of our directors and officers to the fullest extent permitted by Delaware law and requires that we will provide them with customary indemnification. We also expect to enter into customary indemnification agreements with each of our directors that provide them, in general, with customary indemnification in connection with their service to us or on our behalf. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, we have been informed that in the opinion of the SEC such indemnification is against public policy and is therefore unenforceable. We also maintain officers’ and directors’ liability insurance that insures against liabilities that our officers and directors may incur in such capacities.

Transfer Agent and Registrar

The transfer agent and registrar for our Class A common stock is American Stock Transfer & Trust Company, LLC.

Listing

We have applied to list our Class A common stock on the Exchange under the symbol “MCFE”.

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SHARES ELIGIBLE FOR FUTURE SALE

Before this offering, there has been no public market for our Class A common stock. As described below, only a limited number of shares currently outstanding will be available for sale immediately after this offering due to contractual and legal restrictions on resale. Nevertheless, future sales of substantial amounts of our Class A common stock, including shares issued upon the exercise of outstanding options, in the public market after this offering, or the perception that those sales may occur, could cause the prevailing market price for our Class A common stock to fall or impair our ability to raise capital through sales of our equity securities.

Upon the completion of this offering, we will have outstanding 165,441,836 shares of our Class A common stock, after giving effect to the issuance of 30,982,558 shares of our Class A common stock in this offering, assuming no exercise by the underwriters of their option to purchase additional shares and no exercise of options outstanding immediately following the Reorganization Transactions and 264,700,940 shares of our Class B common stock outstanding.

Of the shares that will be outstanding immediately after the completion of this offering, we expect that the 30,982,558 shares of Class A common stock to be sold in this offering will be freely tradable without restriction under the Securities Act unless purchased by our “affiliates,” as that term is defined in Rule 144 under the Securities Act (“Rule 144”). Shares purchased by our affiliates may not be resold except pursuant to an effective registration statement or an exemption from registration, including the safe harbor under Rule 144 described below.

In addition, upon consummation of this offering, the Continuing Owners will beneficially own 260,055,927 shares of Class A common stock underlying LLC Units. The Continuing Owners will have the right, from time to time, to exchange their LLC Units for cash (based upon the market price of the shares of our Class A common stock) or, at our option, for shares of our Class A common stock on a one-for-one basis (and McAfee Corp. will cancel an equal number of shares of Class B common stock to the exchanging member), subject to customary conversion rate adjustments for stock splits, stock dividends, reclassifications, and other similar transactions.

Shares of our Class A common stock received in exchange for a corresponding number of LLC Units and shares of Class B common stock held by the Continuing Owners would be “restricted securities,” as defined in Rule 144. As a result, absent registration under the Securities Act or compliance with Rule 144 thereunder or an exemption therefrom, these shares of Class A common stock will not be freely transferable to the public. However, we will enter into a registration rights agreement with the Continuing Owners that will require us to register under the Securities Act the resale of these shares of Class A common stock. See “Description of Capital Stock—Registration Rights” and “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Registration Rights Agreement.” Such securities registered under any registration statement will be available for sale in the open market unless restrictions apply.

The remaining 134,459,278 shares of our Class A common stock outstanding after this offering will be “restricted securities,” as that term is defined in Rule 144, and we expect that substantially all of these restricted securities will be subject to the lock-up agreements and market standoff agreements pursuant to the New LLC Agreement described below. These restricted securities may be sold in the public market only if the sale is registered or pursuant to an exemption from registration, such as the safe harbor provided by Rule 144.

Lock-up Agreements and Market Standoff Agreements

We and each of our directors, executive officers, the selling stockholders, and holders of 97.4% of our capital stock, who collectively own approximately 390 million shares of our Class A common stock, or securities exercisable for or exchangeable into shares of our Class A common stock, including LLC Units, following this offering, have agreed that, without the prior written consent of certain of the underwriters, we and they will not, subject to limited exceptions, directly or indirectly sell or dispose of any shares of Class A common stock or any
securities convertible into or exchangeable or exercisable for shares of Class A common stock for a period of 180 days after the date of this prospectus. Additionally, certain holders representing 2.6% of our outstanding capital stock and options, have not entered into lock-up agreements with the underwriters and, therefore, are not subject to the restrictions described above. These holders are subject to market standoff agreements with us pursuant to the New LLC Agreement, and we will not waive any of the restrictions of such market standoff agreements during the period ending 180 days after the date of this prospectus without the prior written consent of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC on behalf of the underwriters. The lock-up restrictions and specified exceptions are described in more detail under “Underwriters.”

Rule 144
In general, under Rule 144, beginning 90 days after the date of this prospectus, any person who is not our affiliate and has held their shares of Class A common stock for at least six months, including the holding period of any prior owner other than one of our affiliates, may sell shares without restriction, subject to the availability of current public information about us and upon the expiration of the market standoff agreements and lock-up agreements described above. In addition, under Rule 144, any person who is not our affiliate and has not been our affiliate at any time during the preceding three months and has held their shares of Class A common stock for at least one year, including the holding period of any prior owner other than one of our affiliates, would be entitled to sell an unlimited number of shares of Class A common stock immediately upon the completion of this offering without regard to whether current public information about us is available.

Beginning 90 days after the date of this prospectus, a person who is our affiliate or who was our affiliate at any time during the preceding three months and who has beneficially owned restricted securities for at least six months, including the holding period of any prior owner other than one of our affiliates, is entitled to sell a number of shares of Class A common stock within any three-month period that does not exceed the greater of: (i) 1% of the number of shares of our Class A common stock outstanding, which will equal approximately 1,654,418 shares immediately after this offering; and (ii) the average weekly trading volume of our Class A common stock on the Exchange during the four calendar weeks preceding the filing of a notice on Form 144 with respect to the sale.

Sales under Rule 144 by our affiliates are also subject to certain manner of sale provisions, notice requirements and the availability of current public information about us.

Rule 701
In general, under Rule 701 under the Securities Act (“Rule 701”), beginning 90 days after we become subject to the public company reporting requirements of the Exchange Act, any of our employees, directors, officers, consultants, or advisors who acquired shares of Class A common stock from us in connection with a written compensatory stock or option plan or other written agreement in compliance with Rule 701 is entitled to sell such shares in reliance on Rule 144 but without compliance with certain of the requirements contained in Rule 144. Accordingly, subject to any applicable lock-up agreements and market standoff agreements, beginning 90 days after we become subject to the public company reporting requirements of the Exchange Act, under Rule 701 persons who are not our affiliates may resell those shares without complying with the minimum holding period or public information requirements of Rule 144, and persons who are our affiliates may resell those shares without compliance with Rule 144’s minimum holding period requirements.

Equity Incentive Plans
Following this offering, we intend to file with the SEC a registration statement on Form S-8 under the Securities Act covering the shares of Class A common stock that are subject to options and other awards issuable pursuant to our equity incentive plans. Shares covered by such registration statement will be available for sale in the open market following its effective date, subject to certain Rule 144 limitations applicable to affiliates and the terms of lock-up agreements and market standoff agreements applicable to those shares.
Subject to the lock-up agreements and market standoff agreements described above, certain holders of our Class A common stock, or securities exercisable for or exchangeable into shares of Class A common stock, including shares of Class B common stock and LLC Units, may demand that we register the sale of their shares under the Securities Act or, if we file another registration statement under the Securities Act other than a Form S-8 covering securities issuable under our equity plans or on Form S-4, may elect to include their shares of Class A common stock in such registration. Following such registered sales, the shares will be freely tradable without restriction under the Securities Act, unless held by our affiliates. See “Certain Relationships and Related Party Transactions—Agreements to be Entered in Connection with the Reorganization Transactions and this Offering—Registration Rights Agreement.”
MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS

The following is a summary of certain United States federal income and estate tax consequences of the purchase, ownership and disposition of shares of our common stock as of the date hereof. Except where noted, this summary deals only with common stock that is held as a capital asset by a non-U.S. holder (as defined below).

A “non-U.S. holder” means a beneficial owner of shares of our common stock (other than an entity treated as a partnership for United States federal income tax purposes) that is not, for United States federal income tax purposes, any of the following:

- an individual citizen or resident of the United States;
- a corporation (or any other entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to United States federal income taxation regardless of its source; or
- a trust if it (1) is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

This summary is based upon provisions of the Code, the existing and proposed U.S. Treasury regulations promulgated thereunder, administrative pronouncements, and rulings and judicial decisions interpreting the foregoing, in each case as of the date hereof. Those authorities may be changed, perhaps retroactively, so as to result in United States federal income and estate tax consequences different from those summarized below. This summary does not address all aspects of United States federal income and estate taxes and does not deal with the alternative minimum tax, the Medicare contribution tax, United States federal tax laws other than United States federal income or estate tax laws, or any foreign, state, local or other tax considerations that may be relevant to non-U.S. holders in light of their particular circumstances or status. In addition, it does not represent a detailed description of the United States federal income and estate tax consequences applicable to you if you are subject to special treatment under the United States federal income tax laws (including if you are a United States expatriate, foreign pension fund, “controlled foreign corporation,” “passive foreign investment company,” financial institution, broker-dealer, insurance company, tax-exempt entity, a corporation that accumulates earnings to avoid United States federal income tax, a person subject to special tax accounting as a result of any item of gross income taken into account in an applicable financial statement under Section 451(b) of the Code, a person in a special situation such as those who have elected to mark securities to market or those who hold shares of common stock as part of a straddle, hedge, conversion transaction, or synthetic security or a partnership or other pass-through entity (or beneficial owner thereof) for United States federal income tax purposes). We cannot assure you that a change in law will not alter significantly the tax considerations that we describe in this summary.

A modified definition of “non-U.S. holder” applies for U.S. federal estate tax purposes (as discussed below).

If a partnership (or other entity treated as a partnership for United States federal income tax purposes) holds shares of our common stock, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our common stock, you should consult your tax advisors.

If you are considering the purchase of our common stock, you should consult your own tax advisors concerning the particular United States federal income and estate tax consequences to you of the purchase,
ownership and disposition of our common stock, as well as the consequences to you arising under other United States federal tax laws and the laws of any other taxing jurisdiction, and the application of any tax treaties.

Distributions on Common Stock

In the event that we make a distribution of cash or other property (other than certain pro rata distributions of our stock) in respect of shares of our common stock, the distribution generally will be treated as a dividend for United States federal income tax purposes to the extent it is paid from our current or accumulated earnings and profits, as determined under United States federal income tax principles. Any portion of a distribution that exceeds our current and accumulated earnings and profits generally will be treated first as a tax-free return of capital, causing a reduction in the adjusted tax basis of a non-U.S. holder’s shares of our common stock, and to the extent the amount of the distribution exceeds a non-U.S. holder’s adjusted tax basis in shares of our common stock, the excess will be treated as gain from the disposition of shares of our common stock (the tax treatment of which is discussed below under “—Gain on Disposition of Common Stock”).

Subject to the discussion below regarding effectively connected income, dividends paid to a non-U.S. holder generally will be subject to withholding of United States federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty, as discussed further below. Even if our current or accumulated earnings and profits are less than the amount of the distribution, the applicable withholding agent may elect to treat the entire distribution as a dividend for U.S. federal withholding tax purposes. Dividends that are effectively connected with the conduct of a trade or business by the non-U.S. holder within the United States (and, if required by an applicable income tax treaty, attributable to a United States permanent establishment, or, in certain cases involving individual holders, a fixed base) are not subject to the withholding tax, provided certain certification and disclosure requirements are satisfied. Instead, such dividends are subject to United States federal income tax on a net income basis in the same manner as if the non-U.S. holder were a United States person as defined under the Code. To obtain this exemption, a non-U.S. holder must provide us with a valid IRS Form W-8ECI properly certifying such exemption. Any such effectively connected dividends received by a foreign corporation may be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

A non-U.S. holder who wishes to claim the benefit of an applicable treaty rate and avoid backup withholding, as discussed below, for dividends will be required (a) to provide the applicable withholding agent with a properly executed, valid IRS Form W-8BEN or Form W-8BEN-E (or other applicable form) certifying under penalty of perjury that such holder is not a United States person as defined under the Code and is eligible for treaty benefits or (b) if our common stock is held through certain foreign intermediaries, to satisfy the relevant certification requirements of applicable United States Treasury regulations. Special certification and other requirements apply to certain non-U.S. holders that are pass-through entities rather than corporations or individuals. You are urged to consult your own tax advisors regarding your entitlement to benefits under a relevant income tax treaty.

A non-U.S. holder eligible for a reduced rate of United States federal withholding tax pursuant to an income tax treaty may be entitled to a refund of any excess amounts withheld if the non-U.S. holder timely files an appropriate claim for refund with the IRS.

The foregoing discussion is subject to the discussion below under “—Information Reporting and Backup Withholding” and “—Additional Withholding Requirements.”
Gain on Disposition of Common Stock

Subject to the discussion of backup withholding and FATCA below, any gain realized by a non-U.S. holder on the sale or other disposition of shares of our common stock generally will not be subject to United States federal income tax unless:

- the gain is effectively connected with a trade or business of the non-U.S. holder in the United States (and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment of the non-U.S. holder or, in certain cases involving individual holders, a fixed base of the non-U.S. holder);
- the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or
- we are or have been a “United States real property holding corporation” for United States federal income tax purposes during the applicable period specified in the Code, and certain other conditions are met.

A non-U.S. holder described in the first bullet point immediately above will be subject to tax on the gain derived from the sale or other disposition in the same manner as if the non-U.S. holder were a United States person as defined under the Code. In addition, if any non-U.S. holder described in the first bullet point immediately above is a foreign corporation, the gain realized by such non-U.S. holder may be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. An individual non-U.S. holder described in the second bullet point immediately above will be subject to a 30% (or such lower rate as may be specified by an applicable income tax treaty) tax on the gain derived from the sale or other disposition, which gain may be offset by United States source capital losses even though the individual is not considered a resident of the United States.

Generally, a corporation is a “United States real property holding corporation” if the fair market value of its United States real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests and its other assets used or held for use in a trade or business (all as determined for United States federal income tax purposes). We believe we are not and do not anticipate becoming a “United States real property holding corporation” for United States federal income tax purposes.

Federal Estate Tax

Common stock owned or treated as owned by an individual who is not a U.S. citizen or resident (as specifically determined for United States federal estate tax purposes) at the time of the individual’s death will be included in the individual’s gross estate for United States federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

Information Reporting and Backup Withholding

Distributions paid to a non-U.S. holder and the amount of any tax withheld with respect to such distributions generally will be reported to the IRS. Copies of the information returns reporting such distributions and any withholding may also be made available to the tax authorities in the country in which the non-U.S. holder resides under the provisions of an applicable income tax treaty or agreement for the exchange of information.

A non-U.S. holder will not be subject to backup withholding on dividends received if such holder certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that such holder is a United States person as defined under the Code), or such holder otherwise establishes an exemption.

Information reporting and, depending on the circumstances, backup withholding will apply to the proceeds of a sale or other disposition of shares of our common stock made within the United States or conducted through
certain United States-related financial intermediaries, unless the beneficial owner certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that the beneficial owner is a United States person as defined under the Code), or such owner otherwise establishes an exemption.

Provision of an IRS Form W-8 appropriate to the non-U.S. holder’s circumstances will generally satisfy the certification requirements necessary to avoid the additional information reporting and backup withholding.

Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a non-U.S. holder’s United States federal income tax liability, provided the required information is timely furnished to the IRS.

**Additional Withholding Requirements**

Under Sections 1471 through 1474 of the Code (such Sections commonly referred to as “FATCA”), a 30% United States federal withholding tax may apply to any dividends paid on and (subject to the proposed Treasury Regulations discussed below) gross proceeds from the sale or other disposition of shares of our common stock paid to (i) a “foreign financial institution” (as specifically defined in the Code) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA or (y) its compliance (or deemed compliance) with FATCA (which may alternatively be in the form of compliance with an intergovernmental agreement with the United States) in a manner which avoids withholding, or (ii) a “non-financial foreign entity” (as specifically defined in the Code) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA or (y) adequate information regarding certain substantial United States beneficial owners of such entity (if any). An intergovernmental agreement between the United States and the entity’s jurisdiction may modify these requirements. If a dividend payment is both subject to withholding under FATCA and subject to the withholding tax discussed above under “—Distributions on Common Stock,” the withholding under FATCA may be credited against, and therefore reduce, such other withholding tax upon filing a United States federal income tax return containing the required information (which may entail significant administrative burden). You should consult your own tax advisors regarding these requirements and whether they may be relevant to your ownership and disposition of shares of our common stock.
UNDERWRITERS (CONFLICTS OF INTEREST)

Under the terms and subject to the conditions in an underwriting agreement dated the date of this prospectus, the underwriters named below, for whom Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC are acting as representatives, have severally agreed to purchase, and we and the selling stockholders have agreed to sell to them, severally, the number of shares indicated below:

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<tr>
<th>Name</th>
<th>Number of Shares</th>
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<td>Morgan Stanley &amp; Co. LLC</td>
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<td>Goldman Sachs &amp; Co. LLC</td>
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<td>TPG Capital BD, LLC</td>
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<td>BoFA Securities, Inc.</td>
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<td>Citigroup Global Markets Inc.</td>
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<td>RBC Capital Markets, LLC</td>
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<td>Deutsche Bank Securities Inc.</td>
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<td>UBS Securities LLC</td>
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<td>HSBC Securities (USA) Inc.</td>
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<td>Mizuho Securities USA LLC</td>
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<td>Evercore Group L.L.C.</td>
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<td>Piper Sandler &amp; Co.</td>
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<td>Stifel, Nicolaus &amp; Company, Incorporated</td>
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<td>Academy Securities, Inc.</td>
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<td>C.L. King &amp; Associates, Inc.</td>
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<td>Blaylock Van, LLC</td>
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<td>Samuel A. Ramirez &amp; Company, Inc.</td>
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<td>Siebert Williams Shank &amp; Co., LLC</td>
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<td><strong>Total:</strong></td>
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The underwriters and the representatives are collectively referred to as the “underwriters” and the “representatives,” respectively. The underwriters are offering the shares of Class A common stock subject to their acceptance of the shares from us and the selling stockholders and subject to prior sale. The underwriting agreement provides that the obligations of the several underwriters to pay for and accept delivery of the shares of common stock offered by this prospectus are subject to the approval of certain legal matters by their counsel and to certain other conditions. The underwriters are obligated to take and pay for all of the shares of Class A common stock offered by this prospectus if any such shares are taken. However, the underwriters are not required to take or pay for the shares covered by the underwriters’ option to purchase additional shares described below.

The underwriters initially propose to offer part of the shares of Class A common stock directly to the public at the offering price listed on the cover page of this prospectus and part to certain dealers at a price that represents a concession not in excess of \$ per share under the public offering price. After the initial offering of the shares of Class A common stock, the offering price and other selling terms may from time to time be varied by the representative. Sale of Class A common stock made outside of the United States may be made by affiliates of the underwriters.

We and the selling stockholders have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to 5,550,000 additional shares of Class A common stock at the public offering price listed on the cover page of this prospectus, less underwriting discounts and commissions. To the extent the option is exercised, each underwriter will become obligated, subject to certain conditions, to purchase about the same percentage of the additional shares of Class A common stock as the number listed next to the underwriter’s name in the preceding table bears to the total number of shares of common stock listed next to the names of all underwriters in the preceding table.

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The following table shows the per share and total public offering price, underwriting discounts and commissions, and proceeds before expenses to us. These amounts are shown assuming both no exercise and full exercise of the underwriters’ option to purchase up to an additional 5,550,000 shares of Class A common stock.

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<th>Per Share</th>
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The estimated offering expenses payable by us, exclusive of the underwriting discounts and commissions, are approximately $12 million. We have agreed to reimburse the underwriters for expense relating to clearance of this offering with the Financial Industry Regulatory Authority up to $50,000.

The underwriters have informed us and the selling stockholders that they do not intend sales to discretionary accounts to exceed 5% of the total number of shares of common stock offered by them.

We have applied to have our Class A common stock approved for listing on the Exchange under the trading symbol “MCFE”.

We, Foundation Technology Worldwide LLC, the selling stockholders, and all directors and officers and holders of 97.4% of our outstanding capital stock and securities convertible into our capital stock have agreed that, without the prior written consent of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC on behalf of the underwriters, we and they will not, during the period ending 180 days after the date of this prospectus (the “restricted period”):

- offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or units of Foundation Technology Worldwide LLC beneficially owned by the locked-up party or any securities convertible into or exercisable or exchangeable for shares of common stock or units of Foundation Technology Worldwide LLC;
- file any registration statement with the SEC relating to the offering of any shares of Class A common stock or any securities convertible into or exercisable or exchangeable for Class A common stock; or
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock or units of Foundation Technology Worldwide LLC,

whether any such transaction described above is to be settled by delivery of common stock, units of Foundation Technology Worldwide LLC, or such other securities, in cash or otherwise. In addition, we and each such person agrees that, without the prior written consent of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC on behalf of the underwriters, we or such other person will not, during the restricted period, make any demand for, or exercise any right with respect to, the registration of any shares of Class A common stock or any security convertible into or exercisable or exchangeable for Class A common stock.

The restrictions described in the immediately preceding paragraph to do not apply to:

(a) transactions relating to shares of Class A common stock acquired in open market transactions or in this offering, in each case, upon the completion of this offering;
the transfer of securities by bona fide gift;

(c) transfers of shares of securities (i) as a result of the operation of law through estate, other testamentary document or intestate succession, (ii) to any immediate family member of the lock-up party or any trust for the direct or indirect benefit of the lock-up party or any immediate family member of the lock-up party, (iii) pursuant to a qualified domestic order or in connection with a divorce settlement, provided that such shares remain subject to the terms of the lock-up agreement, and, in the case of clause (c)(iii) only, if the locked-up party is required to file a report under Section 16(a) of the Exchange Act reporting a reduction in beneficial ownership of shares of Common Stock during the restricted period, the locked-up party shall include a statement in such report to the effect that such transfer occurred by operation of law or by court order, including pursuant to a domestic order or in connection with a divorce settlement; provided further that no other public announcement or filing shall be required or shall be voluntarily made during the restricted period;

(d) transfers of the lock-up party’s securities pursuant to an order of a court or pursuant to an order of a court or regulatory agency or to comply with any regulations related to the locked-up party’s ownership of securities; provided, that in the case of any transfer pursuant to this clause, any filing under Section 16(a) of the Exchange Act, reporting a reduction in beneficial ownership of shares of Class A common stock or Class B common stock, or collectively, the Common Stock, shall state that such transfer is pursuant to an order of a court or regulatory agency or to comply with any regulations related to the ownership of Common Stock unless such a statement would be prohibited by any applicable law, regulation or order of a court or regulatory authority;

(e) distributions of the locked-up party’s securities to partners, members, nominees, stockholders or holders of similar equity interests in the lock-up party not involving a disposition of value;

(f) transfers of the locked-up party’s securities to a corporation, partnership, limited liability company, investment fund or other entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the locked-up party, or is wholly-owned by the locked-up party and/or by members of the immediate family of the locked-up party, or, in the case of an investment fund, that is managed by, or is under common management with, the locked-up party (including, for the avoidance of doubt, a fund managed by the same manager or managing member or general partner or management company or by an entity controlling, controlled by, or under common control with such manager or managing member or general partner or management company as the locked-up party or who shares a common investment advisor with the locked-up party); provided that if the locked-up party is required to file a report under Section 16(a) of the Exchange Act during the restricted period, the locked-up party shall include a statement in any such report regarding the circumstances of the transfer.

(g) exercise or settlement of stock options, restricted stock units or other equity awards pursuant to any plan or agreement granting such an award to an employee or other service provider of us or our affiliates, which plan or agreement is described in the registration statement related to the Public Offering or the Prospectus (and any related transfer to us of securities necessary to generate such amount of cash needed for the payment of taxes, including estimated taxes, due as a result of such settlement or exercise whether by means of a “net settlement” or “cashless basis”); provided that (i) any remaining Common Stock received upon such exercise or settlement will be subject to the restrictions set forth in this agreement and provided further if the locked-up party is required to file a report under Section 16(a) of the Exchange Act during the Restricted Period, the locked-up party shall include a statement in any such report to the effect that (i) such transfer is in connection with the vesting or settlement of restricted stock units or incentive units, or the “net” or “cashless” exercise of options or other rights to purchase shares of Common Stock, as applicable and (ii) the transaction was only with us;

(h) dispositions to us upon exercise of our right to repurchase or reacquire the locked-up party’s securities in the event the locked-up party ceases to provide services to us pursuant to agreements in effect on the
date hereof, including without limitation our equity incentive plans, which plan or agreement is described in the registration statement related to this offering or the Prospectus that permit us to repurchase or reacquire, at cost, such securities upon termination of the locked-up party’s services to us; provided that any filing under Section 16(a) of the Exchange Act relating to such disposition shall clearly indicate in the footnotes thereto that the shares were repurchased or reacquired by us;

(i) transfers of Securities pursuant to a bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock involving a “change of control” of us, made to all holders of Common Stock involving a change of control (as defined below) of us which occurs after the consummation of the Public Offering, is open to all holders of our capital stock and has been approved by our board of directors; provided, that if such change of control is not consummated, such shares shall remain subject to all of the restrictions set forth in this agreement (for the purposes of this clause (i), a “change of control” being defined as any bona fide third party tender offer, merger, consolidation or other similar transaction the result of which is that any “person” (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than us, becomes or would become the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of 50% of total voting power of the voting stock of us) (or the surviving entity);

(j) if permitted by us, the establishment of a trading plan on behalf of a shareholder, officer or director of us pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, provided that (i) such plan does not provide for the transfer of shares of Common Stock during the restricted period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the locked-up party or us regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of shares of Common Stock may be made under such plan during the restricted period;

(k) the exchange of any units of Foundation Technology Worldwide LLC (or securities convertible into or exercisable or exchangeable for units of Foundation Technology Worldwide LLC) and a corresponding number of shares of Class B common stock into or for shares of Class A common stock (or securities convertible into or exercisable or exchangeable for Class A common stock pursuant to the New LLC Agreement, as defined and described in the Prospectus); provided that (i) such shares of Class A Common Stock and other securities remain subject to the terms of this agreement and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the locked-up party or us regarding the exchange, such announcement or filing shall include a statement to the effect that such exchange occurred pursuant to the New LLC Agreement among us and certain owners of Foundation Technology Worldwide LLC and no transfer of the shares of Class A common stock or other securities received upon exchange may be made during the restricted period;

(l) the transfer, conversion, reclassification, redemption or exchange of any securities pursuant to the reorganization transactions described in the Prospectus; provided that any shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock received in the reorganization transactions remain subject to the terms of this agreement and provided further that to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the locked-up party or us regarding the transfer, conversion, reclassification, redemption or exchange, as applicable, such announcement or filing shall include a statement to the effect that such transfer, conversion, reclassification, redemption or exchange, occurred pursuant to the Amended and Restated Foundation Technology Worldwide LLC Operating Agreement and no transfer of the shares of Class A common stock or other securities received upon exchange may be made during the restricted period;

(m) for certain shareholders, pledges to any third-party pledgee in a bona fide transaction as collateral to secure obligations pursuant to lending or other arrangements, between such third parties (or their affiliates or designees) and the locked-up party and/or its affiliates or any similar arrangement relating
to a financing agreement for the benefit of the locked-up party and/or its affiliates, provided that the terms of such pledge shall provide that the underlying Securities may not be transferred to the pledgee until the expiration of the restricted period;

(n) the transfer of the locked-up party’s securities pursuant to the terms of the underwriting agreement and to the underwriters in connection with this offering contemplated by the underwriting agreement; and

(o) the transfer of the locked-up party’s securities to us or any of our subsidiaries in the manner described in “Use of Proceeds” in the Prospectus.

provided that in the case of any gift, transfer or distribution pursuant to clause (b), (c), (d), (e), or (f), each donee, transferee or distributee shall sign and deliver a lock-up letter substantially in the form of this letter; and provided, further, that in the case of any gift, transfer or distribution pursuant to clause (a), (b), (c)(i)-(ii) (e) or (m), no filing under Section 16(a) of the Exchange Act, reporting a reduction in beneficial ownership of shares of Common Stock or other Securities, shall be required or shall be voluntarily made during the restricted period, other than a filing on Form 5 made after the expiration of the restricted period.

The lockup restrictions described above to not apply to us with respect to certain transactions including (A) the sale of our Class A common stock to the underwriters pursuant to the underwriting agreement, (B) the issuance of Common Stock or other securities to effect the Reorganization Transactions, (C) the issuance by us of shares of common stock upon the exercise of an option or warrant or the conversion of a security outstanding on the date hereof as described in this prospectus, (D) facilitating the establishment of a trading plan on be half of our shareholders, officers or directors pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, provided that (i) such plan does not provide for the transfer of common stock during the restricted period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by us regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of common stock may be made under such plan during the restricted period, (E) the grant by us of awards under equity incentive plans (including employee stock purchase plans) or other similar arrangements, so long as each plan or arrangement is disclosed in this prospectus, (F) the filing of a registration statement on Form S-8 (or equivalent form) with the Commission in connection with our employee stock compensation plan or agreement, which plan or agreement is disclosed in this prospectus, (G) the issuance of securities by us in exchange for securities of Foundation Technology Worldwide LLC pursuant to the terms of the limited liability company agreement of Foundation Technology Worldwide LLC (as amended from time to time), and (H) the issuance of shares of common stock or other securities (including securities convertible into shares of common stock) in connection with the acquisition by us or any of its subsidiaries of the securities, businesses, joint ventures, products or technologies, properties or other assets of another person or entity or pursuant to any equity incentive plan or arrangement, or any employee benefit plan, to the extent used to issue awards substitute awards or securities related to any such transaction; provided that the aggregate amounts of securities (on an as converted, as exercised or as exchanged basis) that we may sell or issue or agree to sell or issue pursuant to clause (H) shall not exceed 10% of our total number of common stock issued and outstanding immediately following the completion of the transactions contemplated by the underwriting agreement determined on a fully diluted basis, and provided further that in the case of clauses (F) and (H), any recipients of such shares of common stock shall deliver a “lock-up” agreement to Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC.

Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC, in their sole discretion, may release the common stock and other securities subject to the lock-up agreements described above in whole or in part at any time. Certain holders representing 2.6% of our outstanding capital stock and options, have not entered into lock-up agreements with us, and we will not waive any of the restrictions of such market standof agreements pursuant to the New LLC Agreement during the period ending 180 days after the date of this prospectus without the prior written consent of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC on behalf of the underwriters.
In the case of certain shareholders, if, prior to the expiration of the restricted period, Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC consent on behalf of the underwriters to release any securities held by any directors, officers, shareholders of 1% or more of our securities or units (or securities convertible into or exercisable or exchangeable for units of Foundation Technology Worldwide LLC), or any combination thereof from the restrictions of any lock-up arrangement similar to that set forth in the lock-up agreement (any such release being a “Triggering Release” and such party receiving such release a “Triggering Release Party”), then a number of the locked-up party’s securities subject to this agreement shall also be released from the restrictions set forth herein on a pro rata basis, such number of securities being the total number of securities held by the locked-up party on the date of the Triggering Release with respect to us that are subject to this agreement multiplied by a fraction, the numerator of which shall be the number of securities of us, as applicable, released pursuant to the Triggering Release and the denominator of which shall be the total number of our securities, held by the Triggering Release Party on such date. Notwithstanding the foregoing, such Triggering Release shall not be applied (a) if the aggregate number of shares of Common Stock affected by such discretionary release, waiver, or termination, in whole or in part, is less than or equal to 1.0% of the fully-diluted capitalization of the Company as measured immediately prior to the consummation of this offering; (b) with respect to any release granted to one of our director’s or officer’s due to financial hardship, as determined by Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC in their sole discretion; or (c) in the event of any primary or secondary public offering or sale that is underwritten, or the Underwritten Sale, of Common Stock during the restricted period; provided that if the locked-up party has a contractual right to demand or require the registration of locked-up party’s Common Stock or otherwise “piggyback” on a registration statement filed by us for the offer and sale of its Common Stock, the locked-up party is offered the opportunity to participate on a pro rata basis in the Underwritten Sale consistent with such contractual rights and the locked-up party is released from its lockup restrictions set forth herein to the extent of the locked-up party’s participation in such Underwritten Sale or such contractual rights are waived pursuant to the terms thereof. In the event of a Triggering Release, the Company shall use commercially reasonable efforts to notify the locked-up party within five (5) business days of the occurrence of such Triggering Release, which notification obligation may be satisfied by the issuance of a press release through a major news service, or on a Form 8-K, announcing such Triggering Release; provided that the failure by the Company to give such notice shall not give rise to any claim or liability against us or Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC, except, in respect of us, in the case of bad faith on the part of us.

In order to facilitate the offering of the Class A common stock, the underwriters may engage in transactions that stabilize, maintain, or otherwise affect the price of the Class A common stock. Specifically, the underwriters may sell more shares than they are obligated to purchase under the underwriting agreement, creating a short position. A short sale is covered if the short position is no greater than the number of shares available for purchase by the underwriters under the option. The underwriters can close out a covered short sale by exercising the option or purchasing shares in the open market. In determining the source of shares to close out a covered short sale, the underwriters will consider, among other things, the open market price of shares compared to the price available under the option. The underwriters may also sell shares in excess of the option, creating a naked short position. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Class A common stock in the open market after pricing that could adversely affect investors who purchase in this offering. As an additional means of facilitating this offering, the underwriters may bid for, and purchase, shares of Class A common stock in the open market to stabilize the price of the Class A common stock. These activities may raise or maintain the market price of the Class A common stock above independent market levels or prevent or retard a decline in the market price of the Class A common stock. The underwriters are not required to engage in these activities and may end any of these activities at any time.

We, the selling stockholders, and the underwriters have agreed to indemnify each other against certain liabilities, including liabilities under the Securities Act.

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A prospectus in electronic format may be made available on websites maintained by one or more underwriters, or selling group members, if any, participating in this offering. The representatives may agree to allocate a number of shares of Class A common stock to underwriters for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters that may make Internet distributions on the same basis as other allocations.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing, and brokerage activities. Certain of the underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for us, for which they received or will receive customary fees and expenses. Certain of the underwriters or their respective affiliates are lenders under our credit facilities, and an affiliate of Morgan Stanley & Co. LLC acts as administrative agent and collateral agent under our first lien credit facilities.

In addition, in the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve our securities and instruments. The underwriters and their respective affiliates may also make investment recommendations or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long or short positions in such securities and instruments.

Conflicts of Interest

Affiliates of TPG beneficially own in excess of 10% of our issued and outstanding common stock. Because TPG Capital BD, LLC, an affiliate of TPG, is an underwriter in this offering and its affiliates own in excess of 10% of our issued and outstanding common stock, TPG Capital BD, LLC is deemed to have a “conflict of interest” under Rule 5121. Accordingly, this offering is being made in compliance with the requirements of Rule 5121. Pursuant to that rule, the appointment of a “qualified independent underwriter” is not required in connection with this offering as the member primarily responsible for managing the public offering does not have a conflict of interest, is not an affiliate of any member that has a conflict of interest and meets the requirements of paragraph (i)(12)(E) of Rule 5121. TPG Capital BD, LLC will not confirm sales of the securities to any account over which it exercises discretionary authority without the specific written approval of the account holder.

Pricing of the Offering

Prior to this offering, there has been no public market for our Class A common stock. The initial public offering price was determined by negotiations between us, the selling stockholders, and the representatives. Among the factors considered in determining the initial public offering price were our future prospects and those of our industry in general, our sales, earnings, and certain other financial and operating information in recent periods, and the price-earnings ratios, price-sales ratios, market prices of securities, and certain financial and operating information of companies engaged in activities similar to ours.

Selling Restrictions

European Economic Area and United Kingdom

In relation to each Member State of the European Economic Area and the United Kingdom (each a “Relevant State”), no shares of our Class A common stock have been offered or will be offered pursuant to this
offering to the public in that Relevant State prior to the publication of a prospectus in relation to shares of our Class A common stock which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that offers of shares of our Class A common stock may be made to the public in that Relevant State at any time under the following exemptions under the Prospectus Regulation:

- to any legal entity which is a qualified investor as defined in the Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Regulation), subject to obtaining the prior consent of the representative for any such offer; or
- in any other circumstances falling within Article 1(4) of the Prospectus Regulation;

provided that no such offer of shares of our Class A common stock shall require us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to any shares of our Class A common stock in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares of our Class A common stock to be offered so as to enable an investor to decide to purchase or subscribe for any shares of our Class A common stock, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

This European Economic Area selling restriction is in addition to any other selling restrictions set out below.

**United Kingdom**

Each underwriter has represented and agreed that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (“FSMA”)) received by it in connection with the issue or sale of the shares of Class A common stock in circumstances in which Section 21(1) of the FSMA does not apply to the company or the selling stockholders; and

(b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the shares of Class A common stock in, from or otherwise involving the United Kingdom.

In the United Kingdom, this prospectus is only addressed to and directed at qualified investors who are (i) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order); or (ii) high net worth entities and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “relevant persons”). Any investment or investment activity to which this prospectus relates is available only to relevant persons and will only be engaged with relevant persons. Any person who is not a relevant person should not act or rely on this prospectus or any of its contents.

**Canada**

The shares of our Class A common stock may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in
National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations. Any resale of the Class A common stock must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

**Hong Kong**

The shares of our Class A common stock may not be offered or sold in Hong Kong by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong) (“Companies (Winding Up and Miscellaneous Provisions) Ordinance”) or which do not constitute an invitation to the public within the meaning of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) (“Securities and Futures Ordinance”), (ii) to “professional investors” as defined in the Securities and Futures Ordinance and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, and no advertisement, invitation or document relating to the Class A common stock may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares of Class A common stock which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” in Hong Kong as defined in the Securities and Futures Ordinance and any rules made thereunder.

**Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Class A common stock may not be circulated or distributed, nor may the Class A common stock be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined under Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”)) under Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to conditions set forth in the SFA.

Where the shares of Class A common stock are subscribed or purchased under Section 275 of the SFA by a relevant person which is a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation shall not be transferable for 6 months after that corporation has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer in that...
corporation’s securities pursuant to Section 275(1A) of the SFA, (3) where no consideration is or will be given for the transfer, (4) where the transfer is
by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32 of the Securities and Futures (Offers of
Investments) (Shares and Debentures) Regulations 2005 of Singapore (“Regulation 32”).

Where the shares of Class A common stock are subscribed or purchased under Section 275 of the SFA by a relevant person which is a trust (where
the trustee is not an accredited investor (as defined in Section 4A of the SFA)) whose sole purpose is to hold investments and each beneficiary of the
trust is an accredited investor, the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferable for 6 months after that
trust has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person
(as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer that is made on terms that such rights or interest are acquired at a
consideration of not less than S$200,000 (or its equivalent in a foreign currency) for each transaction (whether such amount is to be paid in cash or
by exchange of securities or other assets), (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law,
(5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32.

Solely for the purposes of our obligations pursuant to Section 309B of the SFA, we have determined, and hereby notify all relevant persons (as
defined in the Securities and Futures (Capital Markets Products) Regulations 2018 (“CMP Regulations”)) that the shares of Class common stock are
“prescribed capital markets products” (as defined in the CMP Regulations) and Excluded Investment Products (as defined in MAS Notice SFA 04-

Japan

The shares of Class A common stock have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act
No. 25 of 1948, as amended), or the FIEA. The shares of Class A common stock may not be offered or sold, directly or indirectly, in Japan or to or for
the benefit of any resident of Japan (including any person resident in Japan or any corporation or other entity organized under the laws of Japan) or to
others for reoffering or resale, directly or indirectly, in Japan or to or for the benefit of any resident of Japan, except pursuant to an exemption from the
registration requirements of the FIEA and otherwise in compliance with any relevant laws and regulations of Japan.

Australia

This prospectus:
• does not constitute a disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth) (the “Corporations
Act”);
• has not been, and will not be, lodged with the Australian Securities and Investments Commission (“ASIC”), as a disclosure document for
the purposes of the Corporations Act and does not purport to include the information required of a disclosure document for the purposes of
the Corporations Act; and
• may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of
investors, available under section 708 of the Corporations Act (“Exempt Investors”).

The Class A common stock may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or
buy the Class A common stock may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any
Class A common stock may be

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distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the Class A common stock, you represent and warrant to us that you are an Exempt Investor.

As any offer of Class A common stock under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the Class A common stock you undertake to us that you will not, for a period of 12 months from the date of sale of the Class A common stock, offer, transfer, assign or otherwise alienate those Class A common stock to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

Brazil

The offer and sale of our Class A common stock has not been, and will not be, registered (or exempted from registration) with the Brazilian Securities Commission (Comissão de Valores Mobiliários – CVM) and, therefore, will not be carried out by any means that would constitute a public offering in Brazil under Law No. 6,385, of December 7, 1976, as amended, under CVM Rule No. 400, of December 29, 2003, as amended, or under CVM Rule No. 476, of January 16, 2009, as amended. Any representation to the contrary is untruthful and unlawful. As a consequence, our Class A common stock cannot be offered and sold in Brazil or to any investor resident or domiciled in Brazil. Documents relating to the offering of our Class A common stock, as well as information contained therein, may not be supplied to the public in Brazil, nor used in connection with any public offer for subscription or sale of Class A common stock to the public in Brazil.

China

This prospectus will not be circulated or distributed in the People’s Republic of China (“PRC”) and the Class A common stock will not be offered or sold and will not be offered or sold to any person for re-offering or resale directly or indirectly to any residents of the PRC except pursuant to any applicable laws and regulations of the PRC. Neither this prospectus nor any advertisement or other offering material may be distributed or published in the PRC, except under circumstances that will result in compliance with applicable laws and regulations.

France

Neither this prospectus nor any other offering material relating to the Class A common stock offered by this prospectus has been and will not be submitted to the clearance procedures of the Autorité des Marchés Financiers or of the competent authority of another member state of the European Economic Area and notified to the Autorité des Marchés Financiers. The Class A common stock has not been offered or sold and will not be offered or sold, directly or indirectly, to the public in France. Neither this prospectus nor any other offering material relating to the Class A common stock has been or will be:

a) released, issued, distributed or caused to be released, issued or distributed to the public in France;
b) used in connection with any offer for subscription or sale of the notes to the public in France.

Such offers, sales and distributions will be made in France only:

c) to qualified investors (investisseurs qualifiés) and/or to a restricted circle of investors (cercle restreint d’investisseurs), in each case acting for their own account, or otherwise in circumstances in which no offer to the public occurs, all as defined in and in accordance with Articles L.411-2, D.411-1, D.411-2, D.734-1, D.744-1, D.754-1 and D.764-1 of the French Code monétaire et financier;
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d) to investment services providers authorized to engage in portfolio management on behalf of third parties; or

e) in a transaction that, in accordance with Article L.411-2-1°-or-2°-or 3° of the French Code monétaire et financier and Article 211-2 of the General Regulations (Règlement Général) of the Autorité des Marchés Financiers, does not constitute a public offer (offre au public).

The Class A common stock may not be distributed directly or indirectly to the public except in accordance with Articles L.411-1, L.411-2, L.412-1 and L.621-8 through L.621-8-3 of the French Code monétaire et financier and applicable regulations thereunder.

Kuwait

The shares of our Class A common stock has not been authorized or licensed for offering, marketing or sale in the State of Kuwait. The distribution of this prospectus and the offering and sale of the Class A common stock in the State of Kuwait is restricted by law unless a license is obtained from the Kuwait Ministry of Commerce and Industry in accordance with Law 31 of 1990. Persons into whose possession this prospectus comes are required by us and the international underwriters to inform themselves about and to observe such restrictions. Investors in the State of Kuwait who approach us or any of the international underwriters to obtain copies of this prospectus are required by us and the international underwriters to keep such prospectus confidential and not to make copies thereof or distribute the same to any other person and are also required to observe the restrictions provided for in all jurisdictions with respect to offering, marketing and the sale of the Class A common stock.

Qatar

The shares of our Class A common stock described in this prospectus have not been, and will not be, offered, sold or delivered, at any time, directly or indirectly in the State of Qatar in a manner that would constitute a public offering. This prospectus has not been, and will not be, registered with or approved by the Qatar Financial Markets Authority or Qatar Central Bank and may not be publicly distributed. This prospectus is intended for the original recipient only and must not be provided to any other person. It is not for general circulation in the State of Qatar and may not be reproduced or used for any other purpose.

Saudi Arabia

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market Authority (“CMA”) pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended (the “CMA Regulations”). The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorized financial adviser.

Switzerland

This prospectus is not intended to constitute an offer or solicitation to purchase or invest in the Class A common stock. The Class A common stock may not be publicly offered, directly or indirectly, in Switzerland within the meaning of the Swiss Financial Services Act (“FinSA”) and will not be listed on the SIX Swiss Exchange (“SIX”) or on any other stock exchange or regulated trading venue (exchange or multilateral trading facility) in Switzerland. This document does not constitute a prospectus within the meaning of, and has been prepared without regard to, the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing
Rules or the listing rules of any other stock exchange or regulated trading venue (exchange or multilateral trading facility) in Switzerland. Neither this document nor any other offering or marketing material relating to the Class A common stock constitutes a prospectus pursuant to the FinSA, and neither this document nor any other offering or marketing material relating to the Class A common stock or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company, or the Class A common stock have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of Class A common stock will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of Class A common stock has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (“CISA”). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of Class A common stock.

United Arab Emirates

The shares of our Class A common stock have not been, and are not being, publicly offered, sold, promoted or advertised in the United Arab Emirates (including the Dubai International Financial Centre) other than in compliance with the laws of the United Arab Emirates (and the Dubai International Financial Centre) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the Dubai International Financial Centre) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority or the Dubai Financial Services Authority.

Chile

The shares of our Class A common stock are not registered in the Securities Registry (Registro de Valores) or subject to the control of the Chilean Securities and Exchange Commission (Superintendencia de Valores y Seguros de Chile). This prospectus supplement and other offering materials relating to the offer of the shares do not constitute a public offer of, or an invitation to subscribe for or purchase, the shares in the Republic of Chile, other than to individually identified purchasers pursuant to a private offering within the meaning of Article 4 of the Chilean Securities Market Act (Ley de Mercado de Valores) (an offer that is not “addressed to the public at large or to a certain sector or specific group of the public”).

Bermuda

The shares of our Class A common stock may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

British Virgin Islands

The shares of our Class A common stock are not being and may not be offered to the public or to any person in the British Virgin Islands for purchase or subscription by or on our behalf. The Class A common stock may be offered to companies incorporated under the BVI Business Companies Act, 2004 (British Virgin Islands) (each a “BVI Company”), but only where the offer will be made to, and received by, the relevant BVI Company entirely outside of the British Virgin Islands.

This prospectus has not been, and will not be, registered with the Financial Services Commission of the British Virgin Islands. No registered prospectus has been or will be prepared in respect of the Class A common stock for the purposes of the Securities and Investment Business Act, 2010 or the Public Issuers Code of the British Virgin Islands.
Korea

The shares of our Class A common stock have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder (the “FSCMA”), and the shares have been and will be offered in Korea as a private placement under the FSCMA. None of the Class A common stock may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder (the “FETL”). Furthermore, the purchaser of the shares shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares. By the purchase of the shares, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares pursuant to the applicable laws and regulations of Korea.

Malaysia

No prospectus or other offering material or document in connection with the offer and sale of the shares of our Class A common stock has been or will be registered with the Securities Commission of Malaysia (“Commission”) for the Commission’s approval pursuant to the Capital Markets and Services Act 2007. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares of our Class A common stock may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than (i) a closed end fund approved by the Commission; (ii) a holder of a Capital Markets Services License; (iii) a person who acquires the shares, as principal, if the offer is on terms that the shares may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction; (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual; (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding 12 months; (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding 12 months; (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts; (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies); (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010; (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010; and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding categories (i) to (xi), the distribution of the shares is made by a holder of a Capital Markets Services License who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

Taiwan

The shares of our Class A common stock have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorized to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the shares our Class A common stock in Taiwan.

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South Africa

Due to restrictions under the securities laws of South Africa, the shares of our Class A common stock are not offered, and the offer shall not be transferred, sold, renounced or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions applies:

(a) the offer, transfer, sale, renunciation or delivery is to:
   (i) persons whose ordinary business is to deal in securities, as principal or agent;
   (ii) the South African Public Investment Corporation;
   (iii) persons or entities regulated by the Reserve Bank of South Africa;
   (iv) authorized financial service providers under South African law;
   (v) financial institutions recognized as such under South African law;
   (vi) a wholly-owned subsidiary of any person or entity contemplated in (iii), (iv) or (v), acting as agent in the capacity of an authorized portfolio manager for a pension fund or collective investment scheme (in each case duly registered as such under South African law); or
   (vii) any combination of the person in (i) to (vi); or

(b) the total contemplated acquisition cost of the securities, for any single addressee acting as principal is equal to or greater than ZAR1,000,000.

No “offer to the public” (as such term is defined in the South African Companies Act, No. 71 of 2008 (as amended or re-enacted) (the “South African Companies Act”)) in South Africa is being made in connection with the issue of the Class A common stock. Accordingly, this document does not, nor is it intended to, constitute a “registered prospectus” (as that term is defined in the South African Companies Act) prepared and registered under the South African Companies Act and has not been approved by, and/or filed with, the South African Companies and Intellectual Property Commission or any other regulatory authority in South Africa. Any issue or offering of the Class A common stock in South Africa constitutes an offer of the Class A common stock in South Africa for subscription or sale in South Africa only to persons who fall within the exemption from “offers to the public” set out in Section 96(1)(a) of the South African Companies Act. Accordingly, this document must not be acted on or relied on by persons in South Africa who do not fall within Section 96(1)(a) of the South African Companies Act (such persons being referred to as “SA Relevant Persons”). Any investment or investment activity to which this document relates is available in South Africa only to SA Relevant Persons and will be engaged in South Africa only with SA Relevant Persons.
LEGAL MATTERS

The validity of the issuance of our Class A common stock offered in this prospectus will be passed upon for us by Ropes & Gray LLP, San Francisco, California. Certain legal matters in connection with this offering will be passed upon for the underwriters by Wilson Sonsini Goodrich & Rosati, Professional Corporation, Palo Alto, California. Ropes & Gray LLP and some of its attorneys are limited partners of RGIP, LP, which is an investor in certain investment funds advised by certain of our Sponsors and often a co-investor with such funds. RGIP, LP owns, directly or indirectly, less than 1% of our outstanding Class A common stock and Class B common stock in the aggregate.

EXPERTS

The audited consolidated financial statements of McAfee (Predecessor) as of and for the period ended April 3, 2017 included in this prospectus have been so included in reliance on the report of Ernst & Young LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The financial statement of McAfee Corp. as of December 28, 2019 included in this Prospectus has been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Foundation Technology Worldwide LLC as of December 28, 2019 and December 29, 2018, for the years ended December 28, 2019 and December 29, 2018, and for the period from April 4, 2017 through December 30, 2017 included in this Prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

In connection with this offering, PricewaterhouseCoopers LLP (“PwC”) completed an independence assessment to evaluate the services and relationships with Foundation Technology Worldwide LLC (also known as and hereinafter referred to as “McAfee” or the “Company”) and its affiliates that may bear on PwC’s independence under the SEC and the PCAOB (United States) independence rules for an audit period commencing April 4, 2017. The existence of business relationships, including the performance of a management function, at controlled portfolio companies, and their controlled subsidiaries, of our indirect parent, TPG, were identified that are inconsistent with SEC and PCAOB auditor independence rules provided in Rule 2-01 of Regulation S-X and are described below. Additionally, the performance of employee activities, deemed to be management functions, and a contingent fee arrangement benefitting an upstream affiliate of the Company, were identified that are inconsistent with SEC and PCAOB auditor independence rules provided in 2-01 of Regulation S-X and are described below.

• From May 2017 through December 2017, a business relationship between PwC US and a sister entity under common control with McAfee existed, which allowed for the joint pursuit of business opportunities.

• From June 2017 through January 2018, a business relationship between PwC China and a controlled subsidiary, located in China, of a sister entity under common control with McAfee existed, which allowed for the joint pursuit of business opportunities.

• From May 2017 through September 2017, a business relationship between PwC Japan and a controlled subsidiary, located in Japan, of a sister entity under common control with McAfee existed, which allowed for the joint pursuit of business opportunities. In September 2017, the business relationship expired under its own terms with no business opportunities having been jointly pursued or awarded pursuant to this business relationship.
From June 2018 through February 2019, a software reselling arrangement, deemed an impermissible business relationship, including the performance of a management function, between PwC India and a controlled subsidiary, located in India, of a sister entity under common control with McAfee existed.

From April 2017 through July 2019, PwC US provided services pursuant to a contingent fee benefiting an upstream affiliate of the Company. In July 2019, PwC US agreed to waive the fee and terminate the remaining services.

From April 2017 through December 2018 and from July 2018 through June 2019, PwC US provided non-audit services which included certain employee activities benefiting an upstream affiliate of the Company.

PwC communicated the facts and circumstances surrounding the services and relationships, including the scope and duration of the services and business relationships, including the fees earned and the steps taken to terminate the prohibited aspect of the services and relationships to the Audit Committee of McAfee. PwC also noted that none of the matters noted have any accounting impact on the financial results of McAfee or any of its subsidiaries and, therefore, presents no self review threat. The filing of the Form S-1 necessitates compliance with the SEC’s and PCAOB’s independence rules. The Audit Committee and management of the Company and PwC have separately considered the impact that the business relationships and non-audit services may have had on PwC’s independence with respect to McAfee. Based on the totality of the information provided with respect to the impact of the contingent fee, performance of management functions and the business relationships, both PwC and the Audit Committee of McAfee individually concluded that PwC is capable of exercising objective and impartial judgment in connection with the audits of the Company’s consolidated financial statements as of December 28, 2019 and December 29, 2018, for the years ended December 28, 2019 and December 29, 2018, and for the period from April 4, 2017 through December 30, 2017.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of Class A common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits filed therewith. For further information with respect to us and the Class A common stock offered hereby, please refer to the registration statement and the exhibits filed therewith. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. The SEC maintains a website that contains reports, proxy and information statements, and other information regarding registrants that file electronically with the SEC. The SEC’s website address is www.sec.gov.

Upon completion of this offering, we will become subject to the information and periodic reporting requirements of the Exchange Act and, in accordance therewith, we will file periodic reports, proxy statements and other information with the SEC. Such periodic reports, proxy statements and other information will be available for inspection at the website of the SEC referred to above.

We also maintain a website at www.mcafee.com. Upon completion of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on, or that can be accessed through, our website does not constitute a part of this prospectus or the registration statement of which this prospectus forms a part, and is not incorporated by reference herein. We have included our website address in this prospectus solely for informational purposes and you should not consider any information contained on, or that can be accessed through, our website as part of this prospectus or in deciding whether to purchase shares of our common stock.
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  - Notes to the December 28, 2019 Balance Sheet (audited) and June 27, 2020 balance sheet (unaudited)

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- Report of Independent Registered Public Accounting Firm (Successor)  
- Consolidated Balance Sheets  
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- Combined (Predecessor) / Consolidated (Successor) Statements of Equity (Deficit)  
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- Unaudited Condensed Consolidated Balance Sheets as of December 28, 2019 and June 27, 2020  
- Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) for the three and six months ended June 29, 2019 and June 27, 2020  
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- Unaudited Condensed Consolidated Statements of Members’ Equity (Deficit) as of June 29, 2019 and June 27, 2020  
- Notes to the Unaudited Condensed Consolidated Financial Statements
Report of Independent Registered Public Accounting Firm

To the Board of Directors of McAfee Corp.

Opinion on the Financial Statement – Balance Sheet

We have audited the accompanying balance sheet of McAfee Corp. (the “Company”) as of December 28, 2019, including the related notes (collectively referred to as the “financial statement”). In our opinion, the financial statement presents fairly, in all material respects, the financial position of the Company as of December 28, 2019 in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

The financial statement is the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statement based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit of this financial statement in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement, whether due to error or fraud.

Our audit included performing procedures to assess the risks of material misstatement of the financial statement, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statement. We believe that our audit provides a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP

San Jose, California
October 13, 2020

We have served as the Company’s auditor since 2019.
# MCAFEE CORP.
## BALANCE SHEETS

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<tr>
<th></th>
<th>As of December 28, 2019</th>
<th>As of June 27, 2020 (unaudited)</th>
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</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
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<td>$ —</td>
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<tr>
<td><strong>Commitments and Contingencies</strong></td>
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<tr>
<td><strong>Stockholders’ Equity</strong></td>
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<td></td>
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<tr>
<td>Common Stock, par value $0.01 per share, 100 shares authorized, none issued and outstanding</td>
<td>$ —</td>
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</tr>
<tr>
<td><strong>Total stockholders’ equity</strong></td>
<td>$ —</td>
<td>$ —</td>
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</tbody>
</table>

See accompanying notes to balance sheets.

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NOTE 1: ORGANIZATION
McAfee Corp. (the “Corporation”) was formed as a Delaware corporation on July 19, 2019 under the name of Greenseer Holdings Corp. The Corporation was formed for the purpose of completing an initial public offering (the “IPO”) and related transactions in order to carry on the business of Foundation Technology Worldwide LLC and its subsidiaries (the “Company”). Following the IPO, the Corporation will be the sole managing member of the Company and will operate and control all of the businesses and affairs of the Company and, through the Company and its subsidiaries, will continue to conduct the business presently conducted by the Company and its subsidiaries. In September 2020, the Board of Directors of the Corporation approved and ratified certain organizational activities related to the Corporation including its formation, name change from Greenseer Holdings Corp. to McAfee Corp., issuance of 100 shares of Common Stock, par value $0.01 per share, to the Company and other activities.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
Basis of Accounting
The balance sheets were prepared in accordance with U.S. generally accepted accounting principles. Separate statements of operations, comprehensive income, changes in stockholder’s equity and cash flows have not been presented in the financial statements because there have been no activities in this entity since its inception through and as of June 27, 2020.

NOTE 3: STOCKHOLDERS’ EQUITY
The Corporation is authorized to issue 100 shares of Common Stock, par value $0.01 per share, none were issued and outstanding as of December 28, 2019 and as of June 27, 2020.

NOTE 4: SUBSEQUENT EVENTS (UNAUDITED)
Subsequent events were evaluated through October 13, 2020, the date the balance sheets were available for issuance.
Report of Independent Registered Public Accounting Firm

The Board of Directors and Management of Intel Corporation

We have audited the accompanying combined statements of operations and comprehensive loss, cash flows and equity of McAfee (Predecessor) for the period from January 1, 2017 to April 3, 2017 (referred to as “period ended April 3, 2017”). These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the combined financial position of McAfee (Predecessor) at April 3, 2017, and the combined results of its operations and its cash flows for the period ended April 3, 2017, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

San Jose, California
July 14, 2017

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Report of Independent Registered Public Accounting Firm

To the Board of Managers of Foundation Technology Worldwide LLC

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Foundation Technology Worldwide LLC and its subsidiaries (also known as and herein after referred to as “McAfee” or the “Company”) as of December 28, 2019 and December 29, 2018, and the related consolidated statements of operations and comprehensive loss, of equity (deficit), and of cash flows for the years ended December 28, 2019, December 29, 2018 and for the period from April 4, 2017 to December 30, 2017, including the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 28, 2019 and December 29, 2018, and the results of its operations and its cash flows for the years ended December 28, 2019, December 29, 2018, and for the period from April 4, 2017 to December 30, 2017 in conformity with accounting principles generally accepted in the United States of America.

Changes in Accounting Principles

As discussed in Note 3 and in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in the year ended December 28, 2019 and the manner in which it accounts for revenues from contracts with customers in the year ended December 29, 2018.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP
San Jose, California

March 5, 2020, except for the effects of disclosing earnings per unit information discussed in Note 18 to the consolidated financial statements, as to which the date is August 17, 2020, and except for the effects of the unit split discussed in Note 20 to the consolidated financial statements, as to which the date is October 13, 2020.

We have served as the Company’s auditor since 2017.
## Table of Contents

FOUNDATION TECHNOLOGY WORLDWIDE LLC
CONSOLIDATED BALANCE SHEETS
(in millions)

<table>
<thead>
<tr>
<th>Assets</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$468</td>
<td>$167</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>347</td>
<td>409</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>165</td>
<td>187</td>
</tr>
<tr>
<td>Other current assets</td>
<td>75</td>
<td>68</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>1,055</td>
<td>831</td>
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<tr>
<td>Property and equipment, net</td>
<td>178</td>
<td>171</td>
</tr>
<tr>
<td>Goodwill</td>
<td>2,426</td>
<td>2,428</td>
</tr>
<tr>
<td>Identified intangible assets, net</td>
<td>2,539</td>
<td>2,071</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>54</td>
<td>55</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>117</td>
<td>232</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$6,369</td>
<td>$5,788</td>
</tr>
<tr>
<td><strong>Liabilities and deficit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Current liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>$142</td>
<td>$196</td>
</tr>
<tr>
<td>Long-term debt, current portion</td>
<td>36</td>
<td>43</td>
</tr>
<tr>
<td>Accrued marketing</td>
<td>104</td>
<td>94</td>
</tr>
<tr>
<td>Income taxes payable</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>Accrued compensation and benefits</td>
<td>187</td>
<td>209</td>
</tr>
<tr>
<td>Lease liabilities, current portion</td>
<td>—</td>
<td>29</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>1,455</td>
<td>1,574</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>1,937</td>
<td>2,160</td>
</tr>
<tr>
<td>Long-term debt, net</td>
<td>4,072</td>
<td>4,669</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>140</td>
<td>160</td>
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<tr>
<td>Other long-term liabilities</td>
<td>39</td>
<td>175</td>
</tr>
<tr>
<td>Deferred revenue, less current portion</td>
<td>652</td>
<td>718</td>
</tr>
<tr>
<td>Commitments and contingencies (Note 17)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Deficit:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive income (loss)</td>
<td>2</td>
<td>(62)</td>
</tr>
<tr>
<td>Members’ equity (deficit)</td>
<td>675</td>
<td>(647)</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(1,148)</td>
<td>(1,385)</td>
</tr>
<tr>
<td><strong>Total deficit</strong></td>
<td>(471)</td>
<td>(2,094)</td>
</tr>
<tr>
<td><strong>Total liabilities and deficit</strong></td>
<td>$6,369</td>
<td>$5,788</td>
</tr>
</tbody>
</table>

See the accompanying notes to the combined and consolidated financial statements

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### Table of Contents

**FOUNDATION TECHNOLOGY WORLDWIDE LLC**  
**COMBINED (PREDECESSOR) / CONSOLIDATED (SUCCESSOR) STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
*(in millions except per unit data)*

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th></th>
<th>Successor</th>
<th></th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Period Ended</td>
<td>Fiscal Year Ended</td>
<td>Fiscal Year Ended</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>April 3, 2017</td>
<td>December 29, 2018</td>
<td>December 29, 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Period Ended</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net revenue</td>
<td>$ 586</td>
<td>$ 1,490</td>
<td>$ 2,409</td>
<td>$ 2,635</td>
<td></td>
</tr>
<tr>
<td>Cost of sales</td>
<td>163</td>
<td>542</td>
<td>840</td>
<td>843</td>
<td></td>
</tr>
<tr>
<td>Gross profit</td>
<td>423</td>
<td>948</td>
<td>1,569</td>
<td>1,792</td>
<td></td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>212</td>
<td>584</td>
<td>815</td>
<td>770</td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>127</td>
<td>323</td>
<td>406</td>
<td>380</td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>51</td>
<td>157</td>
<td>253</td>
<td>272</td>
<td></td>
</tr>
<tr>
<td>Amortization of intangibles</td>
<td>40</td>
<td>167</td>
<td>232</td>
<td>222</td>
<td></td>
</tr>
<tr>
<td>Restructuring and transition charges (Note 9)</td>
<td>66</td>
<td>123</td>
<td>36</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>496</td>
<td>1,354</td>
<td>1,742</td>
<td>1,666</td>
<td></td>
</tr>
<tr>
<td><strong>Operating income (loss)</strong></td>
<td>(73)</td>
<td>(406)</td>
<td>(173)</td>
<td>126</td>
<td></td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td>(1)</td>
<td>(159)</td>
<td>(307)</td>
<td>(295)</td>
<td></td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>3</td>
<td>(9)</td>
<td>30</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>(71)</td>
<td>(574)</td>
<td>(450)</td>
<td>(149)</td>
<td></td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>8</td>
<td>33</td>
<td>62</td>
<td>87</td>
<td></td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>$ (79)</td>
<td>$ (607)</td>
<td>$ (512)</td>
<td>$ (236)</td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gain (loss) on interest rate cash flow hedges, net of tax</td>
<td>$ —</td>
<td>$ —</td>
<td>$ 2</td>
<td>$ (63)</td>
<td></td>
</tr>
<tr>
<td>Pension and postretirement benefits loss, net of tax</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td><strong>Total comprehensive loss</strong></td>
<td>$ (79)</td>
<td>$ (607)</td>
<td>$ (510)</td>
<td>$ (300)</td>
<td></td>
</tr>
<tr>
<td>Net loss per unit, basic and diluted</td>
<td>$ (1.64)</td>
<td>$ (1.37)</td>
<td>$ (0.63)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted-average units outstanding, basic and diluted</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Pro forma net loss per share data:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro forma net loss per share, basic and diluted</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(0.45)</td>
<td></td>
</tr>
<tr>
<td>Pro forma weighted-average shares of Class A common stock outstanding, basic and diluted</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>159.5</td>
<td></td>
</tr>
</tbody>
</table>

See the accompanying notes to the combined and consolidated financial statements

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# Foundation Technology Worldwide LLC

## Combined (Predecessor) / Consolidated (Successor) Statements of Cash Flows

<table>
<thead>
<tr>
<th></th>
<th>Predecessor</th>
<th>Successor</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash flows from operating activities:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (79)</td>
<td>$ (607)</td>
<td>$ (512)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$ (236)</td>
</tr>
<tr>
<td>Adjustments to reconcile net loss to net cash provided by (used in) operating activities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>60</td>
<td>386</td>
<td>543</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>536</td>
</tr>
<tr>
<td>Equity-based compensation</td>
<td>23</td>
<td>8</td>
<td>28</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>Deferred taxes</td>
<td>(13)</td>
<td>(2)</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>18</td>
</tr>
<tr>
<td>Other operating activities</td>
<td>—</td>
<td>14</td>
<td>(12)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>33</td>
</tr>
<tr>
<td>Change in assets and liabilities:</td>
<td></td>
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</tr>
<tr>
<td>Accounts receivable, net</td>
<td>93</td>
<td>(85)</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(60)</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>(9)</td>
<td>(124)</td>
<td>(26)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(22)</td>
</tr>
<tr>
<td>Other assets</td>
<td>(2)</td>
<td>37</td>
<td>(54)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(71)</td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>(11)</td>
<td>55</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>3</td>
<td>502</td>
<td>309</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>186</td>
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<tr>
<td>Other liabilities</td>
<td>(130)</td>
<td>132</td>
<td>4</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>59</td>
</tr>
<tr>
<td>Net cash provided by (used in) operating activities</td>
<td>(65)</td>
<td>316</td>
<td>319</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>496</td>
</tr>
<tr>
<td><strong>Cash flows from investing activities:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisitions, net of cash acquired</td>
<td>—</td>
<td>—</td>
<td>(615)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2)</td>
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<tr>
<td>Additions to property and equipment</td>
<td>(29)</td>
<td>(35)</td>
<td>(61)</td>
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<td></td>
<td></td>
<td></td>
<td>(56)</td>
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<tr>
<td>Other investing activities</td>
<td>19</td>
<td>(4)</td>
<td>(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(5)</td>
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<tr>
<td>Net cash used in investing activities</td>
<td>(10)</td>
<td>(39)</td>
<td>(677)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(63)</td>
</tr>
<tr>
<td><strong>Cash flows from financing activities:</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from the issuance of Member units</td>
<td>—</td>
<td>217</td>
<td>—</td>
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<tr>
<td></td>
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<td></td>
<td>1</td>
</tr>
<tr>
<td>Proceeds from Excess Separation Note from Member</td>
<td>—</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>—</td>
</tr>
<tr>
<td>Proceeds from long-term debt</td>
<td>—</td>
<td>3,671</td>
<td>504</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>685</td>
</tr>
<tr>
<td>Proceeds from sales of common stock through employee incentive plans</td>
<td>14</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>—</td>
</tr>
<tr>
<td>Payment for the long-term debt due to third party</td>
<td>—</td>
<td>(8)</td>
<td>(87)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(67)</td>
</tr>
<tr>
<td>Payment for the long-term debt due to Members</td>
<td>—</td>
<td>(2,245)</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td>Payment for debt issuance costs</td>
<td>—</td>
<td>(11)</td>
<td>(10)</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>(6)</td>
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<tr>
<td>Net change in principal due to debt modification</td>
<td>—</td>
<td>—</td>
<td>52</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>—</td>
</tr>
<tr>
<td>Distributions to Members</td>
<td>—</td>
<td>(1,562)</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1,334)</td>
</tr>
<tr>
<td>Net transfers to parent</td>
<td>(35)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>—</td>
</tr>
<tr>
<td>Other financing activities</td>
<td>(2)</td>
<td>—</td>
<td>(20)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(13)</td>
</tr>
<tr>
<td>Net cash (used in) provided by financing activities</td>
<td>(23)</td>
<td>87</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(734)</td>
</tr>
<tr>
<td>Effect of exchange rate fluctuations on cash and cash equivalents</td>
<td>3</td>
<td>7</td>
<td>(4)</td>
</tr>
<tr>
<td>Net increase (decrease) in cash and cash equivalents</td>
<td>(95)</td>
<td>371</td>
<td>97</td>
</tr>
<tr>
<td>Cash and cash equivalents, beginning of period</td>
<td>146</td>
<td>—</td>
<td>371</td>
</tr>
<tr>
<td>Cash and cash equivalents, end of period</td>
<td>$ 51</td>
<td>$ 371</td>
<td>$ 468</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$ 167</td>
</tr>
</tbody>
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See the accompanying notes to the combined and consolidated financial statements

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## Combined (Predecessor) / Consolidated (Successor) Statements of Equity (Deficit)

### (in millions)

<table>
<thead>
<tr>
<th></th>
<th>Net Parent Investment</th>
<th>Accumulated Other Comprehensive Income (Loss)</th>
<th>Members' Equity (Deficit)</th>
<th>Accumulated Deficit</th>
<th>Total Net Equity (Deficit)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at December 31, 2016, Predecessor</strong></td>
<td>$3,564</td>
<td>$(549)</td>
<td>$—</td>
<td>$—</td>
<td>$3,015</td>
</tr>
<tr>
<td>Net loss</td>
<td>(79)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(79)</td>
</tr>
<tr>
<td>Net transfers to parent</td>
<td>(1)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(1)</td>
</tr>
<tr>
<td><strong>Balance at April 3, 2017, Predecessor</strong></td>
<td>$3,484</td>
<td>$(549)</td>
<td>$—</td>
<td>$—</td>
<td>$2,935</td>
</tr>
</tbody>
</table>

### Balance at elimination of Predecessor net parent investment and accumulated other comprehensive income

|                              | (3,484) | 549 | — | — | (2,935) |

| Contributions from Members   | —       | —   | 2,217 | — | 2,217 |
| Equity-based awards expense, net of equity withheld to cover taxes | —       | —   | 8 | — | 8 |
| Net loss                     | —       | —   | —   | (607) | (607) |
| **Balance at December 30, 2017, Successor** | —       | —   | 663 | (607) | 56 |

| Cumulative effect adjustment from adoption of ASC Topic 606 | —       | —   | — | — | (29) | (29) |
| Other comprehensive income, net of tax | —       | 2 | — | — | — | 2 |
| Equity-based awards expense, net of equity withheld to cover taxes | —       | — | 19 | — | 19 |
| Unit repurchases | —       | — | 7 | — | (7) |
| Net loss                     | —       | —   | —   | (512) | (512) |
| **Balance at December 29, 2018, Successor** | —       | 2   | 675 | (1,148) | (471) |

| Cumulative effect adjustments from adoption of ASC Topic 842 (Note 3) | —       | —   | — | — | (1) | (1) |
| Distributions to Members     | —       | —   | (1,338) | — | (1,338) |
| Other comprehensive loss, net of tax | — | (64) | — | — | (64) |
| Equity-based awards expense, net of equity withheld to cover taxes | —       | —   | 17 | — | 17 |
| Unit issuances               | —       | —   | 1 | — | 1 |
| Unit repurchases             | —       | —   | (2) | — | (2) |
| Net loss                     | —       | —   | —   | (236) | (236) |
| **Balance at December 28, 2019, Successor** | —       | $(62) | $(647) | $(1,385) | $(2,094) |

See the accompanying notes to the combined and consolidated financial statements
NOTE 1: BASIS OF PRESENTATION

Background and Principles of Combination (Predecessor) and Consolidation (Successor)

McAfee is a leading-edge cybersecurity company that provides advanced security solutions to consumers, small and medium-sized businesses, large enterprises, and governments. Security technologies from McAfee use a unique, predictive capability that is powered by McAfee Global Threat Intelligence, which enables home users and businesses to stay one step ahead of the next wave of fileless attacks, viruses, malware, and other online threats.

Predecessor

On February 28, 2011, McAfee, Inc. was acquired by Intel Corporation (“Intel”, or “the Parent”, or “parent”) forming the basis of the Intel Security Group (“Predecessor”).

Financial information as of and for the period from January 1, 2017 through April 3, 2017 (collectively the “Predecessor period”), was derived from the consolidated financial statements and accounting records of Intel as if the business had operated on a standalone basis and was prepared in accordance with U.S. generally accepted accounting principles (“GAAP”).

The combined statement of operations and comprehensive loss for the Predecessor period reflects allocations of general corporate expenses from Intel, including but not limited to finance, human resources, procurement, information technology, and other shared services. These allocations were made on a direct-usage basis when identifiable, with the remainder allocated on the basis of proportionate revenue, headcount, or other relevant measures and were considered to be a reasonable reflection of the services provided by Intel and were expensed and reflected as a component of net parent investment in the combined statements of equity. The allocations may not, however, reflect the expenses the Predecessor would have incurred as a stand-alone company for the periods presented. Actual costs that may have been incurred if the Predecessor had operated as a stand-alone company would depend on a number of factors, including the chosen organizational structure, the outsourcing of certain functions, and other strategic decisions.

In addition to the cost of support functions, the Predecessor employees participated in various Intel compensation and benefit plans. A portion of those plan costs, based on actual headcount of active, retired, and other former employees, was included in the accompanying combined financial statements. These costs are not necessarily indicative of costs that would have been incurred had the Predecessor operated on a stand-alone basis.

During the Predecessor period, Intel maintained a centralized treasury function and performed cash management on the Predecessor’s behalf. The Predecessor periodically transferred cash to Intel and generally withheld enough to meet working capital needs. Cash transfers between Intel and the Predecessor were reflected as a component of net parent investment (“NPI”) in the combined statements of equity and the total net effect of the settlement of these related-party transactions were reflected as net transfers to parent in the combined statements of cash flows. The cash balances may not reflect the cash balances the Predecessor would have held as a stand-alone company.

During the Predecessor period, all intercompany transactions within the combined businesses of the Predecessor have been eliminated. Intercompany transactions between the Predecessor and Intel arising from intercompany loan arrangements, periodic bank account sweeps, tax payments, and other similar related-party transactions were considered to be effectively settled in the combined financial statements at the time the transactions were recorded. The total net effect of the settlement of these intercompany transactions were reflected within net parent investment in the combined statements of equity and within net transfers to parent within financing activities in the combined statements of cash flows.
Successor

On April 3, 2017, TPG VII Manta Holdings, L.P., now known as Manta Holdings, L.P. (“Manta”) purchased from Intel a majority interest in Foundation Technology Worldwide LLC (“FTW”), a Delaware limited liability company (“the Transaction”), of which Manta and a subsidiary of Intel are members (collectively the “Members”). Upon completion of the Transaction, Manta owned 51.0% and certain affiliates of Intel retained 49.0% of the ownership of FTW. FTW, through ownership in various subsidiaries, wholly owns McAfee, LLC, a Delaware limited liability company, and its consolidated subsidiaries (collectively “McAfee”, the “Company”, “we”, “our”, “us” or “Successor”).

Financial information subsequent to the Transaction (the “Successor period”) includes the accounts of McAfee and was prepared in accordance with U.S. GAAP. All intercompany balances and transactions within McAfee have been eliminated in consolidation. Any transactions between McAfee and Intel, Manta or Manta’s owners are considered transactions with Members. We have reclassified certain prior period amounts to conform to our current period presentation.

We consolidate entities in which we have a controlling financial interest, the usual condition of which is ownership of a majority voting interest. We also consider for consolidation certain interests where the controlling financial interest may be achieved through arrangements that do not involve voting interests. Such an entity, known as a variable interest entity (“VIE”), is required to be consolidated by its primary beneficiary. The primary beneficiary of a VIE is considered to possess the power to direct the activities of the VIE that most significantly impact its economic performance and has the obligation to absorb losses or the rights to receive benefits from the VIE that are significant to it.

Use of Estimates

The preparation of the combined and consolidated financial statements required us to make certain estimates and judgments that affect the amounts reported. Actual results may differ materially from our estimates. The accounting estimates that required our most significant and subjective judgments include:

- determining the nature and timing of satisfaction of performance obligations, assessing associated material rights and determining the standalone selling price (“SSP”) of performance obligations;
- prior to adoption of Accounting Standards Update (“ASU”) No. 2014-09, Revenue from Contracts with Customers, and all related updates (collectively, “ASC Topic 606”), determining the fair value of each of the elements within multiple-element revenue transactions where vendor specific objective evidence is not available;
- determining our technology constrained customer life;
- projections of future cash flows related to revenue-share and related agreements with our personal computer original equipment manufacturer partners;
- fair value estimates for assets and liabilities acquired in business combinations;
- the valuation and recoverability of identified intangible assets and goodwill;
- recognition and measurement of foreign current and deferred income taxes as well as our uncertain tax positions;
- fair value of our equity awards;
- fair value of long-term debt and related swaps; and
- allocation of expenses attributable to the Predecessor initially recorded by Intel and the determination of the Predecessor’s assets and liabilities otherwise recorded by Intel for the Predecessor period.

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Fiscal Calendar
We maintain a 52- or 53-week fiscal year that ends on the last Saturday in December. Period ended April 3, 2017 is an approximately 13-week period starting on January 1, 2017. Period ended December 30, 2017 is an approximately 39-week fiscal period starting on April 4, 2017. Fiscal year 2018 is a 52-week year starting on December 31, 2017 and ending on December 29, 2018. Fiscal year 2019 is a 52-week year starting on December 30, 2018 and ending on December 28, 2019.

Functional Currency
Prior to the third quarter of 2015, the Predecessor’s functional currency was primarily the local currency in the respective country where the Predecessor’s legal entities resided. The assets and liabilities of foreign subsidiaries that used local currency as its functional currency were translated to U.S. dollar (“USD”) based on the current exchange rate prevailing at each balance sheet date and any resulting translation adjustments were included in Accumulated other comprehensive income (loss). Revenues and expenses were translated into USD using the average exchange rates prevailing for each period presented. In addition, when a subsidiary entered into transactions that were denominated in currencies other than its functional currency, the assets and liabilities and revenue and expenses related to the transactions were translated into the functional currency, and any resulting gains or losses were recorded in the combined statement of operations and comprehensive loss.

Beginning in the third quarter of 2015, concurrent with restructuring various legal entities, transferring intellectual property rights, and revising foreign intercompany billing and operating structures, the Predecessor’s functional currency was determined to be USD and was prospectively accounted for as such. The USD-translated amounts of non-monetary assets and liabilities at the beginning of the third quarter of 2015 became the historical accounting basis for those assets and liabilities. As such, the Accumulated other comprehensive income (loss) as of December 26, 2015 of $549 million did not change in subsequent periods. After the Transaction, all amounts in Accumulated other comprehensive income (loss) were eliminated. Our functional currency for all of our subsidiaries in the Successor period is USD.

NOTE 2: SIGNIFICANT ACCOUNTING POLICIES

Revenue Recognition
We derive revenue from the sale of security products, subscriptions, software as a service (“SaaS”) offerings, support and maintenance, professional services, or a combination of these items, primarily through our indirect relationships with our partners or direct relationships with end customers through our internal sales force. On December 31, 2017, we adopted ASC Topic 606. Results for the reporting period beginning December 31, 2017 are presented under ASC Topic 606, while prior period amounts are not adjusted and continue to be reported under ASC Topic 605.

We recognize revenue pursuant to the five-step framework within ASC Topic 606:

1. **Identify the contract(s) with a customer:** Contracts are generally evidenced by a binding and non-cancelable purchase order or agreement that creates enforceable rights and obligations.

2. **Identify the performance obligations in the contract:** Performance obligations are the promises contained in the contract to provide distinct goods or services.

3. **Determine the transaction price:** The amount of consideration we expect to be entitled for transferring the promised goods and services to the customer.

4. **Allocate the transaction price to the performance obligations in the contract:** SSP is determined for each performance obligation in the contract and a proportion of the overall transaction price is allocated to each performance obligation based on the relative value of its SSP in comparison to the transaction price except when a discount or variable consideration can be allocated to a specific performance obligation in the contract.
5. **Recognize revenue when (or as) we satisfy a performance obligation:** Recognition for a performance obligation may happen over time or at a point in time depending on the facts and circumstances.

We generally consider our customer to be the entity with which we have a contractual agreement. This could be the end user, or when we sell products and services through the channel, our customer could be either the distributor or the reseller. As part of determining whether a contract exists, probability of collection is assessed on a customer-by-customer basis at the outset of the contract. Customers are subjected to a credit review process that evaluates the customers’ financial position and the ability and intention to pay.

At contract inception, we assess the goods and services promised in our contracts with customers and identify a performance obligation for each promise to transfer to the customer a good or service (or bundle of goods or services) that is distinct — i.e., if a good or service is separately identifiable from other items in the bundled package and if a customer can benefit from it on its own or together with other resources that are readily available to the customer. To identify our performance obligations, we consider all of the goods or services promised in the contract regardless of whether they are explicitly stated or are implied by customary business practices. Determining whether products and services are considered distinct performance obligations or should be combined to create a single performance obligation may require significant judgment. We recognize revenue when (or as) we satisfy a performance obligation by transferring control of a good or service to a customer.

The transaction price is determined based on the consideration to which we will be entitled in exchange for transferring goods or services to the customer, adjusted for estimated variable consideration, if any. We typically estimate the transaction price impact of sales returns and discounts offered to the customers, including discounts for early payments on receivables, rebates or certain distribution partner incentives, including marketing programs. Constraints are applied when estimating variable considerations based on historical experience where applicable.

Once we have determined the transaction price, we allocate it to each performance obligation in a manner depicting the amount of consideration to which we expect to be entitled in exchange for transferring the goods or services to the customer (the “allocation objective”). If the allocation objective is met at contractual prices, no allocations are made. Otherwise, we allocate the transaction price to each performance obligation identified in the contract on a relative SSP basis, except when the criteria are met for allocating variable consideration or a discount to one or more, but not all, performance obligations in the contract.

To determine the SSP of our goods or services, we conduct a regular analysis to determine whether various goods or services have an observable SSP. If we do not have an observable SSP for a particular good or service, then SSP for that particular good or service is estimated using an approach that maximizes the use of observable inputs. We generally determine SSPs using various methodologies such as historical prices, expected cost plus margin, adjusted market assessment or non-standalone selling prices.

We recognize revenue as control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for the promised goods or services. Revenue is recognized net of any taxes collected from customers and subsequently remitted to governmental authorities. Control of the promised goods or services is transferred to our customers at either a point in time or over time, depending on the performance obligation.

**Nature of Products and Services**

Certain of our perpetual software licenses or hardware with integrated software are not distinct from their accompanying maintenance and support, as they are dependent upon regular threat updates. These contracts typically contain a renewal option that we have concluded creates a material right for our customer. The license, hardware and maintenance and support revenue is recognized over time, as control is transferred to the customer.
over the term of the initial contract period while the corresponding material right is recognized over time beginning at the end of the initial contractual period over the remainder of the technology constrained customer life.

Alternatively, certain of our perpetual software licenses, hardware appliances, or hardware with integrated software provide a benefit to the customer that is separable from the related support as they are not dependent upon regular threat updates. Revenue for these products is recognized at a point in time when control is transferred to our customers, generally at shipment. The related maintenance and support represent a separate performance obligation and the associated transaction price allocated to it is recognized over time as control is transferred to the customer.

The nature of our promise to the customer to provide our SaaS offerings and time-based software licenses and related support and maintenance is to stand ready to provide protection for a specified or indefinite period of time. Maintenance and support in these cases are typically not distinct performance obligations as the licenses are dependent upon regular threat updates to the customer. Instead the maintenance and support is combined with a software license to create a single performance obligation. We typically satisfy these performance obligations over time, as control is transferred to the customer as the services are provided.

Revenue for professional services that are a separate and distinct performance obligation is recognized as services are provided to the customer.

Additional Revenue Recognition Considerations

Royalties and Managed Service Provider Revenues

Our original equipment manufacturer ("OEM") and managed service provider ("MSP") sales channels have revenues derived from sales- or usage-based royalties. Such revenue is excluded from any variable consideration and transaction price calculations and is recognized at the later of when the sale or usage occurs, or the performance obligation is satisfied or partially satisfied.

Consideration Payable to a Customer

We make various payments to our channel partners, which may include revenue share, product placement fees and marketing development funds. Costs that are incremental to revenue, such as revenue share, are capitalized and amortized over time as cost of sales (Note 4). Product placement fees and marketing development funds are expensed in sales and marketing expense as the related benefit is received and were $170 million and $142 million for the fiscal year ended December 29, 2018, and fiscal year ended December 28, 2019, respectively.

Under certain of our channel partner agreements, the partners pay us royalties on our technology sold to their customers, which we recognize as revenue in accordance with our revenue recognition policy. In these situations, the payments made to our channel partners are recognized as consideration paid to a customer, and thus are recorded as reductions to revenue up to the amount of cumulative revenue recognized from the contract with the channel partner during the period of measurement.

Payment Terms and Warranties

Our payment terms vary by the type and location of our customer and the products or services offered. The term between invoicing and when payment is due is not significant. For certain products or services and customer types, we require payment before the products or services are delivered to the customer.

We provide assurance warranties on our products and services. The warranty timeframe varies depending on the product or service sold, and the resolution of any issues is at our discretion to either repair, replace, reperform or refund the fee.
Contract Costs

Contract acquisition costs consist mainly of sales commissions and associated fringe benefits, as well as revenue share under programs with certain of our distribution partners. For revenue share, the partner receives a percentage of the revenue we receive from an end user upon conversion to a paid customer or renewal. These costs would not have been incurred if the contract was not obtained and are considered incremental and recoverable costs of obtaining a contract with a customer. These costs are capitalized and amortized over time in accordance with Accounting Standards Codification (“ASC”) 340-40.

Contract fulfillment costs consist of hardware and software and related costs. These costs are incremental and recoverable and are capitalized and amortized on a systematic basis that is consistent with the pattern of transfer of the goods and services to which the asset relates. We typically recognize the initial commissions that are not commensurate with renewal commissions over the longer of the customer relationship (generally estimated to be four to five years) or over the same period as the initial revenue arrangement to which these costs relate. Renewal commissions paid are generally amortized over the renewal period.

ASC Topic 605

Prior to December 31, 2017, we recognized revenue under ASC Topic 605, when all of the following criteria had been met: (1) persuasive evidence of an arrangement exists, (2) delivery has occurred, (3) fee is fixed or determinable, and collectability is probable. For multiple-element arrangements that include perpetual software licenses, support, and/or services, we allocated fair value to each element based on vendor-specific objective evidence (“VSOE”). If VSOE was available, we recognized when the element was delivered. If VSOE was not available for the delivered element, we applied the residual method and recognized revenue for the difference between the total arrangement fee and the aggregate fair value of the undelivered elements.

For software and non-software multiple-element arrangements, we allocated revenue using the relative selling price method to the software elements as a group and non-software elements based on the following selling price hierarchy: (1) VSOE of fair value, (2) third-party evidence (“TPE”), and (3) best estimate of selling price (“BESP”). We then allocated the arrangement within the software group using the residual method. When we were unable to establish a selling price using VSOE or TPE, we used BESP to allocate the arrangement fees to the deliverables. We limited the amount of revenue recognized for delivered elements to an amount that was not contingent upon future delivery of additional products/services or meeting any specified performance conditions.

We recognized product revenue at the time of shipment, provided all other revenue recognition criteria had been met. We recognized service, support, and subscriptions revenue ratably over the contractual period, which typically ranged from one to three years.

Our professional services typically consist of training and implementation services. Professional service revenue was recognized as the services are performed or, if required, upon customer acceptance.

We enter into revenue-sharing agreements with our strategic partners, primarily PC OEMs who load trial or subscription versions of the Company’s products onto their hardware products. We share a percentage of the revenue we receive from the end customer upon trial-to-paid conversion or upon renewal of a paid subscription. We accrued for revenue-sharing agreements within accounts payable and other accrued liabilities in the consolidated balance sheets, which totaled $95 million as of December 30, 2017. Costs that are incremental to revenue, such as revenue share, are capitalized and amortized over time as cost of sales. Product placement fees and marketing development funds are expensed in sales and marketing expense as the related benefit is received. For the period ended April 3, 2017, $34 million and $35 million were included in sales and marketing and cost of sales, respectively. For the period ended December 30, 2017, $135 million and $32 million were included in sales and marketing and cost of sales, respectively.

We have various marketing programs with our business partners who we consider customers and reduced revenue by the cash consideration given, which was presumed to be a reduction of the selling price. We deferred
costs of revenue related to revenue-sharing and royalty arrangements and commissions and recognized these costs over the service period of the related revenue which was typically over one to three years.

Advertising Expenses
Marketing programs that are facilitated through third parties not considered customers are expensed as incurred. Total advertising expenses were $13 million, $40 million, $62 million, and $53 million for the period ended April 3, 2017, period ended December 30, 2017, year ended December 29, 2018, and year ended December 28, 2019, respectively, excluding amounts included in sales and marketing as discussed in the revenue recognition section above.

Accounts Receivable
We record accounts receivable at the invoiced amount and maintain an allowance for doubtful accounts to reserve for potentially uncollectible receivables. We review accounts receivable to identify specific customers with known disputes or collectability issues and maintain an allowance for all other receivables not included in the specific reserve by applying a set percentage for projected uncollectible amounts to the accounts receivable balance. In determining this percentage, judgment based on historical collection experience and current economic trends is applied. We recorded an allowance for doubtful accounts of $1 million and less than $1 million as of December 29, 2018 and December 28, 2019, respectively.

Cash and Cash Equivalents
All highly liquid investments with original maturities of 95 days or less are considered cash equivalents.

Goodwill
Goodwill is recorded as the excess of consideration transferred over the acquisition-date fair values of assets acquired and liabilities assumed and primarily comprises the goodwill arising from the Transaction. We assign goodwill to our reporting units based on the relative fair value expected at the time of the acquisition (Note 10).

We perform an annual impairment assessment on the first day of the third month in the fourth quarter or more frequently if indicators of potential impairment exist, which includes evaluating qualitative and quantitative factors to assess the likelihood of an impairment of a reporting unit’s goodwill. For reporting units in which this assessment concludes that it is more likely than not that the fair value is more than its carrying value, goodwill is not considered impaired and we are not required to perform the quantitative goodwill impairment test.

For reporting units in which the impairment assessment concludes that it is more likely than not that the fair value is less than its carrying value, we perform the quantitative goodwill impairment test, which compares the fair value of the reporting unit to its carrying value. Impairments, if any, are based on the excess of the carrying amount over the fair value. Our goodwill impairment test considers the income method and/or market method to estimate a reporting unit’s fair value.

Identified Intangible Assets
We amortize all finite-lived intangible assets that are subject to amortization over their estimated useful life of economic benefit on a straight-line basis (Note 10).

For significant intangible assets subject to amortization, we perform a quarterly assessment to determine whether facts and circumstances indicate that the useful life is shorter than we had originally estimated or that the carrying amount of assets may not be recoverable. If such facts and circumstances exist, we assess recoverability by comparing the projected undiscounted net cash flows associated with the related asset or group of assets over
their remaining useful lives against their respective carrying amounts. Impairments, if any, are based on the excess of the carrying amount over the fair value of those assets. If an asset’s useful life is shorter than originally estimated, we accelerate the rate of amortization and amortize the remaining carrying value over the updated, shorter useful life.

For our intangible assets not subject to amortization, we perform an annual impairment assessment on the first day of the third month in the fourth quarter, or more frequently if indicators of potential impairment exist, to determine whether it is more likely than not that the carrying value of the asset may not be recoverable. If necessary, a quantitative impairment test is performed to compare the fair value of the indefinite-lived intangible asset with its carrying value. Impairments, if any, are based on the excess of the carrying amount over the fair value of the asset.

Research and Development

Costs incurred in the research and development of new software products are expensed as incurred until technological feasibility is established. Research and development costs include salaries and benefits of researchers, supplies, and other expenses incurred during research and development efforts. Development costs are capitalized beginning when a product’s technological feasibility has been established and ending when the product is available for general release to customers. Technological feasibility is reached when the product reaches the working-model stage. To date, new products and enhancements generally have reached technological feasibility and have been released for sale at substantially the same time. All research and development costs to date have been expensed as incurred except for software subject to a hosting arrangement.

Software development costs of both internal-use applications and software sold subject to hosting arrangements are capitalized when we have determined certain factors are present, including factors that indicate technology exists to achieve the performance requirements, the decision has been made to develop internally versus buy and our management has authorized the funding for the project. Capitalization of software costs ceases when the software is substantially complete and is ready for its intended use and capitalized costs are amortized over their estimated useful life of three to five years using the straight-line method. When events or circumstances indicate the carrying value of internal use software might not be recoverable, we assess the recoverability of these assets by determining whether the amortization of the asset balance over its remaining life can be recovered through undiscounted future operating cash flows.

Awards

The Predecessor measured compensation cost is measured at the grant date based on the fair value of the award recognized equity-based compensation over the service period of the award. The Predecessor eliminated deferred tax assets for Intel RSUs and stock options with multiple vesting dates for each vesting period on a first-in, first-out basis as if each vesting period was a separate award. Forfeitures are estimated based on a historical forfeiture rate.

Following the Transaction, our Board of Managers of FTW (the “Board”) approved the adoption of the Foundation Technology Worldwide LLC 2017 Management Incentive Plan (the “2017 Incentive Plan”), The 2017 Incentive Plan provides for the grant of Management Incentive Units (“MIUs”), Management Equity Participation Units (“MEPUs”), Cash RSUs (“CRSUs”) and Class A Units (including by way of RSUs, settleable upon vesting in Class A Units or in cash) to employees and service providers. We currently provide various equity-based and cash-based compensation to those whom, in the opinion of the Board, are in a position to make a significant contribution to our success.

Equity-based compensation cost is measured at the grant date based on the fair value of the award and cash-based compensation cost is re-assessed at each reporting period. Both types of awards are recognized as expense over
the appropriate service period. Determining the fair value of equity-based and cash-based awards requires considerable judgment, including assumptions and estimates of the following:

- fair value of the unit;
- life of the award;
- volatility of the unit price; and
- dividend yield

The fair value of the unit is determined by the Board reasonably and in good faith. Generally, this has involved a review of an independent valuation of our business, which requires judgmental inputs and assumptions such as our cash flow projections, peer company comparisons, market data, growth rates and discount rate. The Board reviews its prior determination of fair value of a unit on a quarterly basis to decide whether any change is appropriate (including whether to obtain a new independent valuation), considering such factors as any significant financial, operational, or market changes affecting the business since the last valuation date. Due to not having sufficient historical volatility, we use the historical volatilities of publicly traded companies which are similar to us in size, stage of life cycle and financial leverage. We will continue to use this peer group of companies unless a situation arises within the group that would require evaluation of which publicly traded companies are included or once sufficient data is available to use our own historical volatility. In addition, for awards where vesting is dependent upon achieving certain operating performance goals, we estimate the likelihood of achieving the performance goals. For goals dependent upon a qualifying liquidity event, (i.e., a change of control or public offering registered on a Form S-1 (or successor form), in either case, occurring on or before April 3, 2024) (a "Qualifying Liquidity Event"), we will not recognize any expense until the event occurs. Upon consummation of a Qualifying Liquidity Event, we would recognize a cumulative catch-up of expense based on the vesting dates for our time-based awards and expected vesting dates for our performance-based awards. Differences between actual results and these estimates could have a material effect on the consolidated financial results. We recognize forfeitures as they occur.

After the close of the Transaction, our employees are no longer eligible for Intel Awards (as defined below). Prior to the transaction, Intel’s stockholders approved the adoption of the Intel Corporation 2006 Equity Incentive Plan. The plan provides for the grant of stock options, stock appreciation rights, restricted stock, and restricted stock units (collectively “Intel Awards”) to eligible full-time and part-time employees and non-employee directors. These awards generally vested over three or four years. Stock options generally expire seven years from the date of grant. Awards were generally granted with only a time-vesting requirement, but may have had certain performance and/or market conditions required for vesting.

All outstanding Intel Awards were replaced with fixed cash payouts (“retention awards”) or unvested Class A Unit awards (Note 12). After the close of the Skyhigh Networks, Inc. (“Skyhigh”) acquisition (Note 6), Skyhigh employees are no longer eligible for Skyhigh’s equity incentive plan and all outstanding awards were replaced with retention awards or unvested Class A unit awards.

**Derivative and Hedging Instruments**

The fair values of each of our derivative instruments are recorded as an asset or liability on a net basis at the balance sheet date within other current or long-term assets or liabilities. We do not use derivative financial instruments for speculative trading purposes.

To reduce the interest rate risk inherent in variable rate debt, we entered into certain interest rate swap agreements to convert a portion of our variable rate borrowing into a fixed rate obligation (Note 15). These interest rate swap agreements fix the London Interbank Offered Rate (“LIBOR”) portion of the US dollar denominated variable rate borrowings. Accordingly, to the extent the cash flow hedge is effective, changes in the fair value of interest rate swaps will be included within Accumulated other comprehensive income in the
consolidated balance sheets. Hedge accounting will be discontinued when the interest rate swap is no longer effective in offsetting cash flows attributable to the hedged risk, the interest rate swap expires or the cash flow hedge is redesignated because it is no longer probable that the forecasted transaction will occur according to the original strategy. When hedge accounting is discontinued, any related amounts previously included in Accumulated other comprehensive income (loss) would be reclassified to Interest and other expense, net, within the consolidated statements of operations and comprehensive loss.

We may manage our exposure to foreign exchange rates through the use of derivative financial instruments. We did not have any foreign exchange hedges as of December 29, 2018 and December 28, 2019.

Income Taxes

Predecessor

Income taxes as presented herein attribute current and deferred income taxes of Intel to the Predecessor’s combined financial statements in a manner that is consistent with the asset and liability method prescribed by the Financial Accounting Standards Board guidance Accounting Standards Codification 740 — Income Taxes. For purposes of these combined financial statements, the Predecessor’s income tax expense and other income tax-related information is computed and reported using the separate return method as if the Predecessor had filed its own tax returns separate from the Intel entities for the periods presented. As a result, actual tax transactions included in the consolidated financial statements of Intel may not be included in the combined financial statements of the Predecessor. Similarly, the tax treatment of certain items reflected in the combined financial statements of the Predecessor may not be reflected in the consolidated financial statements and tax returns of Intel.

The taxable income of the Predecessor entities was historically included in Intel’s consolidated tax returns, where applicable in jurisdictions around the world. As such, separate income tax returns were not prepared for many of the Predecessor entities. Current income tax payables were deemed to have been settled immediately with Intel and offset through NPI.

The Predecessor computed the provision for income taxes under the asset and liability method, which required the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that were included in the financial statements. Under this method, deferred tax assets and liabilities resulting from temporary differences between the financial reporting and tax bases of assets and liabilities were measured as of the balance sheet date using enacted tax rates expected to apply to taxable income in the years the temporary differences were expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities was recognized in income in the period that includes the enactment date.

The realization of deferred tax assets depended upon the existence of sufficient taxable income, of appropriate character, within the carryback or carryforward periods under the tax law in the applicable tax jurisdiction. Valuation allowances were established when the Predecessor determined, based on available information, that it was more likely than not that deferred tax assets would not be realized. Significant judgment was required in determining whether valuation allowances should be established, as well as the amount of such allowances.

The Predecessor recorded accruals for uncertain tax positions when it was believed to be more likely than not that the tax position would not be sustained on examination by the tax authorities based on the technical merits of the position. The Predecessor made adjustments to these accruals when facts and circumstances changed, such as the closing of a tax audit or the refinement of an estimate. The provision for income taxes includes the effects of adjustments for uncertain tax positions, as well as any related interest and penalties.

Successor

FTW is a pass through entity for U.S. federal income tax purposes and will not incur any federal income taxes either for itself or its U.S. subsidiaries that are also pass through or disregarded subsidiaries. Taxable income or
loss for these entities will flow through to its respective Members for U.S. tax purposes. FTW does have certain U.S. and foreign subsidiaries that are
corporations and are subject to income tax in their respective jurisdiction. The provision for income taxes is calculated under the asset and liability
method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included
in the consolidated financial statements.

Leases
We determine if an arrangement contains a lease and classification of that lease, if applicable, at inception based on:

- Whether the contract involves the use of a distinct identified asset;
- Whether we obtain the right to obtain substantially all the economic benefits from the use of the asset throughout the period; and
- Whether we have a right to direct the use of the asset.

Right-of-use (“ROU”) assets represent the right to use an underlying asset for the lease term and lease liabilities represent the obligation to make
minimum lease payments arising from the lease. A ROU asset is initially measured at an amount which represents the lease liability, plus any initial
direct costs incurred and less any lease incentives received. The lease liability is initially measured at lease commencement date based on the present
value of minimum lease payments over the lease term. The lease term may include options to extend or terminate when it is reasonably certain that we
will exercise the option. We have lease agreements with lease and non-lease components, and the non-lease components are generally accounted for
separately and not included in our leased assets and corresponding liabilities.

The depreciable life of assets and leasehold improvements are limited by the expected lease term, unless there is a transfer of title or purchase option
reasonably certain of exercise. Payments related to short-term leases are expensed on a straight-line basis over the lease term and reflected as a
component of lease cost within our Consolidated statements of operations and comprehensive loss. Lease payments generally consist of fixed amounts,
as well as variable amounts based on a market rate or an index which are not material to our consolidated lease cost. Our leases do not contain
significant terms and conditions for variable lease payments.

When available, we use the rate implicit in the lease to discount lease payments to present value; however, most of our leases do not provide a readily
determinable implicit rate. Therefore, we estimate our incremental borrowing rate to discount the lease payments based on information available at lease
commencement. For leases which commenced prior to our adoption of ASU No. 2016-02, Leases, and all related updates (collectively, “ASC Topic
842”), we estimated our incremental borrowing rate as of adoption date based on our credit rating, current economic conditions, and collateralized
borrowing.

NOTE 3: RECENT ACCOUNTING STANDARDS

Recently Adopted Accounting Standards
We adopted ASC Topic 842 which primarily requires leases to be recognized on the balance sheet. We adopted the standard using the modified
retrospective approach with an effective date as of the beginning of our fiscal year, December 30, 2018. Prior year financial statements were not recast
under the new standard and, therefore, those amounts are not presented below. We recognized ROU assets and lease liabilities of $86 million and
$93 million, respectively, upon adoption, which included reclassifying lease incentives and deferred rent primarily from Other long-term liabilities on
the condensed consolidated balance sheets.

We elected the following practical expedients:

- The package of practical expedients available for expired or existing contracts, which allowed us to carry forward our historical
  assessments of (1) whether contracts are or contain leases, (2) lease classification and (3) initial direct costs.
The practical expedient to not recognize a lease liability or ROU asset for short-term leases (leases with a term of twelve months or less which do not include an option to purchase the underlying asset).

The practical expedient available for the consistent treatment of short-term leases for month to month leases.

Recent Accounting Standards Not Yet Adopted

In June 2016, the Financial Accounting Standards Board (“FASB”) issued ASU 2016-13, Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial instruments (ASU 2016-13) and also issued subsequent amendments to the initial guidance (collectively, “Topic 326”). Topic 326 requires measurement and recognition of expected credit losses for financial assets held. Topic 326 is effective for us in our first quarter of fiscal 2020, and earlier adoption is permitted. We plan to adopt Topic 326 on December 29, 2019 and anticipate adoption of this standard to have an immaterial impact on our consolidated financial statements and related disclosures.

In August 2018, the FASB issued ASU 2018-15, Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (“ASU 2018-15”), which clarifies the accounting for implementation costs in cloud computing arrangements. ASU 2018-15 is effective for us in the first quarter of fiscal year 2020, and early adoption is permitted. We plan to adopt ASU 2018-15 on December 29, 2019 and anticipate adoption of this standard to have an immaterial impact on our consolidated financial statements and related disclosures.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes (“ASU 2019-12”), which simplifies the accounting for income taxes by removing certain exceptions for recognizing deferred taxes for investments, performing intra-period allocation and calculating income taxes in interim periods. ASU 2019-12 also adds guidance to reduce complexity in certain areas, including recognizing deferred taxes for tax goodwill and allocating taxes to members of a consolidated group. ASU 2019-12 is effective for us in the first quarter of fiscal year 2021, and early adoption is permitted. We are currently evaluating the impact of this standard in our consolidated financial statements, including accounting policies, processes and systems.

NOTE 4: REVENUE FROM CONTRACTS WITH CUSTOMERS

Deferred Revenue

During 2019, we recognized $1,450 million in revenue from our beginning deferred revenue balance.

During 2018, we recognized $1,240 million in revenue from our beginning deferred revenue balance. We added $38 million to deferred revenue due to effect of business combinations (Note 6). An additional $15 million was recognized from deferred revenue due to changes in estimates resulting from a release of revenue under reserve for a single customer in connection with such customer’s right under certain circumstances to claw-back revenue from us within twelve months of payment.

Transaction Price Allocated to the Remaining Performance Obligations

As of December 28, 2019, we have $2,439 million in estimated revenue expected to be recognized in the future related to performance obligations that are unsatisfied (or partially unsatisfied), which includes deferred revenue and amounts that will be billed and recognized as revenue in future periods. We expect to recognize revenue on approximately 68% over the next 12 months, 29% in the next 13 to 36 months, with the remaining balance recognized thereafter.
Contract Costs

The following tables summarize the various contract costs capitalized on our consolidated financial statements:

<table>
<thead>
<tr>
<th>Capitalized acquisition costs within:</th>
<th>As of</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 2018</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>$ 156</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>72</td>
</tr>
<tr>
<td>Total capitalized acquisition costs</td>
<td>$ 228</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Capitalized fulfillment costs within:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Deferred costs</td>
<td>$ 9</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>17</td>
</tr>
<tr>
<td>Total capitalized fulfillment costs</td>
<td>$ 26</td>
</tr>
</tbody>
</table>

The following tables summarize the amortization of contract acquisitions and fulfillment costs on our consolidated financial statements:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amortization of capitalized acquisition costs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net revenue</td>
<td>$ 25</td>
<td>$ 23</td>
</tr>
<tr>
<td>Cost of sales</td>
<td>141</td>
<td>154</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>58</td>
<td>81</td>
</tr>
<tr>
<td>Total amortization of capitalized acquisition costs</td>
<td>$ 224</td>
<td>$ 258</td>
</tr>
<tr>
<td>Amortization of capitalized fulfillment costs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of sales</td>
<td>$ 11</td>
<td>$ 12</td>
</tr>
<tr>
<td>Total amortization of capitalized acquisition costs</td>
<td>$ 11</td>
<td>$ 12</td>
</tr>
</tbody>
</table>

There were no impairment losses in relation to capitalized acquisition or fulfillments costs for the fiscal years ended December 29, 2018 and December 28, 2019.

NOTE 5: LEASES

As of December 28, 2019, we have operating leases for corporate offices and data centers and no active finance leases. Information related to operating leases was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for amounts included in the measurement of lease liabilities</td>
<td>$ 38</td>
</tr>
<tr>
<td>Right-of-use assets obtained in exchange for lease obligations</td>
<td>48</td>
</tr>
<tr>
<td>Operating lease expense</td>
<td>46</td>
</tr>
</tbody>
</table>

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Balance sheet information related to operating leases was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other long-term assets</td>
<td>$97</td>
</tr>
<tr>
<td>Lease liabilities, current portion</td>
<td>$29</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>87</td>
</tr>
<tr>
<td><strong>Total lease liabilities</strong></td>
<td><strong>$116</strong></td>
</tr>
<tr>
<td>Weighted Average Remaining Lease Term (in years)</td>
<td>7</td>
</tr>
<tr>
<td>Weighted Average Discount Rate (percentage)</td>
<td>6.1%</td>
</tr>
</tbody>
</table>

Maturities of operating lease liabilities were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$33</td>
</tr>
<tr>
<td>2021</td>
<td>19</td>
</tr>
<tr>
<td>2022</td>
<td>16</td>
</tr>
<tr>
<td>2023</td>
<td>12</td>
</tr>
<tr>
<td>2024</td>
<td>11</td>
</tr>
<tr>
<td>Thereafter</td>
<td>54</td>
</tr>
<tr>
<td><strong>Total lease payments</strong></td>
<td><strong>145</strong></td>
</tr>
<tr>
<td><strong>Less imputed interest</strong></td>
<td><strong>(29)</strong></td>
</tr>
<tr>
<td><strong>Total lease liabilities</strong></td>
<td><strong>$116</strong></td>
</tr>
</tbody>
</table>

As of December 28, 2019, we had no additional operating lease commitments.

**Disclosures Related to Periods Prior to Adoption of ASC Topic 842**

The aggregate future contractual commitments under all non-cancelable leases with an initial term in excess of one year were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>$35</td>
</tr>
<tr>
<td>2020</td>
<td>25</td>
</tr>
<tr>
<td>2021</td>
<td>12</td>
</tr>
<tr>
<td>2022</td>
<td>9</td>
</tr>
<tr>
<td>2023</td>
<td>6</td>
</tr>
<tr>
<td>Thereafter</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$109</strong></td>
</tr>
</tbody>
</table>

Rental expense related to our facilities was $10 million for the predecessor during the period ended April 3, 2017.

Rental expense related to our facilities was $34 million and $32 million during the period ended December 30, 2017 and fiscal year ended December 29, 2018, respectively.

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NOTE 6: ACQUISITION / BUSINESS COMBINATION

Successor

Acquisition Overview

Under the acquisition method of accounting, the total purchase consideration is allocated to the tangible and identifiable intangible assets acquired and liabilities assumed based on their estimated fair values. Accordingly, the assets acquired and liabilities assumed are recorded at their respective fair values as of the date of the acquisition, with the residual consideration transferred recorded as goodwill. The determination of the fair values of the acquired assets and assumed liabilities requires significant judgment, including estimates impacting the determination of estimated lives of tangible and intangible assets, and the calculation of the fair value of inventory, property and equipment, deferred revenue and identified intangible assets. The fair values were determined primarily using the income method using Level 3 inputs (Note 15).

Transaction Overview

Our consolidated financial statements reflect the Transaction that occurred on April 3, 2017, which was accounted for as a business combination. The Transaction was accounted for in accordance with the acquisition method of accounting for business combinations with Manta as the acquirer. The related acquisition costs were expensed by both Manta as the accounting acquirer and Intel as the seller and equity contributor. The Company has elected to apply push down accounting as a result of the change in ownership of the Company.

The final allocation of the purchase price was as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net working capital</td>
<td>$315</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>177</td>
</tr>
<tr>
<td>Identified intangible assets (Note 10)</td>
<td>3,248</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>(1,195)</td>
</tr>
<tr>
<td>Deferred income taxes, net</td>
<td>48</td>
</tr>
<tr>
<td>Other assets and liabilities, net</td>
<td>(1)</td>
</tr>
<tr>
<td><strong>Net identifiable assets acquired</strong></td>
<td>$2,592</td>
</tr>
<tr>
<td>Goodwill</td>
<td>1,762</td>
</tr>
<tr>
<td><strong>Total purchase price allocation</strong></td>
<td>$4,354</td>
</tr>
</tbody>
</table>

Goodwill is primarily attributable to expected synergies in our subscription offerings and cross-selling opportunities and it is not deductible for tax purposes.

Skyhigh Networks, Inc. Overview

On January 3, 2018, we acquired 100% of the equity of Skyhigh Networks, Inc. (“Skyhigh”), enabling us to integrate their leading cloud access security broker technology within our product offerings. We acquired Skyhigh at a purchase price of $590 million, primarily funded through new debt issuance (Note 13), net of cash received. An additional amount will be recognized as deferred cash and equity in the period in which certain key employees provide required continuing service. The Skyhigh acquisition is accounted for as a business combination.
As of December 29, 2018, the final allocation of the purchase price is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>(in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net working capital</td>
<td>$7</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>1</td>
</tr>
<tr>
<td>Identified intangible assets (Note 10)</td>
<td>96</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>(30)</td>
</tr>
<tr>
<td>Deferred income taxes, net</td>
<td>(131)</td>
</tr>
<tr>
<td>Net identifiable assets acquired</td>
<td>$ (57)</td>
</tr>
<tr>
<td>Goodwill</td>
<td>647</td>
</tr>
<tr>
<td><strong>Total purchase price allocation</strong></td>
<td><strong>$ 590</strong></td>
</tr>
</tbody>
</table>

Goodwill is primarily attributable to expected synergies and cross-selling opportunities. Goodwill is not deductible for tax purposes. The results of operations of Skyhigh have been included in our consolidated statements of operations subsequent to the date of acquisition on January 3, 2018 and we recognized $61 million in Net revenue and $112 million of Operating loss related to Skyhigh through the fiscal year ended December 29, 2018.

**Supplemental pro-forma information**

If we had acquired Skyhigh on January 1, 2017, the Predecessor’s total Net revenue and Loss before taxes on a pro-forma basis for the period ended April 3, 2017 would have been approximately $594 million and $99 million, respectively and our total Net revenue and Loss before taxes on a pro-forma basis for the period ended December 30, 2017 would have been approximately $1,515 million and $657 million, respectively.

In arriving at these pro-forma figures, our results of operations were combined with Skyhigh’s results of operations and then adjusted to give pro-forma effect to:

- lower Skyhigh deferred revenue recognition, due to fair value adjustment of deferred revenue balances;
- additional accruals for retention bonuses;
- amortization of acquired intangible assets; and
- additional interest expense from the Company’s additional borrowings on 1st Lien Term Loans

The pro-forma results are presented for illustrative purposes only and are not necessarily indicative of or intended to represent the results that would have been achieved had the acquisition been completed on January 1, 2017. For example, the pro-forma results do not reflect any operating efficiencies and associated cost savings that we might have achieved with respect to the acquisitions.

**TunnelBear Inc. Overview**

On February 26, 2018, we acquired certain assets and liabilities of TunnelBear, Inc. ("TunnelBear"), enabling us to integrate their leading consumer VPN technology within our own product platform. The TunnelBear acquisition is accounted for as a business combination. We acquired those assets and liabilities for a purchase price of $25 million with an additional amount recognized as deferred cash in the period in which certain key employees provide required continuing service. $11 million of the purchase price relates to identified intangible assets (Note 10). $17 million of goodwill is deductible for tax purposes.

Pro forma results of operations and historical results of operations subsequent to purchase date have not been presented as the results and financial position of Tunnelbear were not material to our financial position or results of operations as of or for the fiscal year ended December 29, 2018.
Deferred Cash and Equity

In connection with the purchase of Skyhigh, we issued approximately 2.2 million Class A units with a fair value of $10.67 to certain employees with a holdback provision (“Restricted Class A Units”). Since this holdback provision is akin to a service condition, we recognize expense for these units over the time period in which the restrictive holdback provision expires over 2 years past the acquisition date (“Restricted Class A Unit Vesting”). Additionally, in connection with our acquisitions during the year ended December 29, 2018, we are required to make deferred cash payments of $59 million over the service period required to be completed by certain employees. Deferred cash and equity is recognized as compensation cost. As of December 28, 2019, our outstanding deferred cash and equity, as it relates to our acquisitions is as follows:

<table>
<thead>
<tr>
<th></th>
<th>(in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding deferred cash and equity balance at December 30, 2017</td>
<td>$5</td>
</tr>
<tr>
<td>Accruals</td>
<td>39</td>
</tr>
<tr>
<td>Restricted Class A Unit Vesting</td>
<td>(9)</td>
</tr>
<tr>
<td>Cash payment</td>
<td>(17)</td>
</tr>
<tr>
<td><strong>Outstanding deferred cash and equity balance at December 29, 2018</strong></td>
<td><strong>13</strong></td>
</tr>
<tr>
<td>Accruals</td>
<td>35</td>
</tr>
<tr>
<td>Restricted Class A Unit Vesting</td>
<td>(12)</td>
</tr>
<tr>
<td>Cash payment</td>
<td>(16)</td>
</tr>
<tr>
<td><strong>Outstanding deferred cash and equity balance at December 28, 2019</strong></td>
<td><strong>$20</strong></td>
</tr>
</tbody>
</table>

As of December 28, 2019, we have unrecognized expense relating to deferred cash and equity of $9 million. Deferred cash is recorded within Accrued compensation and benefits and Other long-term liabilities on the consolidated balance sheets for amounts due in the next 12 months and amounts due after 12 months, respectively. Deferred equity is recorded within Members’ equity (deficit) on the consolidated balance sheets.

NOTE 7: TRANSACTIONS WITH MEMBERS AND RELATED PARTIES

Predecessor

During the period ended April 3, 2017, the Predecessor engaged in transactions with Intel and other Intel subsidiaries.

Transactions with related parties were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended April 3, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash management and general financing activities</td>
<td>$ (100)</td>
</tr>
<tr>
<td>Corporate allocations</td>
<td>68</td>
</tr>
<tr>
<td>Share-based compensation</td>
<td>23</td>
</tr>
<tr>
<td>Income tax benefits</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total net transfer to parent</strong></td>
<td><strong>$ (1)</strong></td>
</tr>
</tbody>
</table>
A reconciliation of net transfers to parent in the combined (Predecessor) / consolidated (Successor) statement of equity (deficit) to the corresponding amount presented on the combined (Predecessor) / consolidated (Successor) statements of cash flows for all periods presented for the Predecessor period was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended April 3, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net transfers to parent (Equity)</td>
<td>$ (1)</td>
</tr>
<tr>
<td>Share-based compensation</td>
<td>(23)</td>
</tr>
<tr>
<td>Proceeds from sales of shares</td>
<td>(14)</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total net transfer to parent (Cash Flows)</strong></td>
<td><strong>$ (35)</strong></td>
</tr>
</tbody>
</table>

**Successor**

To execute the Transaction, Intel contributed non-cash assets and liabilities into FTW and FTW issued a $1,500 million unsecured note payable (the “Company Note”) to Intel. Manta acquired $1,622 million of equity in FTW from Intel, of which $700 million was converted to Redemption Units that were mandatorily redeemable and had no conversion feature. In September 2017, we paid the Company Note of $1,500 million and Redemption Units of $700 million in full, including accrued interest of $61 million and $29 million, respectively, primarily from funds acquired from the credit facility (Note 13).

We also entered into additional agreements with Intel, which included a $45 million cashless “Excess Separation Note” to fund anticipated separation costs to be paid by Intel in executing our separation and a $250 million revolving credit facility to support working capital needs. In May 2017, we paid the Excess Separation Note of $45 million and accrued interest of $1 million.

During the period ended December 30, 2017, we made two distributions to our Members consisting of $50 million as reimbursement for certain Transaction related costs incurred and a $1,512 million distribution in connection with the credit facility (Note 13). These distributions were reflected as a reduction of Members’ equity (deficit).

We declared tax and excess cash distributions to our members during the year ended December 28, 2019 in aggregate of $1,338 million. As of December 28, 2019, we withheld $1 million and $3 million of the distributions within Accounts payable and other current liabilities and Other long-term liabilities, respectively. The distributions were partially funded through debt issued on June 13, 2019 (Note 13).

Our Intel Receivable, net consisted of the following:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Intel Receivable(1)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax indemnity</td>
<td>$ 12</td>
<td>$ 10</td>
</tr>
<tr>
<td>Total</td>
<td>$ 12</td>
<td>$ 10</td>
</tr>
<tr>
<td><strong>Intel Payable(1)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax indemnity</td>
<td>(8)</td>
<td>(4)</td>
</tr>
<tr>
<td>Total</td>
<td>(8)</td>
<td>(4)</td>
</tr>
<tr>
<td><strong>Total, net(2)</strong></td>
<td>$ 4</td>
<td>$ 6</td>
</tr>
</tbody>
</table>

(1) We have the contractual right of offset of our receivables and payables with Intel.

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As of December 29, 2018, $2 million and $6 million are recorded in Accounts payable and other current liabilities and Other long-term assets on the consolidated balance sheets, respectively. As of December 28, 2019, $2 million and $4 million are recorded in Other current assets and Other long-term assets on the consolidated balance sheets, respectively.

Other transactions with related parties are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales with related parties:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intel</td>
<td>$19</td>
<td>$3</td>
<td>$10</td>
</tr>
<tr>
<td>Manta Affiliates</td>
<td>8</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>$29</td>
<td>$9</td>
<td>$16</td>
</tr>
<tr>
<td>Payments to related parties:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intel</td>
<td>$41</td>
<td>$7</td>
<td>$5</td>
</tr>
<tr>
<td>Intel Affiliates</td>
<td>6</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Manta Owners</td>
<td>8</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Manta Affiliates</td>
<td>25</td>
<td>36</td>
<td>32</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>$80</td>
<td>$53</td>
<td>$62</td>
</tr>
</tbody>
</table>

We had these additional transactions with companies who partially own Manta (“Manta Owners”) and companies owned or partially owned by the Manta Owners (“Manta Affiliates”) or Intel (“Intel Affiliates”) and therefore qualify as related parties. These transactions include sales of our products and purchases of various goods or services. Revenue from the sales transactions are recognized in accordance with our revenue recognition policy.

NOTE 8: OPERATING SEGMENTS

We have two operating segments, which also represent our reporting units:

- Enterprise — Includes computer solutions for small and medium-sized businesses, large enterprises, and governments.
- Consumer — Includes security solutions for consumers.

We manage our business activities primarily based on a product-segmentation basis and whether they serve consumers or enterprises. The Chief Operating Decision Maker (“CODM”) allocates resources to and assesses the performance of each operating segment primarily using information about its operating income (loss), net revenue, and depreciation and amortization.
The CODM does not evaluate operating segments using discrete asset information. We allocate all shared expenses to the operating segments.

Significant information by segment is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period Ended April 3, 2017(1)</th>
<th>Successor Period Ended December 30, 2017(1)</th>
<th>Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net revenue:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$328</td>
<td>$860</td>
<td>$1,248</td>
</tr>
<tr>
<td>Consumer</td>
<td>258</td>
<td>630</td>
<td>1,161</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
</tr>
<tr>
<td><strong>Depreciation and amortization:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$42</td>
<td>$173</td>
<td>$260</td>
</tr>
<tr>
<td>Consumer</td>
<td>18</td>
<td>213</td>
<td>283</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$60</td>
<td>$386</td>
<td>$543</td>
</tr>
<tr>
<td><strong>Operating income (loss):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$(120)</td>
<td>$(359)</td>
<td>$(280)</td>
</tr>
<tr>
<td>Consumer</td>
<td>47</td>
<td>$(47)</td>
<td>107</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$(73)</td>
<td>$(406)</td>
<td>$(173)</td>
</tr>
</tbody>
</table>

(1) Prior period amounts have not been adjusted under the modified retrospective method of ASC Topic 606.

A significant portion of the operating segments’ operating expenses are derived from shared resources including research and development, accounting, real estate, information technology, treasury, human resources, procurement and other corporate infrastructure expenses. We allocated these operating expenses to the operating segments based on the estimated utilization of services provided to or benefits received by the operating segments.

Prior to fiscal year 2018, we allocated shared expenses of our administrative functions, including finance, accounting, human resources, legal, operations, information technology and facilities to our reportable segments using a head count ratio of directly attributable employees. Effective fiscal year 2018, the allocation metrics were changed to be based on direct identification for segment specific sites and analysis for each shared function using drivers, including surveyed time, head count or revenue mix from each segment. Based on our best estimate, the change in allocation would have resulted in $39 million higher costs allocated to the Consumer segment and $39 million lower costs allocated to the Enterprise segment for the period ended December 30, 2017.

Revenue by geographic region based on the sell-to address of the end-users is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Predecessor Period Ended April 3, 2017(1)</th>
<th>Successor Period Ended December 30, 2017(1)</th>
<th>Fiscal Year Ended December 29, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>$302</td>
<td>$764</td>
<td>$1,252</td>
</tr>
<tr>
<td>Other</td>
<td>284</td>
<td>726</td>
<td>1,157</td>
</tr>
<tr>
<td><strong>Total net revenue</strong></td>
<td>$586</td>
<td>$1,490</td>
<td>$2,409</td>
</tr>
</tbody>
</table>

(1) Prior period amounts have not been adjusted under the modified retrospective method of ASC Topic 606.
Customer Information

There was no end-user Customer that represented 10% or more of our total Net revenue or Accounts receivable, net, for the period ended April 3, 2017, the period ended December 30, 2017, or the fiscal years ending December 29, 2018 and December 28, 2019.

Many of our revenue transactions are conducted through distributors. As such, we had three distributors which exceeded 10% of our Net revenue or Accounts receivable, net:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(in percent)</td>
<td></td>
<td>Period Ended April 3, 2017</td>
<td>Day</td>
<td>End Dec</td>
<td>End Dec</td>
<td>End Dec</td>
<td>End Dec</td>
</tr>
<tr>
<td>Ingram Micro Inc.</td>
<td>15%</td>
<td>19%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Arrow Electronics, Inc.</td>
<td>7%</td>
<td>13%</td>
<td>9%</td>
<td>7%</td>
<td>7%</td>
<td>7%</td>
<td></td>
</tr>
<tr>
<td>Tech Data Corporation</td>
<td>10%</td>
<td>11%</td>
<td>8%</td>
<td>6%</td>
<td>6%</td>
<td>6%</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE 9: RESTRUCTURING AND TRANSITION CHARGES**

Restructuring charges generally include significant actions impacting the way we manage our business. Employee severance and benefit charges are largely based upon substantive severance plans, while some charges result from mandated requirements in certain foreign jurisdictions. These charges include items such as employee severance, ongoing benefits, and excess payroll costs directly attributable to the restructuring plan. Transition charges include legal, advisory, consulting and other costs directly incurred due to the Transaction and are generally paid when incurred. For the period ended December 30, 2017, transition charges were $63 million and $14 million for Enterprise and Consumer segments, respectively. For the fiscal year ended December 29, 2018 transition charges were $6 million and $1 million for Enterprise and Consumer segments, respectively. During the Predecessor period, Transition charges were paid by Intel on behalf of the Predecessor and were recorded as an increase to net parent investment (Note 7).

Restructuring and transition charges are as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(in percent)</td>
<td></td>
<td>As of December 29, 2018</td>
<td>Accounts receivable</td>
<td>As of December 28, 2019</td>
<td>Accounts receivable</td>
<td>As of December 29, 2018</td>
<td>Accounts receivable</td>
</tr>
<tr>
<td>Ingram Micro Inc.</td>
<td>25%</td>
<td>29%</td>
<td>29%</td>
<td>29%</td>
<td>29%</td>
<td>29%</td>
<td>29%</td>
</tr>
<tr>
<td>Arrow Electronics, Inc.</td>
<td>11%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Tech Data Corporation</td>
<td>7%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
</tr>
</tbody>
</table>

In July 2017, we announced the McAfee Acceleration Program to better align ourselves around our core business. As part of the program, we have incurred employee severance and benefit and facility restructuring costs of $39 million and $7 million, respectively, recorded in restructuring and transition charges in the consolidated statement of operations and comprehensive loss in the period ended December 30, 2017.

F-30
In January 2018, we announced the second phase of the McAfee Acceleration Program to further our alignment toward core business. During the fiscal year ended December 29, 2018, we incurred additional employee severance and benefit and facility restructuring costs of $27 million and $2 million, respectively.

In January 2019, we announced the “Transformation 2019” initiative, in which we are realigning our staffing across various departments. As part of the initiative, we have incurred employee severance and benefits costs and facility restructuring of $20 million and $2 million, respectively, recorded in Restructuring and transition charges in the unaudited condensed consolidated statement of operations and comprehensive loss.

As of December 28, 2019, substantially all of the outstanding employee severance and benefits balances are paid. The balance of our restructuring activities are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Enterprise</th>
<th>Consumer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Severance and Benefits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As of April 4, 2017</td>
<td>$2</td>
<td>$1</td>
<td>$3</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>32</td>
<td>7</td>
<td>39</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(31)</td>
<td>(7)</td>
<td>(38)</td>
</tr>
<tr>
<td>As of December 30, 2017</td>
<td>$3</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>22</td>
<td>5</td>
<td>27</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(24)</td>
<td>(6)</td>
<td>(30)</td>
</tr>
<tr>
<td>As of December 29, 2018</td>
<td>1</td>
<td>—</td>
<td>1</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>18</td>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(17)</td>
<td>(2)</td>
<td>(19)</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>$2</td>
<td>—</td>
<td>$2</td>
</tr>
<tr>
<td>Facility Restructuring</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As of April 4, 2017</td>
<td>$—</td>
<td>$—</td>
<td>$—</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>6</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Cash payments</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>As of December 30, 2017</td>
<td>$6</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>2</td>
<td>—</td>
<td>2</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(4)</td>
<td>(1)</td>
<td>(5)</td>
</tr>
<tr>
<td>As of December 29, 2018</td>
<td>4</td>
<td>—</td>
<td>4</td>
</tr>
<tr>
<td>Adjustment(1)</td>
<td>(4)</td>
<td>—</td>
<td>(4)</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total restructuring as of December 28, 2019</td>
<td>$2</td>
<td>—</td>
<td>$2</td>
</tr>
</tbody>
</table>

(1) Represents a reclassification to reduce ROU assets as part of the transition to ASC Topic 842.

NOTE 10: GOODWILL AND INTANGIBLE ASSETS, NET

Predecessor

Goodwill

During the period ended April 3, 2017, the Predecessor completed an impairment assessment and concluded that goodwill was not impaired.
Intangible Assets, Net

Intangible assets subject to amortization

Amortization expense of identified intangible assets was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Location</th>
<th>Period Ended April 3, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer relationships</td>
<td>Amortization of intangibles</td>
<td>$ 40</td>
</tr>
<tr>
<td>Developed technology</td>
<td>Cost of sales</td>
<td>$ 1</td>
</tr>
<tr>
<td>Licensed technology</td>
<td>Cost of sales</td>
<td>$ 1</td>
</tr>
<tr>
<td><strong>Total amortization expense</strong></td>
<td></td>
<td><strong>$ 42</strong></td>
</tr>
</tbody>
</table>

For the period ended April 3, 2017, there were no capitalized research and development activities to complete software assets which we intend to sell under hosting arrangements.

Successor

Goodwill

Goodwill activity was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Consumer</th>
<th>Enterprise</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance as of December 30, 2017</strong></td>
<td>$ 999</td>
<td>$ 761</td>
<td>$1,760</td>
</tr>
<tr>
<td>Additions (Note 6)</td>
<td>17</td>
<td>647</td>
<td>664</td>
</tr>
<tr>
<td>Purchase price allocation adjustments(1)</td>
<td>2</td>
<td>—</td>
<td>2</td>
</tr>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td>1,018</td>
<td>1,408</td>
<td>2,426</td>
</tr>
<tr>
<td>Additions(2)</td>
<td>—</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td>$ 1,018</td>
<td>$ 1,410</td>
<td>$2,428</td>
</tr>
</tbody>
</table>

(1) Adjustments to the goodwill recorded as a result of the Transaction.
(2) During the fiscal year ended December 28, 2019, we completed two acquisitions that are not significant to our results of operations, individually or in the aggregate. The consideration for the acquisitions in 2019 primarily consisted of cash and was allocated to goodwill and intangible assets.

During the fourth quarter, we performed our annual impairment assessment. No impairment loss for goodwill or intangibles was recorded during the period ended December 30, 2017 or during the fiscal year ended December 29, 2018 or during the fiscal year ended December 28, 2019.
Intangible Assets, Net

Intangible assets subject to amortization

Identified intangible assets subject to amortization are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gross Asset Value</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As of December 30, 2017</td>
<td>$1,402</td>
<td>$1,116</td>
<td>$2,518</td>
</tr>
<tr>
<td>Additions <a href="1">Note 6</a></td>
<td>50</td>
<td>57</td>
<td>107</td>
</tr>
<tr>
<td>In-process research and development placed in service</td>
<td>—</td>
<td>39</td>
<td>39</td>
</tr>
<tr>
<td>As of December 29, 2018</td>
<td>$1,452</td>
<td>$1,212</td>
<td>2,664</td>
</tr>
</tbody>
</table>

**Accumulated Amortization**

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 30, 2017</td>
<td>(167)</td>
<td>(172)</td>
<td>(339)</td>
</tr>
<tr>
<td>Amortization</td>
<td>(232)</td>
<td>(252)</td>
<td>(484)</td>
</tr>
<tr>
<td>As of December 29, 2018</td>
<td>(399)</td>
<td>(424)</td>
<td>(823)</td>
</tr>
</tbody>
</table>

**Net book value as of December 29, 2018**

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,053</td>
<td>$788</td>
<td>$1,841</td>
</tr>
</tbody>
</table>

(1) Weighted average useful life of customer relationships and other acquired in connection to Skyhigh and TunnelBear is 8 years and 4 years, respectively. Weighted average useful life of acquired technology acquired in connection to Skyhigh and TunnelBear is 5 years and 4 years, respectively.

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 29, 2018</td>
<td>$1,452</td>
<td>$1,215</td>
<td>2,660</td>
</tr>
<tr>
<td>Other adjustments(1)</td>
<td>(7)</td>
<td>—</td>
<td>(7)</td>
</tr>
<tr>
<td>In-process research and development placed in service</td>
<td>—</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>1,445</td>
<td>1,215</td>
<td>2,660</td>
</tr>
</tbody>
</table>

**Accumulated Amortization**

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 29, 2018</td>
<td>(399)</td>
<td>(424)</td>
<td>(823)</td>
</tr>
<tr>
<td>Amortization</td>
<td>(222)</td>
<td>(246)</td>
<td>(468)</td>
</tr>
<tr>
<td>Other adjustments(1)</td>
<td>2</td>
<td>—</td>
<td>2</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>(619)</td>
<td>(670)</td>
<td>(1,289)</td>
</tr>
</tbody>
</table>

**Net book value as of December 28, 2019**

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$826</td>
<td>$545</td>
<td>$1,371</td>
</tr>
</tbody>
</table>

(1) Other adjustments represent a reclassification to ROU assets as part of the transition to ASC Topic 842.

We recognize amortization expense related to customer relationships and other within the Amortization of intangibles on the consolidated statements of operations and comprehensive loss. We recognize amortization expense related to acquired and developed technology within Cost of sales on the consolidated statements of operations and comprehensive loss. Amortization expense for the customer relationships and other and acquired and developed technology for the period ended December 30, 2017 was $167 million and $172 million, respectively.
Intangible assets not subject to amortization

Identified intangible assets not subject to amortization are as follows:

<table>
<thead>
<tr>
<th></th>
<th>In-process research and development (1)</th>
<th>Brand</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 30, 2017</td>
<td>$37</td>
<td>$697</td>
<td>$734</td>
</tr>
<tr>
<td>Additions</td>
<td>3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>In-process research and development placed in service</td>
<td>(39)</td>
<td></td>
<td>(39)</td>
</tr>
<tr>
<td>As of December 29, 2018</td>
<td>1</td>
<td>697</td>
<td>698</td>
</tr>
<tr>
<td>Additions</td>
<td>5</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>In-process research and development placed in service</td>
<td>(3)</td>
<td></td>
<td>(3)</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>$3</td>
<td>$697</td>
<td>$700</td>
</tr>
</tbody>
</table>

(1) From time to time, we engage in research and development activities to complete software assets which we intend to sell under hosting arrangements (Note 2). Capitalizable costs associated with research and development activities are accumulated in in-process research and development prior to project completion. Upon project completion, all capitalizable costs associated with the completed project are placed in service.

Based on identified intangible assets that are subject to amortization as of December 28, 2019, we expect future amortization expense to be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Customer relationships and other</th>
<th>Acquired and developed technology</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$220</td>
<td>$214</td>
<td>$434</td>
</tr>
<tr>
<td>2021</td>
<td>153</td>
<td>179</td>
<td>332</td>
</tr>
<tr>
<td>2022</td>
<td>131</td>
<td>88</td>
<td>219</td>
</tr>
<tr>
<td>2023</td>
<td>104</td>
<td>51</td>
<td>155</td>
</tr>
<tr>
<td>2024</td>
<td>95</td>
<td>13</td>
<td>108</td>
</tr>
<tr>
<td>Thereafter</td>
<td>123</td>
<td>—</td>
<td>123</td>
</tr>
<tr>
<td>Total</td>
<td>$826</td>
<td>$545</td>
<td>$1,371</td>
</tr>
</tbody>
</table>

NOTE 11: PROPERTY AND EQUIPMENT

Predecessor

The Predecessor computed depreciation using the straight-line method over the estimated useful life of 10-25 years for buildings and 3-5 years for computer equipment and software. Depreciation expense was $18 million for the period ended April 3, 2017.
Property and equipment, net was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land, buildings and leasehold improvements</td>
<td>$74</td>
<td>$78</td>
</tr>
<tr>
<td>Computer equipment, software and other</td>
<td>197</td>
<td>240</td>
</tr>
<tr>
<td>Construction in progress</td>
<td>14</td>
<td>24</td>
</tr>
<tr>
<td><strong>Total property and equipment</strong></td>
<td><strong>285</strong></td>
<td><strong>342</strong></td>
</tr>
<tr>
<td>Less: accumulated depreciation</td>
<td>(107)</td>
<td>(171)</td>
</tr>
<tr>
<td><strong>Total property and equipment, net</strong></td>
<td><strong>$178</strong></td>
<td><strong>$171</strong></td>
</tr>
</tbody>
</table>

We computed depreciation using the straight-line method over the estimated useful life of 10-25 years for buildings and 2-5 years for computer equipment, software and other. For the period ended December 30, 2017, fiscal year ended December 29, 2018 and fiscal year ended December 28, 2019, our depreciation expense was $47 million, $60 million and $68 million, respectively.

The following table summarizes our capital expenditures:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital expenditures</td>
<td>$49</td>
<td>$60</td>
<td>$59</td>
</tr>
<tr>
<td>Accrued capital expenditures</td>
<td>6</td>
<td>5</td>
<td>8</td>
</tr>
</tbody>
</table>

For the period ended December 30, 2017, $8 million of our capital expenditures were funded by Intel.

**NOTE 12: EMPLOYEE INCENTIVE / BENEFIT PLANS**

**Retention Awards**

The activities of retention awards within Accrued compensation and benefits on our consolidated balance sheets were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td></td>
</tr>
<tr>
<td>Accruals, net of forfeitures</td>
<td>19</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(23)</td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td><strong>$7</strong></td>
</tr>
</tbody>
</table>

As of December 28, 2019, our remaining unrecognized compensation costs related to the retention awards were $10 million with a remaining weighted-average period of less than 1 year.
Class A Unit Awards

RSU activity was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Number of Units (in millions)</th>
<th>Weighted Average Grant-Date Fair Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grants</td>
<td>1.8</td>
<td>$6.98</td>
</tr>
<tr>
<td>Vested</td>
<td>(2.1)</td>
<td></td>
</tr>
<tr>
<td>Forfeited</td>
<td>(0.2)</td>
<td></td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td>2.9</td>
<td>$8.08</td>
</tr>
</tbody>
</table>

As of December 28, 2019, our unrecognized compensation costs related to the Class A Unit grants was $19 million with a remaining weighted-average service period of 2.8 years.

Management Incentive and Equity Participation Unit Awards

We granted MIUs and MEPUs to certain employees. The time-based awards’ fair value was calculated using the Black-Scholes model. The performance-based awards’ fair value was calculated using Monte Carlo simulations. The performance-based portion of both awards and the time-based portion of the MEPUs require a Qualifying Liquidity Event to vest. As of December 28, 2019, a Qualifying Liquidity Event was not a probable event and thus, both the performance-based awards and the time-based portion of the MEPUs have not been recognized in compensation costs.

Management Incentive Units

MIU activity was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Time-based</th>
<th>Performance-based</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of Units (in millions)</td>
<td>Weighted Average Grant-Date Fair Value</td>
</tr>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td>5.6</td>
<td>$3.12</td>
</tr>
<tr>
<td>Grants</td>
<td>1.1</td>
<td>2.35</td>
</tr>
<tr>
<td>Vested</td>
<td>(1.6)</td>
<td>3.03</td>
</tr>
<tr>
<td>Forfeited</td>
<td>(0.2)</td>
<td>3.09</td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td>4.9</td>
<td>$2.98</td>
</tr>
</tbody>
</table>

As of December 28, 2019, unrecognized compensation costs of the time-based awards were $13 million with a remaining weighted average service period of 2.7 years. The unrecognized compensation costs of the performance-based awards is $7 million.
The weighted average estimated value of the time-based portion of MIUs granted during the period ended December 30, 2017, fiscal year ended December 29, 2018 and fiscal year ended December 28, 2019 was valued using the Black-Scholes model with the following inputs:

<table>
<thead>
<tr>
<th></th>
<th>As of December 30, 2017</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated values</td>
<td>$ 5.98</td>
<td>$ 10.67 - $10.85</td>
<td>$ 8.64</td>
</tr>
<tr>
<td>Expected life (in years)</td>
<td>5.0</td>
<td>3.69 - 4.68</td>
<td>3.17 - 3.22</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>1.8%</td>
<td>2.2% - 2.91%</td>
<td>1.43% - 1.67%</td>
</tr>
<tr>
<td>Dividend yield</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Volatility</td>
<td>45.0%</td>
<td>40.35% - 43.31%</td>
<td>35.91% - 36.37%</td>
</tr>
</tbody>
</table>

In February 2020, we entered into an agreement to repurchase $10 million in Class A Units and MIUs in April 2020, subject to the satisfaction of certain conditions. The number of Class A Units and MIUs to be repurchased is also subject to adjustment for distributions made prior to the repurchase date. During February 2020, we modified the terms of certain MIU grants to provide for vesting subject to the satisfaction of certain conditions, which will result in the recognition of incremental compensation expense of modified awards at fair value at their modification date.

**Management Equity Participation Units**

MEPU activity as of December 28, 2019 was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Number of Time-based Units</th>
<th>Number of Performance-based Units</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grants</td>
<td>1.9</td>
<td>0.4</td>
</tr>
<tr>
<td>Time-vested</td>
<td>(1.3)</td>
<td></td>
</tr>
<tr>
<td>Forfeited</td>
<td>(0.9)</td>
<td>(1.2)</td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td>4.1</td>
<td>4.3</td>
</tr>
</tbody>
</table>

MEPUs are generally expected to be cash-settled upon a Qualifying Liquidity Event, subject to satisfying the underlying vesting requirements. The time-based MEPUs have a service period of four or five years from the initial grant date. As of December 28, 2019, the estimated fair value was $30 million for the time-based MEPUs. The performance-based MEPUs had an estimated fair value of $15 million using market data as of June 2019. Upon a Qualifying Liquidity Event, the cumulative time-vested MEPUs fair value will be recognized in compensation costs immediately and the remainder will be recognized ratably over the remaining service period.

**Cash RSU (“CRSU”)**

CRSUs are awards similar to MEPUs, with the exception that these awards do not have a return threshold. As a Qualifying Liquidity Event is not probable at that time, no expense has been recognized. CRSU activity is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Number of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance as of December 29, 2018</strong></td>
<td>0.2</td>
</tr>
<tr>
<td>Grants</td>
<td>6.1</td>
</tr>
<tr>
<td>Time-vested</td>
<td>(0.7)</td>
</tr>
<tr>
<td>Forfeited</td>
<td>(0.4)</td>
</tr>
<tr>
<td><strong>Balance as of December 28, 2019</strong></td>
<td>5.2</td>
</tr>
</tbody>
</table>
CRSUs are generally expected to be cash-settled upon a Qualifying Liquidity Event, subject to satisfying the underlying vesting requirements. CRSUs have a service period of three or five years from the initial grant date. As of December 28, 2019, the estimated fair value of CRSUs was $44 million. Upon a Qualifying Liquidity Event, the cumulative fair value of time-vested CRSUs will be recognized in compensation costs immediately and the remainder will be recognized ratably over the remaining service period.

**Defined Contribution Plans**

We provide tax-qualified retirement contribution plans in the United States for the benefit of all full-time employees. The plans are designed to provide employees with an accumulation of funds for retirement on a tax-deferred basis. Additionally, our operations in certain countries require we make payments to defined contribution plans for the benefit of our employees. Under the United States’ 401k and the foreign countries’ various defined contribution plans, we expensed $7 million, $22 million, $32 million and $36 million during the period ended April 3, 2017, period ended December 30, 2017, fiscal year ended December 29, 2018 and fiscal year ended December 28, 2019, respectively.

**Defined Benefit Plans**

In certain jurisdictions outside the United States, we are required to provide a defined benefit obligation and certain post-retirement benefits. As of December 29, 2018 and December 28, 2019, our net benefit obligation of $9 million and $8 million, respectively, is included within other long-term liabilities on the consolidated balance sheets.

**NOTE 13: DEBT**

Our long-term debt balance consisted of the following:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Lien USD Term Loan(1)</td>
<td>$2,751</td>
<td>$3,020</td>
</tr>
<tr>
<td>1st Lien Euro Term Loan(2)</td>
<td>837</td>
<td>1,200</td>
</tr>
<tr>
<td>2nd Lien USD Term Loan(3)</td>
<td>535</td>
<td>509</td>
</tr>
<tr>
<td>Long-term debt, net of unamortized discounts</td>
<td>4,123</td>
<td>4,729</td>
</tr>
<tr>
<td>Unamortized deferred financing costs</td>
<td>(15)</td>
<td>(17)</td>
</tr>
<tr>
<td>Current installments of long-term debt</td>
<td>(36)</td>
<td>(43)</td>
</tr>
<tr>
<td><strong>Long-term debt, net</strong></td>
<td>$4,072</td>
<td>$4,669</td>
</tr>
</tbody>
</table>

(1) During the fiscal year ended December 28, 2019, the weighted average interest rate was 6.1%
(2) During the fiscal year ended December 28, 2019, the weighted average interest rate was 3.5%
(3) During the fiscal year ended December 28, 2019, the weighted average interest rate was 11.0%

As of December 28, 2019, the material terms of our outstanding debt is as follows:

<table>
<thead>
<tr>
<th>Debt</th>
<th>Issue Date</th>
<th>Issue Principal</th>
<th>Interest Rate(1)</th>
<th>Interest Payment Frequency</th>
<th>Maturity Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Lien</td>
<td>June 2019</td>
<td>$3,087</td>
<td>375 pts above LIBOR</td>
<td>Monthly</td>
<td>September 2024</td>
</tr>
<tr>
<td>1st Lien</td>
<td>June 2019</td>
<td>€1,092</td>
<td>350 pts above EURIBOR</td>
<td>Quarterly</td>
<td>September 2024</td>
</tr>
<tr>
<td>2nd Lien</td>
<td>September 2017</td>
<td>$600</td>
<td>850 pts above LIBOR</td>
<td>Monthly</td>
<td>September 2025</td>
</tr>
</tbody>
</table>
(1) Our First Lien LIBOR and Euro Interbank Offered Rate ("EURIBOR") interest rates have a floor of 0%. Our Second Lien LIBOR interest rate has a floor of 1%.

Recapitalization

In September 2017, McAfee, LLC entered into the credit facility which contains two 1st Lien Secured Term Loans of $2,555 million and €507 million due September 29, 2024, a $500 million revolving credit facility (with a letter of credit sublimit of $50 million) due September 29, 2022 and a 2nd Lien Secured Term Loan of $660 million due September 29, 2025. The two 1st Lien term loans were issued at a discount to par at a price of 97.99% and 98.49% for the USD and Euro portions, respectively. The 2nd Lien Term Loan was issued at a discount to par at a price of 96.83%. We recognized debt issuance costs of $9 million and $2 million for the term loans and revolving credit facility, respectively. The discount and issuance costs will be amortized over the life of the respective term loans into Interest and other expense, net, in the consolidated statements of operations and comprehensive income. The credit facility is secured by all of the assets of McAfee, LLC and of its direct and indirect subsidiaries.

Proceeds from the credit facility were used to prepay debt and interest due to Members and make a distribution to our Members in September 2017.

Additions to and Modifications of Debt

In January 2018, in order to finance the acquisition of Skyhigh (Note 6), McAfee, LLC entered into an increase of our term loans under the 1st Lien Credit Facility. We increased our 1st Lien USD Term Loan by $324 million and our 1st Lien Euro Term Loan by €150 million, issued at a discount to par at a price of 99.60% and 99.98%, respectively and recognized issuance costs of $10 million. The discount and issuance costs are being amortized over the life of the respective term loans into Interest and other expense, net, in the consolidated statements of operations and comprehensive income. This increase does not change the material terms of our financing arrangements. Substantially all of the U.S. assets acquired by us (Note 6) have been added to the security pledge.

In November 2018, we modified the material terms of our 1st Lien USD and Euro Term Loans, as well as reduced the outstanding principal by $50 million and increased outstanding principal by €90 million, respectively. As a result, we recorded refinancing fees of $3 million within Interest and other expense, net on the consolidated statements of operations and comprehensive income. Additionally, on November 1, 2018, we made a prepayment on our 2nd Lien Term Loan of $50 million. In connection with the prepayment, we recorded refinancing fees of $2 million within Interest and other expense, net on the consolidated statements of operations and comprehensive income.

On June 13, 2019, McAfee, LLC entered into an agreement to increase our term loans under the 1st Lien credit facility. We increased our 1st Lien USD Term Loan by $300 million and our 1st Lien Euro Term Loan by €355 million, issued at a discount to par at a price of 99.24% and 99.50%, respectively and recognized issuance costs of $6 million. The discount and issuance costs are being amortized over the life of the respective term loans into Interest expense and other, net in the consolidated statements of operations and comprehensive loss. Additionally, on June 13, 2019, we modified certain material terms of our 1st Lien and 2nd Lien credit facilities, including, but not limited to, refreshing certain baskets and permitting a distribution to our owners with the proceeds of the increase of our term loans under the 1st Lien credit facility (Note 7). As a result, we capitalized consent fees of $12 million within Long-term debt, net on the consolidated balance sheets.
The amounts of interest paid on our long-term debt are as follows:

<table>
<thead>
<tr>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 28, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>USD interest payments on long-term debt obligations</td>
<td>$53</td>
<td>$250</td>
</tr>
<tr>
<td>Euro interest payments on long-term debt obligations</td>
<td>€5</td>
<td>€28</td>
</tr>
</tbody>
</table>

As of December 28, 2019, our debt repayment obligations for the five succeeding fiscal years and thereafter are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>(in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$43</td>
</tr>
<tr>
<td>2021</td>
<td>44</td>
</tr>
<tr>
<td>2022</td>
<td>43</td>
</tr>
<tr>
<td>2023</td>
<td>43</td>
</tr>
<tr>
<td>2024</td>
<td>4,101</td>
</tr>
<tr>
<td>Thereafter</td>
<td>525</td>
</tr>
<tr>
<td>Total debt repayment obligations</td>
<td>$4,799</td>
</tr>
</tbody>
</table>

**Revolving Credit Facility**

As of December 29, 2018, we had no letters of credit nor borrowings outstanding under our revolving credit facility. As of December 28, 2019, we had a letter of credit of $4 million issued against our revolving credit facility. The commitment fee for the unused portion of the revolving credit facility varies from 0.25% up to 0.50%, and the LIBOR margin of the outstanding borrowings and letters of credit varies from 4.00% to 4.50%, respectively, based upon our 1st Lien Net Leverage Ratio as defined in the credit facility agreement (“1st Lien Net Leverage Ratio”). As of December 28, 2019, our commitment fee was 0.50%.

In November 2018, we modified our revolving credit facility and lowered our LIBOR margin of the outstanding borrowings and letters of credit of 4.00% to 4.50% to the reduced amount of 3.25% to 3.75%. We also lowered the interest rate floor from 1% to 0%. No other material terms have changed.

**Debt Covenants and Restrictions**

Our credit facilities contain customary covenants, including a customary springing financial maintenance covenant under our revolving credit facility, events of default and change of control provisions. In the event we have outstanding loans and letters of credit under the revolving credit facility of more than $175 million at our reporting date (other than cash collateralized letters of credit and up to $30 million of undrawn letters of credit), we are required to maintain a 1st Lien Net Leverage Ratio less than or equal to 6.30 or be placed in default of our revolving credit facility.

We may be required to make a mandatory prepayment in excess of the 0.25% per quarter amortization of the 1st Lien Term Loans and 2nd Term Loans. The 1st Lien Credit Facility requires us to make a mandatory prepayment, subject to certain exceptions, with:

- 100% of net cash proceeds above a threshold amount of certain asset sales and casualty events, subject to (i) step-downs to (x) 50% if our first lien net leverage ratio is less than or equal to 3.25 to 1.00, but greater than 2.50 to 1.00 and (y) 0% if our first lien net leverage ratio is less than or equal to 2.50 to 1.00 and (ii) reinvestment rights and certain other exceptions;
The 2nd Lien Credit Facility requires us to make a mandatory prepayment, subject to certain exceptions, with:

- 100% of net cash proceeds above a threshold amount of certain asset sales and casualty events, subject to (i) step-downs to (x) 50% if our secured net leverage ratio is less than or equal to 4.25 to 1.00, but greater than 3.50 to 1.00 and (y) 0% if our secured net leverage ratio is less than or equal to 3.50 to 1.00 and (ii) reinvestment rights and certain other exceptions;
- 100% of net cash proceeds of the incurrence of certain debt, other than certain debt permitted under the 2nd Lien Credit Facility; and
- 50% of annual excess cash flow, subject to (i) a step-down to 25% if our secured net leverage ratio is less than or equal to 4.25 to 1.00, but greater than 3.50 to 1.00, and (ii) a step-down to 0% if our secured net leverage ratio is less than or equal to 3.50 to 1.00; provided that such a prepayment is required only in the amount (if any) by which such prepayment exceeds $35 million in such fiscal year.

Failure to comply with these covenants, or the occurrence of any other event of default, could result in acceleration of the borrowings and other financial obligations. We are not in default of any of our debt obligations as of December 28, 2019 and have not been required to make any additional payments above the 0.25% per quarter amortization.

NOTE 14: INCOME TAX

Predecessor

During the Predecessor period, the provision for income taxes was calculated under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the combined financial statements.

The Predecessor’s income tax expense and other income tax-related information was computed and reported using the separate return method. The cutoff method, with respect to measurement of current and deferred taxes, was utilized for the period ended April 3, 2017.

The tax provision for the period ended April 3, 2017 was $8 million. Income taxes paid for the period ended April 3, 2017 was $6 million.
The domestic and foreign components of income before taxes and the provision for taxes consisted of the following:

<table>
<thead>
<tr>
<th>Period Ended April 3, 2017</th>
<th>(in millions, except tax rates)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income (loss) before taxes:</strong></td>
<td></td>
</tr>
<tr>
<td>U.S.</td>
<td>$ (131)</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>60</td>
</tr>
<tr>
<td><strong>Total income (loss) before taxes</strong></td>
<td>(71)</td>
</tr>
<tr>
<td><strong>Provision for tax expense (benefit):</strong></td>
<td></td>
</tr>
<tr>
<td>Current:</td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>(2)</td>
</tr>
<tr>
<td>State</td>
<td>—</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total current provision for tax expense</strong></td>
<td>18</td>
</tr>
<tr>
<td>Deferred provision for tax expense (benefit):</td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>1</td>
</tr>
<tr>
<td>State</td>
<td>—</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>(11)</td>
</tr>
<tr>
<td><strong>Total deferred provision for tax expense</strong></td>
<td>(10)</td>
</tr>
<tr>
<td><strong>Total provision for tax expense</strong></td>
<td>$ 8</td>
</tr>
<tr>
<td><strong>Effective tax rate</strong></td>
<td>(11.3)%</td>
</tr>
</tbody>
</table>

The difference between the Predecessor’s tax provision and the tax provision computed at the U.S. federal statutory income tax rate for each period was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended April 3, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income taxes computed at the U.S. federal statutory rate</td>
<td>$ (25)</td>
</tr>
<tr>
<td>Non-U.S. income taxed at different rates</td>
<td>(16)</td>
</tr>
<tr>
<td>State tax expense (benefit)</td>
<td>(3)</td>
</tr>
<tr>
<td>U.S. taxation on foreign earnings</td>
<td>11</td>
</tr>
<tr>
<td>Other permanent items</td>
<td>2</td>
</tr>
<tr>
<td>U.S. foreign tax credits</td>
<td>(5)</td>
</tr>
<tr>
<td>U.S. research and development credits</td>
<td>(2)</td>
</tr>
<tr>
<td>Amortization of taxes on intercompany sale</td>
<td>2</td>
</tr>
<tr>
<td>Foreign withholding taxes</td>
<td>2</td>
</tr>
<tr>
<td>Foreign currency translation</td>
<td>—</td>
</tr>
<tr>
<td>Rate change</td>
<td>—</td>
</tr>
<tr>
<td>Change in uncertain tax positions</td>
<td>(3)</td>
</tr>
<tr>
<td>Change in valuation allowance</td>
<td>45</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
</tr>
<tr>
<td><strong>Provision for income taxes</strong></td>
<td>$ 8</td>
</tr>
</tbody>
</table>

The difference in the Predecessor’s tax as computed at the U.S. federal statutory rate and tax provision was primarily driven by the U.S. loss for which a full valuation allowance has been recorded and income in foreign jurisdictions with rates that vary from the U.S. In addition, the Predecessor recognized a tax benefit offset by a change in the valuation allowance upon management’s decision to indefinitely reinvest certain prior years’ non-U.S. income during the fiscal year 2015.
Deferred and Current Income Taxes

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amount of assets and liabilities recognized for financial reporting purposes and their corresponding tax bases. Under the separate return method, the Predecessor was assumed to file hypothetical separate returns with the tax authorities and reports deferred taxes on temporary differences and on any carryforwards that it would claim on its hypothetical return. Accordingly, the deferred tax balances include carryforwards for attributes generated by the Predecessor and utilized by Intel, as well as hypothetical carryforwards for attributes not utilized on a separate return basis.

The Predecessor had not recognized U.S. income tax on $2.4 billion of undistributed earnings for certain non-U.S. subsidiaries as of April 3, 2017. Determination of the amount of any unrecognized deferred income tax liability on this temporary difference was not practicable because of the complexities of the hypothetical calculation. The Predecessor intended to indefinitely reinvest the earnings and other basis differences for certain non-U.S. subsidiaries in those operations.

For the periods presented, the Predecessor’s operations were included in the returns of the Parent in multiple jurisdictions. Current income tax payables were deemed to have been settled immediately with Intel and offset through net parent investment. During all fiscal years and the period presented, the Predecessor recognized interest and penalties related to unrecognized tax benefits within the provision for taxes in the combined statements of operations and comprehensive operations. The additional accrual for interest and penalties related to unrecognized tax benefits was insignificant period ended April 3, 2017.

Successor

FTW is a pass through entity for U.S. federal income tax purposes and will not incur any federal income taxes either for itself or its U.S. subsidiaries that are also pass through or disregarded subsidiaries. Taxable income or loss for these entities will flow through to its respective Members for U.S. tax purposes. FTW does have certain U.S. and foreign subsidiaries that are corporations and are subject to income tax in their respective jurisdiction. The provision for income taxes is calculated under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements.

Income (loss) before income taxes expense includes the following components:

<table>
<thead>
<tr>
<th></th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.</td>
<td>$ (649)</td>
<td>$ (548)</td>
<td>$ (282)</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>75</td>
<td>98</td>
<td>133</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>$ (574)</td>
<td>$ (450)</td>
<td>$ (149)</td>
</tr>
</tbody>
</table>

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The provision for income tax expense (benefit) consists of the following:

<table>
<thead>
<tr>
<th></th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>—</td>
<td>$3</td>
<td>$—</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>34</td>
<td>49</td>
<td>68</td>
</tr>
<tr>
<td><strong>Total current</strong></td>
<td>34</td>
<td>52</td>
<td>68</td>
</tr>
<tr>
<td><strong>Deferred:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>—</td>
<td>4</td>
<td>13</td>
</tr>
<tr>
<td>State</td>
<td>(1)</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>—</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total deferred</strong></td>
<td>(1)</td>
<td>10</td>
<td>19</td>
</tr>
<tr>
<td><strong>Provision for income tax expense</strong></td>
<td>$33</td>
<td>$62</td>
<td>$87</td>
</tr>
</tbody>
</table>

The difference between the Company’s tax provision and the tax provision computed at the U.S. federal statutory income tax rate for each period was as follows:

<table>
<thead>
<tr>
<th></th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income taxes computed at the U.S. federal statutory rate</td>
<td>$ (201)</td>
<td>$ (94)</td>
<td>$(31)</td>
</tr>
<tr>
<td>Non-U.S. income taxed at different rates</td>
<td>8</td>
<td>33</td>
<td>44</td>
</tr>
<tr>
<td>State tax expense (benefit)</td>
<td>(1)</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Partnership earnings flow through to partners</td>
<td>227</td>
<td>121</td>
<td>72</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
<td>(2)</td>
<td>—</td>
</tr>
<tr>
<td><strong>Provision for income tax expense</strong></td>
<td>$ 33</td>
<td>$ 62</td>
<td>$ 87</td>
</tr>
</tbody>
</table>

Our tax provision is largely comprised of withholding tax and non-U.S. income tax. Income taxes paid for the period ended December 30, 2017, fiscal year ended December 29, 2018 and fiscal year ended December 28, 2019 was $29 million, $49 million and $47 million, respectively. A portion of net income taxes has been indemnified by Intel (Note 7).

The components of the deferred tax assets and liabilities are as follows:

<table>
<thead>
<tr>
<th></th>
<th>As of December 29, 2018</th>
<th>As of December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deferred tax assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accrued compensation and other benefits</td>
<td>$7</td>
<td>$6</td>
</tr>
<tr>
<td>Deferred income</td>
<td>48</td>
<td>51</td>
</tr>
<tr>
<td>Net operating losses</td>
<td>40</td>
<td>32</td>
</tr>
<tr>
<td>Credits</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total deferred tax assets</strong></td>
<td>105</td>
<td>101</td>
</tr>
<tr>
<td><strong>Deferred tax liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Licenses and intangibles</td>
<td>(5)</td>
<td>(9)</td>
</tr>
<tr>
<td>Unremitted earnings of non-US subsidiaries</td>
<td>(3)</td>
<td>(5)</td>
</tr>
</tbody>
</table>
Our deferred tax assets were primarily comprised of deferred revenue in certain foreign jurisdictions and are expected to be fully realized as the related entities are expected to have future income. Our deferred tax liabilities were primarily comprised of outside basis difference as a result of the Skyhigh acquisition (Note 6).

As of December 28, 2019, we had federal, state, and non-U.S. net operating loss carryforwards of $119 million, $84 million, and $13 million, respectively, available to reduce future taxable income. The federal U.S. and a majority of the non-U.S. net operating loss carryforwards have no expiration date. The remaining non-U.S., as well as the U.S. state net operating loss carryforwards expire at various dates through 2038. A significant amount of the net operating loss carryforwards in the U.S. relates to an acquisition and, as a result, is limited in the amount that can be recognized in any one year.

A reconciliation of the aggregate changes in the balance of gross unrecognized tax benefits was as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning gross unrecognized tax benefits</td>
<td>$7</td>
<td>$10</td>
<td>$12</td>
</tr>
<tr>
<td>Settlements with taxing authorities</td>
<td>—</td>
<td>(1)</td>
<td>—</td>
</tr>
<tr>
<td>Increases in tax positions for prior years</td>
<td>2</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>Decreases in tax positions for prior years</td>
<td>—</td>
<td>(1)</td>
<td>—</td>
</tr>
<tr>
<td>Increases in tax positions for current year</td>
<td>1</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Ending gross unrecognized tax benefits</td>
<td>$10</td>
<td>$12</td>
<td>$27</td>
</tr>
</tbody>
</table>

We recognize interest and penalties related to unrecognized tax benefits within the Provision for income tax expense on the consolidated statements of operations and comprehensive loss.

We consider many factors when evaluating and estimating our tax positions, which may require periodic adjustments and may not accurately anticipate actual outcomes. Tax position recognition is a matter of judgment based on the individual facts and circumstances of our position evaluated in light of all available evidence. As of December 29, 2018 and December 28, 2019, we had uncertain tax positions of $14 million and $27 million, including interest and penalties, respectively, recorded within Other long-term liabilities on the consolidated balance sheets. In the next 12 months, it is reasonably possible to have an audit closure or statute expirations in one of our foreign jurisdictions. Other than what is being disclosed in the Subsequent Events footnote (Note 20), we do not believe the amount to have a significant impact to our consolidated financial statements. A portion of uncertain taxes positions has been indemnified by Intel (Note 7).
In December 2017, the Tax Cuts and Jobs Act of 2017 (the “Act”) was signed into law, making significant changes to the Internal Revenue Code. As a result of our structure being predominately pass through, the effect of the Act does not have a material impact on our financial statements.

In the ordinary course of our business, we are subject to examination by taxing authorities for both direct and indirect taxes in many of the domestic and foreign jurisdictions in which we operate. As of December 28, 2019, with few exceptions, we are no longer subject to review by the state and local taxing authorities prior to 2014 and foreign taxing authorities prior to 2005. We are unable to make a reasonably reliable estimate as to when or if settlements with taxing authorities may occur. However, we do not anticipate that the resolution of these tax matters or any events related thereto will have a material adverse effect on our business, results of operations, financial condition or cash flows.

NOTE 15: FAIR VALUE OF FINANCIAL INSTRUMENTS AND INTEREST RATE SWAPS

Fair Value of Financial Instruments

For assets and liabilities that are measured using quoted prices in active markets (Level 1), total fair value is the published market price per unit multiplied by the number of units held without consideration of transaction costs, discounts or blockage factors. Assets and liabilities that are measured using significant other observable inputs are valued by reference to similar assets or liabilities (Level 2), adjusted for contract restrictions and other terms specific to that asset or liability. For these items, a significant portion of fair value is derived by reference to quoted prices of similar assets or liabilities in active markets. For all remaining assets and liabilities, fair value is derived using other valuation methodologies, including option pricing models, discounted cash flow models and similar techniques (Level 3) and not based on market exchange, dealer or broker traded transactions. These valuations incorporate certain assumptions and projections in determining the fair value assigned to such assets or liabilities.

The fair values of our financial instruments are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 29, 2018</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial instruments not carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term debt, gross of discounts and deferred issuance costs (Note 13)</td>
<td>$—</td>
<td>$4,075</td>
<td>$—</td>
</tr>
<tr>
<td>Financial instruments carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Facility restructuring (Note 9)</td>
<td>$—</td>
<td>$—</td>
<td>$4</td>
</tr>
<tr>
<td>Interest rate swaps</td>
<td>$—</td>
<td>$2</td>
<td>$—</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial instruments not carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term debt, gross of discounts and deferred issuance costs (Note 13)</td>
<td>$—</td>
<td>$4,817</td>
<td>$—</td>
</tr>
<tr>
<td>Financial instruments carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest rate swaps</td>
<td>$—</td>
<td>$(61)</td>
<td>$—</td>
</tr>
</tbody>
</table>

The fair value of the debt is based on third party quotations and is therefore classified as Level 2. The fair value of our derivative financial instruments, including interest rate swaps, are valued in the market using discounted cash flow techniques. These techniques incorporate Level 1 and Level 2 fair value measurement inputs such as spot rates, foreign currency exchange rates, and the instrument’s term, notional amount and discount rate. The fair value of our facility restructuring approximates carrying value and was calculated using lease payments and discount rates not observable in the market place and are classified as Level 3.

The fair values of our financial instruments included in Cash and cash equivalents, Accounts receivable, net, Other current assets and Accounts payable and accrued liabilities on the consolidated balance sheets approximate
their carrying amounts due to their short maturities. We measure the fair value of money market accounts, included in Cash and cash equivalents on the consolidated balance sheets, on a recurring basis and have classified as Level 1 because the fair value is measured with quoted prices in active markets. These amounts have been excluded from the table.

There were no transfers of assets or liabilities between fair value measurement. Transfers between fair value measurement levels are recognized at the end of the reporting period.

**Interest Rate Swaps**

In January 2018, we entered into multiple interest rate swaps in order to fix the LIBOR portion of our USD denominated variable rate borrowings (Note 13). In November 2018, in conjunction with our modification of the 1st Lien USD Term loan, we modified our outstanding interest rate swaps by changing the interest rate floor from 1% to 0% to match our 1st Lien USD Term loan. In connection with this change, we received a cash payment of $1 million. No other material terms have changed. As of December 28, 2019, the outstanding effective hedging arrangements were as follows:

<table>
<thead>
<tr>
<th>Notional Value (in millions)</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Average Fixed Rate (in percentages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$250</td>
<td>January 29, 2018</td>
<td>January 29, 2020</td>
<td>2.19%</td>
</tr>
<tr>
<td>$225</td>
<td>January 29, 2018</td>
<td>January 29, 2021</td>
<td>2.33%</td>
</tr>
<tr>
<td>$250</td>
<td>January 29, 2018</td>
<td>January 29, 2022</td>
<td>2.41%</td>
</tr>
<tr>
<td>$1,300</td>
<td>January 29, 2018</td>
<td>January 29, 2023</td>
<td>2.48%</td>
</tr>
<tr>
<td>$475</td>
<td>March 29, 2019</td>
<td>March 29, 2024</td>
<td>2.40%</td>
</tr>
</tbody>
</table>

The gross amounts of our interest rate swaps, which are subject to master netting arrangements, were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gross amounts recognized</th>
<th>Gross amount offset in Balance Sheets</th>
<th>Net amounts presented in Balance Sheets</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of December 29, 2018</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other current assets</td>
<td>$</td>
<td>$</td>
<td>$2</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>(1)</td>
<td></td>
<td>(1)</td>
</tr>
<tr>
<td><strong>As of December 28, 2019</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>(19)</td>
<td></td>
<td>(19)</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>(42)</td>
<td></td>
<td>(42)</td>
</tr>
</tbody>
</table>

**NOTE 16: ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)**

Adjustments to Accumulated other comprehensive income (loss), net, are as follow:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gain (Loss) on Cash Flow Hedges</th>
<th>Pension and Postretirement Benefits Gain (Loss)</th>
<th>Accumulated Other Comprehensive Income (Loss), Net</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of December 30, 2017</strong></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other comprehensive income (loss) before reclassifications</td>
<td>(6)</td>
<td>$</td>
<td>(6)</td>
</tr>
<tr>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td>8</td>
<td>$</td>
<td>8</td>
</tr>
</tbody>
</table>

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### Table of Contents

- Gain (Loss) on Cash Flow Hedges
- Pension and Postretirement Benefits Gain (Loss)
- Accumulated Other Comprehensive Income (Loss), Net

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gain (Loss) on Cash Flow Hedges</th>
<th>Pension and Postretirement Benefits Gain (Loss)</th>
<th>Accumulated Other Comprehensive Income (Loss), Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 29, 2018</td>
<td>2</td>
<td>—</td>
<td>2</td>
</tr>
<tr>
<td>Other comprehensive income (loss) before reclassifications</td>
<td>(67)</td>
<td>(1)</td>
<td>(68)</td>
</tr>
<tr>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td>4</td>
<td>—</td>
<td>4</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>$ (61)</td>
<td>$ (1)</td>
<td>$ (62)</td>
</tr>
</tbody>
</table>

### NOTE 17: COMMITMENTS AND CONTINGENCIES

As of December 28, 2019, we have unconditional purchase obligations of $167 million that expire at various dates through 2024 and guarantees of $12 million that expire at various dates through 2028.

As of December 28, 2019, excluding the amounts related to lease obligations which are disclosed in Note 5, the future minimum payments under all unconditional purchase obligations with a remaining term in excess of one year were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
<th>Thereafter</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 58</td>
</tr>
<tr>
<td>2021</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>37</td>
</tr>
<tr>
<td>2022</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>35</td>
</tr>
<tr>
<td>2023</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>2024</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Thereafter</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>—</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ 167</td>
</tr>
</tbody>
</table>

We are a party to various legal proceedings that have arisen in the ordinary course of our business. At present, we do not expect that any ordinary course legal proceedings, individually or in the aggregate, will have a material adverse effect on our business, results of operations, financial condition or cash flows.

We also have agreed to indemnify and hold harmless Intel for certain losses actually incurred by Intel. Over the period beginning in July 2017 and continuing through June 2019, Intel has notified the Company of a number of employment-related lawsuits filed in multiple jurisdictions. Intel has requested indemnification of its legal expenses and any awards, judgments or damages arising from the lawsuits. We have assumed the defense and control of all of the lawsuits, and have agreed with Intel to reserve our objections and defenses with respect to indemnification pending the final outcome of each proceeding. At present, we do not expect that these lawsuits, individually or in the aggregate, will have a material adverse effect on our business, results of operations, financial condition or cash flows.
NOTE 18: EARNINGS PER UNIT

(in millions except per unit data)

<table>
<thead>
<tr>
<th></th>
<th>Period Ended December 30, 2017</th>
<th>Fiscal Year Ended December 29, 2018</th>
<th>Fiscal Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>$ (607)</td>
<td>$ (512)</td>
<td>$ (236)</td>
</tr>
<tr>
<td>Weighted average units outstanding - basic</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
</tr>
<tr>
<td>Incremental units attributable to equity awards(1)</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Weighted average units outstanding - diluted</td>
<td>369.2</td>
<td>373.7</td>
<td>376.6</td>
</tr>
<tr>
<td>Net loss per unit</td>
<td>$ (1.64)</td>
<td>$ (1.37)</td>
<td>$ (0.63)</td>
</tr>
</tbody>
</table>

(1) 10.0 million, 12.9 million and 10.8 million units were excluded from dilution. The excluded units consist of RSUs that were excluded from dilution because their effects would have been anti-dilutive for the nine months ended December 30, 2017, fiscal year ended December 29, 2018 and fiscal year ended December 28, 2019, respectively, and unvested MIUs outstanding that share in equity appreciation and future distributions above a return threshold that may impact EPU in future periods.

NOTE 19: PRO FORMA FINANCIAL INFORMATION (UNAUDITED)

Unaudited Pro Forma Tax

Unaudited pro forma financial information has been presented to disclose the pro forma income tax expense and net income attributable to McAfee Corp., the registrant in the accompanying Registration Statement on Form S-1 (“Form S-1”) to register shares of Class A common stock of McAfee Corp. The unaudited pro forma financial information reflects an adjustment to the provision for income taxes to reflect a blended rate of 25%, which was calculated using the U.S. federal income tax rate and the highest statutory rates applied to income apportioned to each state and local jurisdiction. This tax rate has been applied to the 33.1% portion of income before taxes that represents the economic interest in Foundation Technology Worldwide LLC that will be held by McAfee Corp. upon completion of the Reorganization Transactions disclosed in this prospectus, but before application of the proceeds of the offering. In addition, pro forma provision for income taxes includes the historical provision for income taxes of $87 million related to Foundation Technology Worldwide LLC. The sum of these amounts represents total pro forma provision for income taxes of $70 million.

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Pro forma basic and diluted net loss per share for the fiscal year ended December 28, 2019 has been computed to reflect the number of shares that will be outstanding after the Reorganization Transactions. The unaudited pro forma basic and diluted earnings per share for the fiscal year ended December 28, 2019 does not give effect to the initial public offering and the use of proceeds therefrom. The following table sets forth the computation of the Company’s unaudited pro forma basic and diluted net loss per share for the fiscal year ended December 28, 2019 (in millions, except share and per share amounts):

<table>
<thead>
<tr>
<th>Description</th>
<th>Year Ended December 28, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pro forma net loss per share, basic and diluted</td>
<td>$(0.45)</td>
</tr>
<tr>
<td>Pro forma weighted-average shares of Class A common stock</td>
<td></td>
</tr>
<tr>
<td>Weighted-average shares outstanding during the period</td>
<td>130.2</td>
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<tr>
<td>Shares issued in the offering necessary to pay member distributions</td>
<td>29.3</td>
</tr>
<tr>
<td>Pro forma weighted-average shares of Class A common stock</td>
<td>159.5</td>
</tr>
</tbody>
</table>

NOTES:

NOTE 20: SUBSEQUENT EVENTS

During the first quarter of 2020, we concluded an analysis on the impact of our tax structure resulting from recently enacted tax laws. As a result, we filed an election to treat one of our subsidiary entities as a corporation for U.S federal income tax purposes retroactively back to the first quarter of 2019. This election resulted in the recognition of an income tax benefit of $10 million in the three months ended March 28, 2020.

Peter Leav was appointed as President and Chief Executive Officer, effective February 3, 2020. Mr. Leav succeeds Chris Young, who stepped down as President and Chief Executive Officer effective February 3, 2020 to join TPG Capital as a Senior Advisor.

In February 2020, Michael Berry informed the Company of his intention to resign as Chief Financial Officer and as an employee of the Company, effective March 13, 2020.

For the fiscal year ended December 28, 2019, subsequent events were evaluated through March 5, 2020, the date the consolidated financial statements were available for issue, except for the effects of the unit split discussed below and the items within Note 21 which is as of October 13, 2020 (unaudited).

In October 2020, our Board approved and effected a four-for-one unit split of our member units. All unit and per unit data included in these consolidated financial statements give effect to the unit split and have been retroactively adjusted for all Successor periods.

NOTE 21: SUBSEQUENT EVENTS (UNAUDITED)

In March 2020, we borrowed $300 million under the Revolving Credit Facility pursuant to the 1st Lien Credit Agreement (“Revolving Credit Facility”). The funds were borrowed for general corporate purposes due to seasonality in cash flow generation and as a precautionary measure in response to general market conditions. In June 2020, we repaid the Revolving Credit Facility in full and have no outstanding balance on the Revolving Credit Facility as of June 27, 2020.
On October 12, 2020, McAfee, LLC entered into an agreement to, subject to the closing of this offering by December 31, 2020, extend the maturity date of, and increase the amount of, a portion of the commitments under the revolving credit facility. As a result of this agreement, the revolving credit facility consists of a $164 million tranche that will mature on September 29, 2022 and a $500 million tranche that will mature on September 29, 2024.

Subsequent to December 28, 2019, we declared cash distributions to our Members in the aggregate amount of $201 million.
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unaudited Condensed Consolidated Balance Sheets as of December 28, 2019 and June 27, 2020</td>
<td>F-53</td>
</tr>
<tr>
<td>Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) for the three and six months ended June 29, 2019 and June 27, 2020</td>
<td>F-54</td>
</tr>
<tr>
<td>Unaudited Condensed Consolidated Statements of Cash Flows for the six months ended June 29, 2019 and June 27, 2020</td>
<td>F-55</td>
</tr>
<tr>
<td>Unaudited Condensed Consolidated Statements of Members' Equity (Deficit) for the three and six months ended June 29, 2019 and June 27, 2020</td>
<td>F-56</td>
</tr>
<tr>
<td>Notes to the Unaudited Condensed Consolidated Financial Statements</td>
<td>F-57</td>
</tr>
</tbody>
</table>
### Unaudited Condensed Consolidated Balance Sheets

#### (in millions)

<table>
<thead>
<tr>
<th></th>
<th>As of December 28, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current assets:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 167</td>
<td>$ 257</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>409</td>
<td>281</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>187</td>
<td>209</td>
</tr>
<tr>
<td>Other current assets</td>
<td>68</td>
<td>71</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>831</td>
<td>818</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>171</td>
<td>162</td>
</tr>
<tr>
<td>Goodwill</td>
<td>2,428</td>
<td>2,431</td>
</tr>
<tr>
<td>Identified intangible assets, net</td>
<td>2,071</td>
<td>1,854</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>55</td>
<td>59</td>
</tr>
<tr>
<td>Other long-term assets</td>
<td>232</td>
<td>224</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$ 5,788</td>
<td>$ 5,548</td>
</tr>
<tr>
<td><strong>Liabilities, redeemable units, and deficit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>$ 196</td>
<td>$ 186</td>
</tr>
<tr>
<td>Accrued compensation and benefits</td>
<td>209</td>
<td>132</td>
</tr>
<tr>
<td>Accrued marketing</td>
<td>94</td>
<td>99</td>
</tr>
<tr>
<td>Income taxes payable</td>
<td>15</td>
<td>13</td>
</tr>
<tr>
<td>Long-term debt, current portion</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>Lease liabilities, current portion</td>
<td>29</td>
<td>25</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>1,574</td>
<td>1,599</td>
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<tr>
<td><strong>Total current liabilities</strong></td>
<td>2,160</td>
<td>2,097</td>
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<tr>
<td>Long-term debt, net</td>
<td>4,669</td>
<td>4,660</td>
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<tr>
<td>Deferred tax liabilities</td>
<td>160</td>
<td>167</td>
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<tr>
<td>Other long-term liabilities</td>
<td>175</td>
<td>223</td>
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<tr>
<td>Deferred revenue, less current portion</td>
<td>718</td>
<td>666</td>
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<td><strong>Total liabilities</strong></td>
<td>7,882</td>
<td>7,813</td>
</tr>
<tr>
<td>Commitments and contingencies (Note 13)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redeemable units (Note 5)</td>
<td>—</td>
<td>17</td>
</tr>
<tr>
<td><strong>Deficit:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive income (loss)</td>
<td>(62)</td>
<td>(143)</td>
</tr>
<tr>
<td>Members’ deficit</td>
<td>(647)</td>
<td>(785)</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(1,385)</td>
<td>(1,354)</td>
</tr>
<tr>
<td><strong>Total deficit</strong></td>
<td>(2,094)</td>
<td>(2,282)</td>
</tr>
<tr>
<td><strong>Total liabilities, redeemable units and deficit</strong></td>
<td>$ 5,788</td>
<td>$ 5,548</td>
</tr>
</tbody>
</table>

See the accompanying notes to the unaudited condensed consolidated financial statements
## Table of Contents

**FOUNDATION TECHNOLOGY WORLDWIDE LLC**  
**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**  
(in millions except per unit data)

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
<th></th>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td></td>
</tr>
<tr>
<td>Net revenue</td>
<td>$ 654</td>
<td>$ 716</td>
<td>$1,291</td>
<td>$1,401</td>
<td></td>
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<tr>
<td>Cost of sales</td>
<td>215</td>
<td>206</td>
<td>429</td>
<td>410</td>
<td></td>
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<tr>
<td>Gross profit</td>
<td>439</td>
<td>510</td>
<td>862</td>
<td>991</td>
<td></td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>190</td>
<td>174</td>
<td>383</td>
<td>348</td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>99</td>
<td>92</td>
<td>193</td>
<td>186</td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>64</td>
<td>60</td>
<td>123</td>
<td>138</td>
<td></td>
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<tr>
<td>Amortization of intangibles</td>
<td>55</td>
<td>55</td>
<td>113</td>
<td>110</td>
<td></td>
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<tr>
<td>Restructuring charges (Note 7)</td>
<td>3</td>
<td>—</td>
<td>15</td>
<td>9</td>
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</tr>
<tr>
<td>Total operating expenses</td>
<td>411</td>
<td>381</td>
<td>827</td>
<td>791</td>
<td></td>
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<tr>
<td>Operating income</td>
<td>28</td>
<td>129</td>
<td>35</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Interest expense and other, net</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign exchange gain (loss), net</td>
<td>(12)</td>
<td>(17)</td>
<td>1</td>
<td>(6)</td>
<td></td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision for income tax expense</td>
<td>22</td>
<td>15</td>
<td>39</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (79)</td>
<td>$ 22</td>
<td>$(146)</td>
<td>$ 31</td>
<td></td>
</tr>
<tr>
<td>Other comprehensive income (loss):</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss on interest rate cash flow hedges, net of tax (Note 12)</td>
<td>$ (39)</td>
<td>$ (6)</td>
<td>$(63)</td>
<td>$(81)</td>
<td></td>
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<tr>
<td>Total comprehensive income (loss)</td>
<td>$ (118)</td>
<td>$ 16</td>
<td>$(209)</td>
<td>$(50)</td>
<td></td>
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<tr>
<td>Net income (loss) per unit, basic</td>
<td>$ (0.21)</td>
<td>$ 0.06</td>
<td>$(0.39)</td>
<td>$ 0.08</td>
<td></td>
</tr>
<tr>
<td>Net income (loss) per unit, diluted</td>
<td>$ (0.21)</td>
<td>$ 0.06</td>
<td>$(0.39)</td>
<td>$ 0.08</td>
<td></td>
</tr>
<tr>
<td>Weighted-average units outstanding, basic</td>
<td>376.4</td>
<td>377.7</td>
<td>375.9</td>
<td>377.9</td>
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<tr>
<td>Weighted-average units outstanding, diluted</td>
<td>376.4</td>
<td>387.5</td>
<td>375.9</td>
<td>388.1</td>
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<tr>
<td>Pro forma net loss per share data:</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Pro forma net loss per share, basic and diluted (Note 15)</td>
<td>$ (0.02)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro forma weighted-average shares of Class A common stock outstanding, basic and diluted</td>
<td>161.2</td>
<td></td>
<td></td>
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</tbody>
</table>

See the accompanying notes to the unaudited condensed consolidated financial statements  
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<table>
<thead>
<tr>
<th>Table of Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOUNDATION TECHNOLOGY WORLDWIDE LLC</td>
</tr>
<tr>
<td>UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS</td>
</tr>
<tr>
<td>(in millions)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cash flows from operating activities:</th>
<th>Six Months Ended June 29, 2019</th>
<th>Six Months Ended June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income (loss)</td>
<td>$ (146)</td>
<td>$ 31</td>
</tr>
<tr>
<td>Adjustments to reconcile net income (loss) to net cash provided by operating activities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>269</td>
<td>252</td>
</tr>
<tr>
<td>Equity-based compensation</td>
<td>12</td>
<td>19</td>
</tr>
<tr>
<td>Deferred taxes</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Other operating activities</td>
<td>24</td>
<td>33</td>
</tr>
<tr>
<td>Change in assets and liabilities:</td>
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<td></td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>52</td>
<td>126</td>
</tr>
<tr>
<td>Deferred costs</td>
<td>(12)</td>
<td>(22)</td>
</tr>
<tr>
<td>Other assets</td>
<td>(53)</td>
<td>(14)</td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>(48)</td>
<td>(29)</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>13</td>
<td>(27)</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>(25)</td>
<td>(86)</td>
</tr>
<tr>
<td>Net cash provided by operating activities</td>
<td>96</td>
<td>288</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Cash flows from investing activities:</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Acquisitions, net of cash acquired</td>
<td>(2)</td>
<td>(5)</td>
</tr>
<tr>
<td>Additions to property and equipment</td>
<td>(20)</td>
<td>(25)</td>
</tr>
<tr>
<td>Other investing activities</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(24)</td>
<td>(33)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cash flows from financing activities:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from the issuance of Member units</td>
<td>—</td>
<td>1</td>
</tr>
<tr>
<td>Payment for the long-term debt due to third party</td>
<td>(45)</td>
<td>(21)</td>
</tr>
<tr>
<td>Proceeds from long-term debt</td>
<td>702</td>
<td>—</td>
</tr>
<tr>
<td>Payment for debt issuance costs</td>
<td>(23)</td>
<td>—</td>
</tr>
<tr>
<td>Distributions to Members</td>
<td>(1,034)</td>
<td>(130)</td>
</tr>
<tr>
<td>Other financing activities</td>
<td>(7)</td>
<td>(12)</td>
</tr>
<tr>
<td>Net cash used in financing activities</td>
<td>(407)</td>
<td>(162)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Effect of exchange rate fluctuations on cash and cash equivalents</th>
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</thead>
<tbody>
<tr>
<td>Net increase (decrease) in cash and cash equivalents</td>
<td>(335)</td>
<td>90</td>
</tr>
<tr>
<td>Cash and cash equivalents, beginning of period</td>
<td>468</td>
<td>167</td>
</tr>
<tr>
<td>Cash and cash equivalents, end of period</td>
<td>$ 133</td>
<td>$ 257</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Supplemental disclosures of noncash investing and financing activities and cash flow information:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of property and equipment included in current liabilities</td>
<td>$ 3</td>
<td>$ (5)</td>
</tr>
<tr>
<td>Distributions to members included in liabilities</td>
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<td>1</td>
</tr>
<tr>
<td>Cash paid during the period for:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest, net of cash flow hedges</td>
<td>133</td>
<td>141</td>
</tr>
<tr>
<td>Income taxes, net of refunds</td>
<td>25</td>
<td>22</td>
</tr>
</tbody>
</table>

See the accompanying notes to the unaudited condensed consolidated financial statements
## UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF MEMBERS’ EQUITY (DEFICIT)

(in millions)

<table>
<thead>
<tr>
<th></th>
<th>Accumulated Other Comprehensive Income (Loss)</th>
<th>Members’ Equity (Deficit)</th>
<th>Accumulated Deficit</th>
<th>Total Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of March 30, 2019</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive income, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity-based awards expense, net of equity withheld to cover taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (22)</td>
<td>$ 342</td>
<td>$ (1,216)</td>
<td>$ (896)</td>
</tr>
<tr>
<td><strong>As of June 29, 2019</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive income, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity-based awards expense, net of equity withheld to cover taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (61)</td>
<td>$ (359)</td>
<td>$ (1,295)</td>
<td>$ (1,715)</td>
</tr>
<tr>
<td><strong>As of March 28, 2020</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
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</tr>
<tr>
<td>Unit issuances</td>
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</tr>
<tr>
<td>Net income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (137)</td>
<td>$ (707)</td>
<td>$ (1,376)</td>
<td>$ (2,220)</td>
</tr>
<tr>
<td><strong>As of June 27, 2020</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit issuances</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (143)</td>
<td>$ (785)</td>
<td>$ (1,354)</td>
<td>$ (2,282)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Accumulated Other Comprehensive Income (Loss)</th>
<th>Members’ Equity (Deficit)</th>
<th>Accumulated Deficit</th>
<th>Total Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of December 29, 2018</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative effect adjustments from adoption of ASC Topic 842</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity-based awards expense, net of equity withheld to cover taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit repurchases</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 2</td>
<td>$ 675</td>
<td>$ (1,148)</td>
<td>$ (471)</td>
</tr>
<tr>
<td><strong>As of June 29, 2019</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit repurchases</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (61)</td>
<td>$ (359)</td>
<td>$ (1,295)</td>
<td>$ (1,715)</td>
</tr>
<tr>
<td><strong>As of December 28, 2019</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity-based awards expense, net of equity withheld to cover taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit issuances</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit repurchases (Note 8)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reclassification of redeemable units (Note 5)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (62)</td>
<td>$ (647)</td>
<td>$ (1,385)</td>
<td>$ (2,094)</td>
</tr>
<tr>
<td><strong>As of June 27, 2020</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributions to Members</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (Note 12)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity-based awards expense, net of equity withheld to cover taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit issuances</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit repurchases (Note 8)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reclassification of redeemable units (Note 5)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ (143)</td>
<td>$ (785)</td>
<td>$ (1,354)</td>
<td>$ (2,282)</td>
</tr>
</tbody>
</table>

See the accompanying notes to the unaudited condensed consolidated financial statements

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NOTE 1: BASIS OF PRESENTATION

Background

Foundation Technology Worldwide LLC is a Delaware limited liability company ("FTW"), primarily owned by Manta Holdings L.P. ("Manta") and a subsidiary of Intel Corporation ("Intel"), which through ownership in various subsidiaries, wholly owns McAfee, LLC, a Delaware limited liability company, ("McAfee, LLC") and its consolidated subsidiaries (collectively "McAfee", the "Company", "we", "our" or "us").

McAfee is a leading-edge cybersecurity company that provides advanced security solutions to consumers, small and medium-sized businesses, large enterprises, and governments. Security technologies from McAfee use a unique, predictive capability that is powered by McAfee Global Threat Intelligence, which enables home users and businesses to stay one step ahead of the next wave of fileless attacks, viruses, malware, and other online threats.

Principles of Consolidation

All intercompany balances and transactions within McAfee have been eliminated in consolidation. Any transactions between McAfee and Intel, Manta or Manta’s owners are considered transactions with Members. These unaudited condensed consolidated financial statements should be read in conjunction with our audited consolidated financial statements as of and for the period ended December 28, 2019. These unaudited condensed consolidated financial statements, in the opinion of management, reflect all adjustments, consisting only of normal recurring adjustments, that are necessary for a fair statement of our financial information. The condensed consolidated balance sheet as of December 28, 2019, has been derived from the audited financial statements as of that date, but it does not include all of the information and footnotes required by U.S. generally accepted accounting principles ("GAAP") for complete financial statements.

Our functional currency for all of our subsidiaries is the U.S. dollar ("USD").

Use of Estimates

The preparation of the condensed consolidated financial statements required us to make certain estimates and judgments that affect the amounts reported. Actual results may differ materially from our estimates. The accounting estimates that required our most significant and subjective judgments include:

- determining the nature and timing of satisfaction of performance obligations, assessing any associated material rights and determining the standalone selling price ("SSP") of performance obligations;
- determining our technology constrained customer life;
- projections of future cash flows related to revenue share and related agreements with our personal computer original equipment manufacturer partners;
- fair value estimates for assets and liabilities acquired in business combinations;
- the valuation and recoverability of identified intangible assets and goodwill;
- recognition and measurement of foreign current and deferred income taxes as well as our uncertain tax positions;
- determining our discount rates;
- fair value of our equity awards; and
- fair value of long-term debt and related swaps.
The effect of the novel coronavirus pandemic (“COVID-19”) on our business, operations, and financial results is dependent upon future developments, including the duration of the pandemic and the related length of its impact on the global economy, which are unknown at this time. As a result, some of our estimates and assumptions required increased judgment and carry a higher degree of variability and volatility. As events continue to evolve and additional information becomes available, several of our estimates and assumptions may change materially in future periods due to the impact of the COVID-19 pandemic.

Fiscal Calendar

We maintain a 52- or 53-week fiscal year that ends on the last Saturday in December. The year ending December 26, 2020 is a 52-week year starting on December 29, 2019. These condensed consolidated financial statements are presented as of December 28, 2019 and June 27, 2020 and for the periods from December 30, 2018 through June 29, 2019 and December 29, 2019 through June 27, 2020.

NOTE 2: RECENT ACCOUNTING STANDARDS

Recently Adopted Accounting Standards

In June 2016, the Financial Accounting Standards Board (“FASB”) issued ASU 2016-13, Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial instruments (ASU 2016-13) and also issued subsequent amendments to the initial guidance (collectively, “Topic 326”). Topic 326 requires measurement and recognition of expected credit losses for financial assets held. We early adopted Topic 326 on December 29, 2019 and it had an immaterial impact on our consolidated financial statements and related disclosures.

In August 2018, the FASB issued ASU 2018-15, Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (“ASU 2018-15”), which clarifies the accounting for implementation costs in cloud computing arrangements. We early adopted ASU 2018-15 on December 29, 2019 prospectively, which had an immaterial impact on our consolidated financial statements and related disclosures.

In March 2020, the FASB issued ASU 2020-04, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting (“ASU 2020-04”). The standard provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions, subject to meeting certain criteria, that reference LIBOR or another rate that is expected to be discontinued. We adopted ASU 2020-04 on June 27, 2020 and it had no impact on our consolidated financial statements and related disclosures. The guidance is potentially applicable when we modify the current reference rate of LIBOR to another reference rate on our 1st Lien USD Term Loan and 2nd Lien Term Loan (Note 9) and related interest rate swaps (Note 11).

Recent Accounting Standards Not Yet Adopted

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes (“ASU 2019-12”), which simplifies the accounting for income taxes by removing certain exceptions for recognizing deferred taxes for investments, performing intra-period allocation and calculating income taxes in interim periods. ASU 2019-12 also adds guidance to reduce complexity in certain areas, including recognizing deferred taxes for tax goodwill and allocating taxes to members of a consolidated group. ASU 2019-12 is effective for us in the first quarter of fiscal year 2021, and early adoption is permitted. We are currently evaluating the impact of this standard on our consolidated financial statements, including accounting policies, processes and systems.
NOTE 3: REVENUE FROM CONTRACTS WITH CUSTOMERS

Deferred Revenue

During the six months ended June 29, 2019, we recognized $932 million from our deferred revenue balance as of December 29, 2018. During the six months ended June 27, 2020, we recognized $1,000 million in revenue from our deferred revenue balance as of December 28, 2019.

Transaction Price Allocated to the Remaining Performance Obligations

As of June 27, 2020, we have $2,408 million in estimated revenue expected to be recognized in the future related to performance obligations that are unsatisfied (or partially unsatisfied), which includes deferred revenue and amounts that will be billed and recognized as revenue in future periods. We expect to recognize revenue on approximately 70% over the next 12 months, 27% in next 13 to 36 months, with the remaining balance recognized thereafter.

NOTE 4: LEASES

As of June 27, 2020, we have operating leases primarily for corporate offices and data centers and no active finance leases. Information related to operating leases was as follows:

<table>
<thead>
<tr>
<th>Six Months Ended</th>
<th>June 29, 2019</th>
<th>June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid for amounts included in the measurement of lease liabilities</td>
<td>$19</td>
<td>$20</td>
</tr>
<tr>
<td>Right-of-use assets obtained in exchange for lease obligations</td>
<td>54</td>
<td>14</td>
</tr>
</tbody>
</table>

NOTE 5: TRANSACTIONS WITH MEMBERS AND RELATED PARTIES

We declared cash distributions to our Members during the three and six months ended June 27, 2020 in the aggregate amount of $81 million and $131 million, respectively.

In February 2020, we entered into an agreement with our former President and Chief Executive Officer to repurchase equity units for an aggregate repurchase price of $10 million which we repurchased during the three months ended June 27, 2020. We also agreed to repurchase approximately 2.0 million Management Incentive Units (“MIUs”), which is classified as temporary equity within Redeemable units, in April 2021 at fair market value, contingent on the satisfaction of certain terms and conditions. Upon a sale of the company or an IPO prior to the repurchase date, the amount would no longer be repurchased. As of June 27, 2020, the estimated value of the April 2021 repurchase was $17 million.

Our Intel receivable, net consisted of the following:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>As of December 28, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intel receivable(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax indemnity</td>
<td>$10</td>
<td>$8</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>Intel payable(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax indemnity</td>
<td>(4)</td>
<td>(2)</td>
</tr>
<tr>
<td>Total</td>
<td>(4)</td>
<td>(2)</td>
</tr>
<tr>
<td>Total, net(2)</td>
<td>$6</td>
<td>$6</td>
</tr>
</tbody>
</table>
(1) We have the contractual right of offset of our receivables and payables with Intel.

(2) As of December 28, 2019, $2 million and $4 million are recorded in Other current assets and Other long-term assets, respectively, on the condensed consolidated balance sheet. As of June 27, 2020, $1 million and $5 million are recorded in Other current assets and Other long-term assets, respectively, on the condensed consolidated balance sheet.

Other transactions with related parties are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Three Months Ended</th>
<th>Six Months Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Sales with related parties:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manta Affiliates</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2</strong></td>
<td><strong>$2</strong></td>
</tr>
<tr>
<td>Payments to related parties:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intel</td>
<td>$2</td>
<td>$2</td>
</tr>
<tr>
<td>Manta Owners</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Manta Affiliates</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$21</strong></td>
<td><strong>$15</strong></td>
</tr>
</tbody>
</table>

We had these additional transactions with companies who partially own Manta (“Manta Owners”) and companies owned or partially owned by the Manta Owners (“Manta Affiliates”) or Intel (“Intel Affiliates”) and therefore qualify as related parties. These transactions include sales of our products and purchases of various goods or services. Revenue from the sales transactions are recognized in accordance with our revenue recognition policy.

NOTE 6: OPERATING SEGMENTS

We have two operating segments, which also represent our reporting units:

- **Enterprise** – Includes security solutions for large enterprises, governments, small and medium-sized businesses.
- **Consumer** – Includes security solutions for consumers.

We manage our business activities primarily on a product-segmentation basis and whether they serve consumers or enterprises. The Chief Operating Decision Maker (“CODM”) allocates resources to and assesses the performance of each operating segment primarily using information about its operating income (loss), net revenue, and depreciation and amortization.

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The CODM does not evaluate operating segments using discrete asset information. We allocate all shared expenses to the operating segments.

Significant information by segment is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
<th></th>
<th>Six Months Ended</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td><strong>Net revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$334</td>
<td>$333</td>
<td>$657</td>
<td>$664</td>
</tr>
<tr>
<td>Consumer</td>
<td>$320</td>
<td>$383</td>
<td>$634</td>
<td>$737</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$654</td>
<td>$716</td>
<td>$1,291</td>
<td>$1,401</td>
</tr>
<tr>
<td><strong>Depreciation and amortization:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$63</td>
<td>$53</td>
<td>$129</td>
<td>$116</td>
</tr>
<tr>
<td>Consumer</td>
<td>69</td>
<td>67</td>
<td>140</td>
<td>136</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$132</td>
<td>$120</td>
<td>$269</td>
<td>$252</td>
</tr>
<tr>
<td><strong>Operating income (loss):</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise</td>
<td>$(34)</td>
<td>$25</td>
<td>$(92)</td>
<td>$(1)</td>
</tr>
<tr>
<td>Consumer</td>
<td>62</td>
<td>104</td>
<td>127</td>
<td>201</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$28</td>
<td>$129</td>
<td>$35</td>
<td>$200</td>
</tr>
</tbody>
</table>

A significant portion of the operating segments’ operating expenses are derived from shared resources including research and development, accounting, real estate, information technology, treasury, human resources, procurement and other corporate infrastructure expenses. We allocated these operating expenses to the operating segments based on the estimated utilization of services provided to or benefits received by the operating segments.

Revenue by geographic region based on the sell-to address of the end-users is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
<th></th>
<th>Six Months Ended</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>United States</td>
<td>$351</td>
<td>$395</td>
<td>$690</td>
<td>$771</td>
</tr>
<tr>
<td>Other</td>
<td>303</td>
<td>321</td>
<td>601</td>
<td>630</td>
</tr>
<tr>
<td><strong>Total net revenue</strong></td>
<td>$654</td>
<td>$716</td>
<td>$1,291</td>
<td>$1,401</td>
</tr>
</tbody>
</table>

**NOTE 7: RESTRUCTURING CHARGES**

Restructuring charges generally include significant actions impacting the way we manage our business. Employee severance and benefit charges are largely based upon substantive severance plans, while some charges result from mandated requirements in certain foreign jurisdictions. These charges include items such as employee severance, ongoing benefits, and excess payroll costs directly attributable to the restructuring plan.

Restructuring charges are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
<th></th>
<th>Six Months Ended</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
<td>June 29, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Employee severance and benefits</td>
<td>$3</td>
<td>$—</td>
<td>$15</td>
<td>$9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$3</td>
<td>$—</td>
<td>$15</td>
<td>$9</td>
</tr>
</tbody>
</table>
In January 2020, we commenced the 2020 transformation initiative, in which we are realigning our staffing across various departments. As part of the initiative, we have incurred employee severance and benefits costs of $9 million recorded in restructuring charges in the condensed consolidated statement of operations and comprehensive loss for the six months ended June 27, 2020.

The balance of our restructuring activities are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Enterprise</th>
<th>Consumer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employee severance and benefits</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>$2</td>
<td>$—</td>
<td>$2</td>
</tr>
<tr>
<td>Additional accruals</td>
<td>8</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Cash payments</td>
<td>(10)</td>
<td>(1)</td>
<td>(11)</td>
</tr>
<tr>
<td><strong>As of June 27, 2020</strong></td>
<td>$—</td>
<td>$—</td>
<td>$—</td>
</tr>
</tbody>
</table>

NOTE 8: EMPLOYEE INCENTIVES

During February 2020, we modified the terms of a MIU grant to provide for vesting subject to the satisfaction of certain conditions, which resulted in the recognition of $12 million in incremental compensation expense for the modified awards at their modification date.

Deferred Cash and Equity

As of June 27, 2020, our outstanding deferred cash and equity related to our acquisitions is as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Outstanding deferred cash and equity balance at December 28, 2019</strong></td>
<td>$20</td>
<td></td>
</tr>
<tr>
<td>Accruals</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Restricted Class A Unit vesting</td>
<td>(3)</td>
<td></td>
</tr>
<tr>
<td>Cash payment</td>
<td>(15)</td>
<td></td>
</tr>
<tr>
<td><strong>Outstanding deferred cash and equity balance at June 27, 2020</strong></td>
<td>$8</td>
<td></td>
</tr>
</tbody>
</table>

As of June 27, 2020, we have unrecognized expense relating to deferred cash of $12 million with a remaining weighted average service period of 1.1 years. Deferred cash is recorded within Accrued compensation and benefits on the condensed consolidated balance sheet for amounts due in the next 12 months.

During the six months ended June 27, 2020, we granted 3.0 million Restricted Stock Units (“RSU”s) with a grant date fair value of $26 million. RSUs are generally expected to vest over a 4-year period.

During the six months ended June 27, 2020, we granted 9.7 million Cash Restricted Stock Units (“CRSU”s) with a grant date fair value of $84 million. CRSUs are generally expected to be cash-settled upon a qualifying liquidity event (i.e., a change of control or public offering registered on a Form S-1 (or successor form), in either case, occurring on or before April 3, 2024) and this group of awards vests over a 4-year period.
NOTE 9: DEBT

Our long-term debt balance consisted of the following:

<table>
<thead>
<tr>
<th>Long-term debt, net:</th>
<th>As of December 28, 2019</th>
<th>As of June 27, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Lien USD Term Loan(1)</td>
<td>$ 3,020</td>
<td>$ 3,009</td>
</tr>
<tr>
<td>1st Lien Euro Term Loan(2)</td>
<td>1,200</td>
<td>1,199</td>
</tr>
<tr>
<td>2nd Lien USD Term Loan(3)</td>
<td>509</td>
<td>511</td>
</tr>
<tr>
<td>Long-term debt, net of unamortized discounts</td>
<td>$ 4,729</td>
<td>$ 4,719</td>
</tr>
<tr>
<td>Unamortized deferred financing costs</td>
<td>(17)</td>
<td>(16)</td>
</tr>
<tr>
<td>Current installments of long-term debt</td>
<td>(43)</td>
<td>(43)</td>
</tr>
<tr>
<td>Total</td>
<td>$ 4,669</td>
<td>$ 4,660</td>
</tr>
</tbody>
</table>

(1) During the six months ended June 27, 2020, the weighted average interest rate was 4.9%
(2) During the six months ended June 27, 2020, the weighted average interest rate was 3.5%
(3) During the six months ended June 27, 2020, the weighted average interest rate was 9.8%

Long-Term Debt

As of June 27, 2020, the material terms of our outstanding debt remain unchanged from those described in our consolidated financial statements as of December 28, 2019.

Revolving Credit Facility

In March 2020, we borrowed $300 million under the Revolving Credit Facility pursuant to the 1st Lien Credit Agreement ("Revolving Credit Facility"). The funds were borrowed for general corporate purposes due to seasonality in cash flow generation and as a precautionary measure in response to general market conditions. In June 2020, we repaid the Revolving Credit Facility in full and have no outstanding balance on the Revolving Credit Facility as of June 27, 2020. During the six months ended June 27, 2020, the weighted average interest rate was 4.3%. As of June 27, 2020, we had a letter of credit of $4 million issued against the Revolving Credit Facility and $496 million of undrawn capacity under the Revolving Credit Facility. As of June 27, 2020, our commitment fee on the unused portion of the facility was 0.50%.

Debt Covenants and Restrictions

No event of default had occurred under any of our debt obligations as of June 27, 2020. We were not required to make any additional prepayments above the 0.25% per quarter amortization of the 1st Lien Term Loans during the six months ended June 27, 2020.

NOTE 10: INCOME TAX

The tax provisions are largely comprised of withholding tax and non-U.S. income tax. We consider many factors when evaluating and estimating our tax positions, which may require periodic adjustments and may not accurately anticipate actual outcomes. Tax position recognition is a matter of judgment based on the individual facts and circumstances of our position evaluated in light of all available evidence. As of December 28, 2019 and June 27, 2020, we had uncertain tax positions, including interest and penalties, of $27 million and $15 million, respectively, primarily recorded within Other long-term liabilities on the condensed consolidated balance sheets. A portion of income taxes and uncertain tax positions has been indemnified by Intel (Note 5).

During the first quarter of 2020, we concluded an analysis of the impact of recently enacted tax laws on us. As a result, we filed an election to treat one of our non-U.S. subsidiary entities as a corporation for U.S federal income tax purposes retroactively back to the first quarter of 2019. This election resulted in the recognition of an income tax benefit of $10 million in the three months ended March 28, 2020.

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NOTE 11: FAIR VALUE OF FINANCIAL INSTRUMENTS AND INTEREST RATE SWAPS

Fair Value of Financial Instruments

For assets and liabilities that are measured using quoted prices in active markets (Level 1), total fair value is the published market price per unit multiplied by the number of units held without consideration of transaction costs, discounts or blockage factors. Assets and liabilities that are measured using significant other observable inputs are valued by reference to similar assets or liabilities (Level 2), adjusted for contract restrictions and other terms specific to that asset or liability. For these items, a significant portion of fair value is derived by reference to quoted prices of similar assets or liabilities in active markets. For all remaining assets and liabilities, fair value is derived using other valuation methodologies, including option pricing models, discounted cash flow models and similar techniques (Level 3) and not based on market exchange, dealer or broker traded transactions. These valuations incorporate certain assumptions and projections in determining the fair value assigned to such assets or liabilities.

The fair value of our financial instruments are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of December 28, 2019</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial instruments not carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term debt, gross of discounts and deferred issuance costs (Note 9)</td>
<td>$ —</td>
<td>$(4,817)</td>
<td>$ —</td>
</tr>
<tr>
<td>Financial instruments carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest rate swaps</td>
<td>$ —</td>
<td>$(61)</td>
<td>$ —</td>
</tr>
<tr>
<td><strong>As of June 27, 2020</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial instruments not carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term debt, gross of discounts and deferred issuance costs (Note 9)</td>
<td>$ —</td>
<td>$(4,676)</td>
<td>$ —</td>
</tr>
<tr>
<td>Financial instruments carried at fair value:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest rate swaps</td>
<td>$ —</td>
<td>$(143)</td>
<td>$ —</td>
</tr>
</tbody>
</table>

The fair value of the debt is based on third party quotations and is therefore classified as Level 2. The fair value of our derivative financial instruments, including interest rate swaps, are valued in the market using discounted cash flow techniques. These techniques incorporate Level 1 and Level 2 fair value measurement inputs such as spot rates, foreign currency exchange rates, and the instrument’s term, notional amount and discount rate.

The fair values of our financial instruments included in Cash and cash equivalents, Accounts receivable, net, Other current assets, Accounts payable and other liabilities and Borrowing under revolving credit facility on the condensed consolidated balance sheets approximate their carrying amounts due to their short maturities. We measure the fair value of money market accounts, included in Cash and cash equivalents on the condensed consolidated balance sheets, on a recurring basis and have classified them as Level 1 because the fair value is measured with quoted prices in active markets. These amounts have been excluded from the table.

There were no transfers of assets or liabilities between fair value measurement levels. Transfers between fair value measurement levels are recognized at the end of the reporting period.
Interest Rate Swaps

We have multiple interest rate swaps in order to fix the LIBOR portion of our USD denominated variable rate borrowings (Note 9). As of June 27, 2020, the outstanding effective arrangements were as follows:

<table>
<thead>
<tr>
<th>Notional Value (in millions)</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Fixed Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$225</td>
<td>January 29, 2018</td>
<td>January 29, 2021</td>
<td>2.33%</td>
</tr>
<tr>
<td>$275</td>
<td>January 29, 2018</td>
<td>January 29, 2022</td>
<td>2.41%</td>
</tr>
<tr>
<td>$275</td>
<td>January 29, 2018</td>
<td>January 29, 2023</td>
<td>2.48%</td>
</tr>
<tr>
<td>$475</td>
<td>March 29, 2019</td>
<td>March 29, 2024</td>
<td>2.40%</td>
</tr>
<tr>
<td>$750</td>
<td>March 4, 2020</td>
<td>September 29, 2024</td>
<td>2.07%</td>
</tr>
<tr>
<td>$275</td>
<td>March 29, 2020</td>
<td>March 29, 2024</td>
<td>0.93%</td>
</tr>
<tr>
<td>$225</td>
<td>January 29, 2021</td>
<td>January 29, 2024</td>
<td>0.42%</td>
</tr>
</tbody>
</table>

On March 2, 2020, we cancelled an existing interest rate swap with a notional value of $750 million and accepted an off-market fixed rate on a new interest rate swap to offset the cost of the fair value of the original swap. At the time of the cancellation, the original interest rate swap had a negative fair value of $37 million and was recorded in Accounts payable and other current liabilities and Other long-term liabilities on the condensed consolidated balance sheet. The liability associated with the original interest rate swap was incorporated into the fair value of the new interest rate swap.

The gross amounts of our interest rate swaps, which are subject to master netting arrangements, were as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gross amounts recognized</th>
<th>Gross amount offset in Balance Sheets</th>
<th>Net amounts presented in Balance Sheets</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 26, 2019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>$ (19)</td>
<td>$ —</td>
<td>$ (19)</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>(42)</td>
<td>—</td>
<td>(42)</td>
</tr>
<tr>
<td>As of June 27, 2020</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and other current liabilities</td>
<td>(45)</td>
<td>—</td>
<td>(45)</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>(98)</td>
<td>—</td>
<td>(98)</td>
</tr>
</tbody>
</table>

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NOTE 12: ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

Adjustments to Accumulated other comprehensive income (loss), net, are as follows:

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gain (Loss) on Cash Flow Hedges</th>
<th>Pension and Postretirement Benefits Gain (Loss)</th>
<th>Accumulated Other Comprehensive Income (Loss), Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of March 30, 2019</td>
<td>$ (22)</td>
<td>$ —</td>
<td>$ (22)</td>
</tr>
<tr>
<td></td>
<td>Other comprehensive income (loss) before reclassifications</td>
<td></td>
<td>(39)</td>
</tr>
<tr>
<td>As of June 29, 2019</td>
<td>$ (61)</td>
<td>$ —</td>
<td>$ (61)</td>
</tr>
<tr>
<td>As of March 28, 2020</td>
<td>$ (136)</td>
<td>$ (1)</td>
<td>$ (137)</td>
</tr>
<tr>
<td></td>
<td>Other comprehensive income (loss) before reclassifications</td>
<td></td>
<td>(17)</td>
</tr>
<tr>
<td></td>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>As of June 27, 2020</td>
<td>$ (142)</td>
<td>$ (1)</td>
<td>$ (143)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(in millions)</th>
<th>Gain (Loss) on Cash Flow Hedges</th>
<th>Pension and Postretirement Benefits Gain (Loss)</th>
<th>Accumulated Other Comprehensive Income (Loss), Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of December 29, 2018</td>
<td>$ 2</td>
<td>$ —</td>
<td>$ 2</td>
</tr>
<tr>
<td></td>
<td>Other comprehensive loss before reclassifications</td>
<td></td>
<td>(63)</td>
</tr>
<tr>
<td>As of June 29, 2019</td>
<td>$ (61)</td>
<td>$ —</td>
<td>$ (61)</td>
</tr>
<tr>
<td>As of December 28, 2019</td>
<td>$ (61)</td>
<td>$ (1)</td>
<td>$ (62)</td>
</tr>
<tr>
<td></td>
<td>Other comprehensive loss before reclassifications</td>
<td></td>
<td>(96)</td>
</tr>
<tr>
<td></td>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>As of June 27, 2020</td>
<td>$ (142)</td>
<td>$ (1)</td>
<td>$ (143)</td>
</tr>
</tbody>
</table>

NOTE 13: COMMITMENTS AND CONTINGENCIES

As of June 27, 2020, we have unconditional purchase obligations of $184 million that expire at various dates through 2025 and guarantees of $12 million that expire at various dates through 2028.

We are a party to various legal proceedings that have arisen in the ordinary course of our business. At present, we do not expect that any ordinary course legal proceedings, individually or in the aggregate, will have a material adverse effect on our business, results of operations, financial condition or cash flows.

In the ordinary course of our business, we are subject to examination by taxing authorities for both direct and indirect taxes in many of the domestic and foreign jurisdictions in which we operate. We are unable to make a reasonably reliable estimate as to when or if settlements with taxing authorities may occur. However, we do not anticipate that the resolution of these tax matters or any events related thereto will have a material adverse effect on our business, results of operations, financial condition or cash flows.
NOTE 14: EARNINGS (LOSS) PER UNIT

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
<th>Six Months Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 28, 2019</td>
<td>June 27, 2020</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$ (79)</td>
<td>$ 22</td>
</tr>
<tr>
<td>Weighted average units outstanding - basic</td>
<td>376.4</td>
<td>377.7</td>
</tr>
<tr>
<td>Incremental units attributable to equity awards(1)</td>
<td>—</td>
<td>9.8</td>
</tr>
<tr>
<td>Weighted average units outstanding - diluted</td>
<td>376.4</td>
<td>387.5</td>
</tr>
<tr>
<td>Net income (loss) per unit, basic</td>
<td>$ (0.21)</td>
<td>$ 0.06</td>
</tr>
<tr>
<td>Net income (loss) per unit, diluted</td>
<td>$ (0.21)</td>
<td>$ 0.06</td>
</tr>
</tbody>
</table>

(1) 10.1 million units were excluded from dilution. This consists of RSUs that were excluded from dilution because their effects would have been anti-dilutive for the three and six months ended June 29, 2019 and unvested MIUs outstanding that share in equity appreciation and future distributions above a return threshold that may impact EPU in future periods.

NOTE 15: PRO FORMA FINANCIAL INFORMATION (UNAUDITED)

Unaudited Pro Forma Tax

Unaudited pro forma financial information has been presented to disclose the pro forma income tax expense and net income attributable to McAfee Corp., the registrant. The unaudited pro forma financial information reflects an adjustment to the provision for income taxes to reflect a blended rate of 25%, which was calculated using the U.S. federal income tax rate and the highest statutory rates applied to income apportioned to each state and local jurisdiction. This tax rate has been applied to the 33.1% portion of income before taxes that represents the economic interest in Foundation Technology Worldwide LLC that will be held by McAfee Corp. upon completion of the Reorganization Transactions disclosed in this prospectus, but before application of the proceeds of the offering. In addition, pro forma provision for income taxes includes the historical provision for income taxes of $13 million related to Foundation Technology Worldwide LLC. The sum of these amounts represents total pro forma provision for income taxes of $18 million.

Unaudited Pro Forma Net Loss Per Share

Pro forma basic and diluted net loss per share for the six months ended June 27, 2020 has been computed to reflect the number of shares that will be outstanding after the Reorganization Transaction. The unaudited pro forma basic and diluted earnings per share for the six months ended June 27, 2020 does not give effect to the initial public offering and the use of proceeds therefrom. The following table sets forth the computation of the Company’s unaudited pro forma basic and diluted net loss per share for the six months ended June 27, 2020:

|                                | Six Months Ended |
|                                | June 27, 2020    |
| Pro forma net loss per share, basic and diluted | $ (0.02)        |
| Pro forma weighted-average shares outstanding, basic and diluted | 131.9           |
| Weighted-average shares outstanding during the period | 131.9           |
| Shares issued in the offering necessary to pay member distributions | 29.3            |
| Pro forma weighted-average shares of Class A common stock | 161.2           |

NOTE 16: SUBSEQUENT EVENTS

Subsequent to June 27, 2020, we declared cash distributions to our Members in the amount of $70 million.
On October 12, 2020, McAfee, LLC entered into an agreement to, subject to the closing of this offering by December 31, 2020, extend the maturity date of, and increase the amount of, a portion of the commitments under the revolving credit facility. As a result of this agreement, the revolving credit facility consists of a $164 million tranche that will mature on September 29, 2022 and a $500 million tranche that will mature on September 29, 2024.

In October 2020, our Board approved and effected a four-for-one unit split of our member units. All unit and per unit data included in these consolidated financial statements give effect to the unit split and have been retroactively adjusted for all periods.

For the six months ended June 27, 2020, subsequent events were evaluated through October 13, 2020, the date the condensed consolidated financial statements were available for reissuance.
Consumer

McAfee protects more than 600 million devices and more than 30 million core subscribers worldwide

Enterprise

McAfee protects 86% of the Fortune 100 and 78% of the Fortune 500

McAfee Labs detects 8,600 threats per minute

McAfee Global Threat Intelligence processes more than 62 billion real-time queries each day

McAfee holds more than 2,600 issued or pending U.S. and foreign patents

The MVISION Insights COVID-19 dashboard tracks pandemic-related cyberthreats around the world
ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the costs and expenses, other than the underwriting discounts and commissions, payable by the registrant in connection with the sale of common stock being registered. All amounts are estimates except for the SEC registration fee, the FINRA filing fee, and the Exchange listing fee.

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEC registration fee</td>
<td>$104,199</td>
</tr>
<tr>
<td>FINRA filing fee</td>
<td>140,915</td>
</tr>
<tr>
<td>Exchange listing fee</td>
<td>295,000</td>
</tr>
<tr>
<td>Printing and engraving expenses</td>
<td>500,000</td>
</tr>
<tr>
<td>Legal fees and expenses</td>
<td>4,804,560</td>
</tr>
<tr>
<td>Accounting fees and expenses</td>
<td>5,838,886</td>
</tr>
<tr>
<td>Transfer agent and registrar fees and expenses</td>
<td>15,400</td>
</tr>
<tr>
<td>Miscellaneous expenses</td>
<td>301,040</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,000,000</strong></td>
</tr>
</tbody>
</table>

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145(a) of the DGCL grants each corporation organized thereunder the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person’s conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person’s conduct was unlawful.

Section 145(b) of the DGCL grants each corporation organized thereunder the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.
Section 102(b)(7) of the DGCL enables a corporation in its certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director to the corporation or its stockholders of monetary damages for violations of the director’s fiduciary duty, except (i) for any breach of the director’s duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL (providing for liability of directors for unlawful payment of dividends or unlawful stock purchases or redemptions), or (iv) for any transaction from which a director derived an improper personal benefit. Our certificate of incorporation includes a provision that eliminates the personal liability of directors for monetary damages for actions taken as a director to the fullest extent authorized by the DGCL.

We have also entered into indemnification agreements with our directors. Such agreements generally provide for indemnification by reason of being our director, as the case may be. These agreements are in addition to the indemnification provided by our certificate of incorporation and bylaws. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, we have been informed that in the opinion of the SEC such indemnification is against public policy and is therefore unenforceable.

The underwriting agreement provides that the underwriters are obligated, under certain circumstances, to indemnify our directors, officers, and controlling persons against certain liabilities, including liabilities under the Securities Act. Please see the form of underwriting agreement filed as Exhibit 1.1 hereto.

Our amended and restated bylaws indemnify the directors and officers to the full extent of the DGCL and also allow the board of directors to indemnify all other employees. Such right of indemnification is not exclusive of any right to which such officer or director may be entitled as a matter of law and shall extend and apply to the estates of deceased officers and directors. Section 145(f) of the DGCL further provides that a right to indemnification or to advancement of expenses arising under a provision of the bylaws shall not be eliminated or impaired by an amendment to such provision after the occurrence of the act or omission which is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought.

We also maintain a directors’ and officers’ insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions that are normal and customary for policies of this type. Section 145(g) of the DGCL provides that a corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the corporation would have the power to indemnify such person against such liability under that section.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

In connection with the Sponsor Acquisition, on April 3, 2017, Foundation Technology Worldwide LLC issued and sold in the aggregate 11,600,000,000 Class A Units to our Sponsors and Intel for aggregate consideration of $2,900,000,000 without registration in reliance on the exemption afforded by Section 4(a)(2) of the Securities Act and Rule 506 promulgated thereunder. On April 3, 2017, 2,800,000,000 Class A Units held by our Sponsors were redeemed in exchange for $700,000,000 of redemption units of Foundation Technology Worldwide LLC. The remaining 8,800,000,000 Class A Units were subsequently reduced to 367,800,000 pursuant to a reverse split of Class A Units. On September 29, 2017, the $700,000,000 of redemption units were redeemed in full and retired for $700,000,000.
Since April 3, 2017, Foundation Technology Worldwide LLC has issued 7,243,692 Class A Units to our employees at an average purchase price of $9.55. These securities were issued without registration in reliance on the exemptions afforded by Section 4(a)(2) of the Securities Act and Rule 701 promulgated thereunder.

On September 27, 2020, McAfee Corp. issued 100 shares of common stock to Foundation Technology Worldwide LLC at par value pursuant to Section 4(a)(2) of the Securities Act. The issuance was exempt from registration as a transaction by an issuer not involving any public offering. These shares will be redeemed in connection with the Reorganization Transactions.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) Exhibit Index

See the Exhibit Index immediately preceding the signature page hereto for a list of exhibits filed as part of this registration statement on Form S-1, which Exhibit Index is incorporated herein by reference.

(b) Financial statement schedules

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

ITEM 17. UNDERTAKINGS

The undersigned Registrant hereby undertakes:

(1) That for purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) That for the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) For the purpose of determining liability under the Securities Act of 1933 to any purchaser, if the registrant is subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(5) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(6) To provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.
<table>
<thead>
<tr>
<th>Exhibit number</th>
<th>Description of exhibit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Form of Underwriting Agreement</td>
</tr>
<tr>
<td>3.1*</td>
<td>Form of Amended and Restated Certificate of Incorporation of McAfee Corp.</td>
</tr>
<tr>
<td>3.2*</td>
<td>Form of Amended and Restated Bylaws of McAfee Corp.</td>
</tr>
<tr>
<td>4.1</td>
<td>Form of Class A Common Stock Certificate</td>
</tr>
<tr>
<td>5.1</td>
<td>Opinion of Ropes &amp; Gray LLP</td>
</tr>
<tr>
<td>10.2*</td>
<td>Amendment No. 1 to First Lien Credit Agreement, dated as of January 3, 2018, entered into by and among McAfee, LLC, Morgan Stanley Senior Funding, Inc., and the Initial Incremental Term Lenders party thereto</td>
</tr>
<tr>
<td>10.3</td>
<td>Amendment No. 2 to First Lien Credit Agreement, dated as of November 1, 2018, entered into by and among McAfee, LLC, the Guarantors party thereto, the Lenders party thereto, Morgan Stanley Senior Funding, Inc., and Morgan Stanley, N.A.</td>
</tr>
<tr>
<td>10.4</td>
<td>Amendment No. 3 to First Lien Credit Agreement, dated as of June 13, 2019, by and among McAfee, LLC, the Guarantors party thereto, the Lenders party thereto, Morgan Stanley Senior Funding, Inc., and Bank of America, N.A.</td>
</tr>
<tr>
<td>10.6*</td>
<td>Amendment No. 1 to Second Lien Credit Agreement, dated November 1, 2018, by and among McAfee, LLC, the Guarantors party thereto, the Lenders party thereto, and JPMorgan Chase Bank, N.A.</td>
</tr>
<tr>
<td>10.7*</td>
<td>Amendment No. 2 to Second Lien Credit Agreement, dated June 13, 2019, by and among McAfee, LLC, the Guarantors party thereto, the Lenders party thereto, and JPMorgan Chase Bank, N.A.</td>
</tr>
<tr>
<td>10.8*</td>
<td>Office Lease, dated April 10, 2019 between US ER America Center 4, LLC and McAfee, LLC</td>
</tr>
<tr>
<td>10.9</td>
<td>Form of Amended and Restated Foundation Technology Worldwide LLC Operating Agreement</td>
</tr>
<tr>
<td>10.10</td>
<td>Form of Tax Receivable Agreement</td>
</tr>
<tr>
<td>10.11</td>
<td>Form of Registration Rights Agreement</td>
</tr>
<tr>
<td>10.12</td>
<td>Form of Stockholders Agreement</td>
</tr>
<tr>
<td>10.13*+</td>
<td>Employment Agreement, dated as of June 1, 2017, between McAfee Employee Holdings, LLC, Foundation Technology Worldwide LLC and Christopher D. Young</td>
</tr>
<tr>
<td>10.14**</td>
<td>Employment Agreement, dated as of January 20, 2020, by and among McAfee, LLC, Foundation Technology Worldwide LLC, and Peter Leav</td>
</tr>
<tr>
<td>10.15**</td>
<td>Amendment to Employment Agreement, dated as of September 30, 2020, by and among McAfee, LLC, Foundation Technology Worldwide LLC, McAfee Corp. and Peter Leav</td>
</tr>
<tr>
<td>Exhibit number</td>
<td>Description of exhibit</td>
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</tr>
<tr>
<td>10.16*+</td>
<td>Employment Agreement, dated as of August 7, 2020, by and among McAfee, LLC, Foundation Technology Worldwide LLC, and Venkat Bhamidipati</td>
</tr>
<tr>
<td>10.17*+</td>
<td>Amendment to Employment Agreement, dated as of September 30, 2020, by and among McAfee, LLC, Foundation Technology Worldwide LLC, McAfee Corp., and Venkat Bhamidipati</td>
</tr>
<tr>
<td>10.18*+</td>
<td>Offer Letter, dated as of January 31, 2017, by and between Intel Security and Michael Berry</td>
</tr>
<tr>
<td>10.19*+</td>
<td>Offer Letter by and between McAfee, Inc. and John Giamatteo</td>
</tr>
<tr>
<td>10.20*+</td>
<td>Offer Letter, dated as of September 30, 2020, by and between McAfee, LLC and Ashutosh Kulkarni</td>
</tr>
<tr>
<td>10.21*+</td>
<td>Offer Letter, dated as of September 30, 2020, by and between McAfee, LLC and Terry Hicks</td>
</tr>
<tr>
<td>10.22*+</td>
<td>Offer Letter, dated as of April 6, 2020, by and between McAfee, LLC and Lynne Doherty McDonald</td>
</tr>
<tr>
<td>10.23*+</td>
<td>Promotion Letter, dated as of June 11, 2018, by and between McAfee, LLC and with John Giamatteo</td>
</tr>
<tr>
<td>10.24*+</td>
<td>Separation and General Release Agreement, dated as of January 6, 2020, by and between McAfee, LLC and John Giamatteo</td>
</tr>
<tr>
<td>10.25*+</td>
<td>Separation Agreement, dated February 3, 2020, by and between McAfee, LLC and Christopher D. Young</td>
</tr>
<tr>
<td>10.26*+</td>
<td>Form of Severance Agreement for Senior Management</td>
</tr>
<tr>
<td>10.27*+</td>
<td>McAfee 2017 Management Incentive Plan</td>
</tr>
<tr>
<td>10.28*+</td>
<td>Form of Management Incentive Unit (MIU) Agreement under the 2017 Plan</td>
</tr>
<tr>
<td>10.29*+</td>
<td>Form of RSU Agreement under the 2017 Plan</td>
</tr>
<tr>
<td>10.30*+</td>
<td>McAfee 2020 Omnibus Incentive Plan</td>
</tr>
<tr>
<td>10.31*+</td>
<td>Form of Stock Option Award Agreement under the 2020 Plan</td>
</tr>
<tr>
<td>10.32*+</td>
<td>Form of RSU Agreement under the 2020 Plan</td>
</tr>
<tr>
<td>10.33*+</td>
<td>McAfee Employee Stock Purchase Plan</td>
</tr>
<tr>
<td>10.34*+</td>
<td>McAfee Executive Cash Incentive Plan</td>
</tr>
<tr>
<td>10.35*+</td>
<td>Form of Subscription Agreement</td>
</tr>
<tr>
<td>10.36+</td>
<td>Form of Indemnification Agreement</td>
</tr>
<tr>
<td>10.37+</td>
<td>McAfee Non-Employee Director Compensation Policy</td>
</tr>
<tr>
<td>10.38+</td>
<td>Form of Equity Adjustment Agreement for Senior Management</td>
</tr>
<tr>
<td>10.39</td>
<td>Amendment No. 4 to First Lien Credit Agreement, dated as of October 12, 2020, by and among McAfee, LLC, the Guarantors party thereto, the Lenders party thereto, Morgan Stanley Senior Funding, Inc., and Morgan Stanley Bank, N.A.</td>
</tr>
<tr>
<td>21.1*</td>
<td>Subsidiaries of the Registrant</td>
</tr>
<tr>
<td>23.1</td>
<td>Consent of Independent Registered Public Accounting Firm, Ernst &amp; Young LLP</td>
</tr>
<tr>
<td>23.2</td>
<td>Consent of Independent Registered Public Accounting Firm, PricewaterhouseCoopers LLP, (Foundation Technology Worldwide LLC)</td>
</tr>
<tr>
<td>23.3</td>
<td>Consent of Independent Registered Public Accounting Firm, PricewaterhouseCoopers LLP (McAfee Corp.)</td>
</tr>
</tbody>
</table>
Table of Contents

23.4  Consent of Ropes & Gray LLP (included in Exhibit 5.1)

24.1*  Power of Attorney (included in the signature pages to this Registration Statement)

+ Indicates management contract or compensatory plan.
* Previously Filed
SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of San Jose, State of California, on October 13, 2020.

MCAFEE CORP.

By: /s/ Peter Leav
Name: Peter Leav
Title: President and Chief Executive Officer

* * *

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ Peter Leav</td>
<td>President, Chief Executive Officer, and Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Peter Leav</td>
<td>(Principal Executive Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ Venkat Bhamidipati</td>
<td>Executive Vice President and Chief Financial Officer</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Venkat Bhamidipati</td>
<td>(Principal Financial Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ Christine Kornegay</td>
<td>Vice President and Chief Accounting Officer</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Christine Kornegay</td>
<td>(Principal Accounting Officer)</td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Sohaib Abbasi</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Mary Cranston</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Tim Millikin</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Jon Winkelried</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Kathy Willard</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Director</td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Jeff Woolard</td>
<td></td>
<td></td>
</tr>
<tr>
<td>*By: /s/ Peter Leav</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peter Leav</td>
<td>As Attorney-in-Fact</td>
<td></td>
</tr>
</tbody>
</table>
[_______] Shares
MCAFEE CORP.
CLASS A COMMON STOCK, PAR VALUE $0.001 PER SHARE
UNDERWRITING AGREEMENT
[_______], 2020
Morgan Stanley & Co. LLC
Goldman Sachs & Co. LLC

As Representatives of the
several Underwriters Listed
in Schedule II hereto

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

Goldman Sachs & Co. LLC
200 West Street
New York, New York 10282-2198

Ladies and Gentlemen:

McAfee Corp., a Delaware corporation (the “Company”), proposes to issue and sell to the several Underwriters named in Schedule II hereto (the “Underwriters”), and certain shareholders of the Company (the “Selling Shareholders”) named in Schedule I hereto severally propose to sell to the several Underwriters, an aggregate of [_________] shares of Class A common stock, par value $0.001 per share (the “Class A Common Stock”) of the Company (the “Firm Shares”), of which [_________] shares are to be issued and sold by the Company and [_________] shares are to be sold by the Selling Shareholders, each Selling Shareholder selling the amount set forth opposite such Selling Shareholder’s name in Schedule I hereto.

The Company and the Selling Shareholders also propose to sell to the several Underwriters not more than an additional [_________] shares of Class A Common Stock (the “Additional Shares”) if and to the extent that Morgan Stanley & Co. LLC (“Morgan Stanley”) and Goldman Sachs & Co. LLC, (“Goldman Sachs”) as representatives of the offering (collectively the “Representatives”), shall have determined to exercise, on behalf of the Underwriters, the right to purchase such shares of common stock granted to the Underwriters in Section 3 hereof. The Firm Shares and the Additional Shares are hereinafter collectively referred to as the “Shares.” The Company and the Selling Shareholders are hereinafter sometimes collectively referred to as the “Sellers.”

The shares of Class A Common Stock to be outstanding after giving effect to the sales contemplated hereby and the Reorganization Transactions (as defined herein), together with the shares of Class B common stock, par value $0.001 per share (the “Class B Common Stock”) of the Company are hereinafter referred to as the “Common Stock.”
In connection with the offering contemplated by this Agreement, the Company will become the sole managing member of Foundation Technology Worldwide LLC, a Delaware limited liability company ("Foundation Technology"), and will directly and indirectly own a [__]% membership interest in Foundation Technology, assuming no exercise of the option to purchase Additional Shares described in Section 3 hereof.

Any reference in this Agreement, to the extent the context requires, to the "Reorganization Transactions" shall have the meanings ascribed to the term "Reorganization Transactions" in the Prospectus (as defined below). In connection with the offering contemplated by this Agreement and the Reorganization Transactions, (a) the Company will enter into a tax receivable agreement (the "Tax Receivable Agreement") with certain existing direct and indirect holders of membership interests of Foundation Technology; (b) the Company will enter into a stockholders agreement with investment funds affiliated with TPG Global, LLC, Thoma Bravo, L.P. and Snowlake Investment Pte Ltd (collectively, the “Sponsors”) and Intel Americas, Inc. ("Intel"); (c) the Company will enter into a registration rights agreement with Foundation Technology and the Sponsors and Intel; (d) Foundation Technology has amended and restated its limited liability company agreement to provide for the reclassification of existing units of Foundation Technology into non-voting units, add the Company as a member of Foundation Technology and designate the Company as the sole managing member of Foundation Technology (as so amended and restated, the "Foundation Technology Agreement"); and (e) the Company has amended and restated its certificate of incorporation (as so amended and restated, the "Amended and Restated Charter").

This Agreement, the Foundation Technology Agreement, the Amended and Restated Charter and the Tax Receivable Agreement are collectively referred to herein as the "Transaction Documents".

The Company has filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-1 (File No. 333-249101), including a preliminary prospectus, relating to the Shares. The registration statement as amended at the time it becomes effective, including the information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A under the Securities Act of 1933, as amended (the “Securities Act”), is hereinafter referred to as the “Registration Statement”; the prospectus in the form first used to confirm sales of Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the “Prospectus.” If the Company has filed an abbreviated registration statement to register additional shares of Common Stock pursuant to Rule 462(b) under the Securities Act (a “Rule 462 Registration Statement”), then any reference herein to the term “Registration Statement” shall be deemed to include such Rule 462 Registration Statement.

For purposes of this Agreement, “free writing prospectus” has the meaning set forth in Rule 405 under the Securities Act, “preliminary prospectus” shall mean each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted information pursuant to Rule 430A under the Securities Act that
1. **Representations and Warranties of the Company and Foundation Technology.** Each of the Company and Foundation Technology, jointly and severally, represents and warrants to and agrees with each of the Underwriters and each of the Selling Shareholders that:

   (a) The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose or pursuant to Section 8A under the Securities Act are pending before or, to the Company’s knowledge, threatened by the Commission.

   (b) (i) The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not, as of the date of such amendment or supplement, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, will comply, when filed, in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder, (iii) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 5), the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, as of the date of such amendment or supplement, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (iv) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (v) the Prospectus does not contain and, as amended or supplemented, if applicable, will not, as of the date of such amendment or supplement, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in the Registration Statement, the Time of Sale Prospectus or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the Underwriter Information (as defined in Section 10(c) of this Agreement).
(c) The Company is not an “ineligible issuer” in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply, when filed, in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Except for the free writing prospectuses, if any, identified in Schedule III hereto, and electronic road shows, if any, each furnished to the Representatives before first use, the Company has not prepared, used or referred to, and will not, without the Representatives prior consent, prepare, use or refer to, any free writing prospectus.

(d) Each of the Company and Foundation Technology has been duly incorporated or formed, as applicable, is validly existing as a corporation or limited liability company, as applicable, in good standing under the laws of the State of Delaware, has the corporate or limited liability company power and authority to own or lease its property and to conduct its business as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole.

(e) Each subsidiary of the Company and each subsidiary of Foundation Technology has been duly incorporated, organized or formed, as applicable, is validly existing as a corporation or limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation, organization or formation, has the corporate, limited liability company, or other business entity power and authority, as applicable, to own or lease its property and to conduct its business as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus and is duly qualified to transact business and is in good standing (to the extent the concept of good standing is applicable in the relevant jurisdiction) in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the
Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole; all of the issued shares of capital stock or other equity interest of each subsidiary of the Company and each subsidiary of Foundation Technology have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company or Foundation Technology, as applicable, free and clear of all liens, encumbrances, equities or claims. The subsidiaries listed in Schedule IV to this Agreement are the only significant subsidiaries of the Company and Foundation Technology.

(f) This Agreement has been duly authorized, executed and delivered by the Company and Foundation Technology. Each of the other Transaction Documents (other than the Amended and Restated Charter and this Agreement) has been duly authorized and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute the valid and legally binding obligations of the Company and Foundation Technology, as applicable, enforceable in accordance with its terms (i) subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors’ rights and to general equity principles and (ii) with respect to provisions regarding indemnity, contribution and exculpation, except to the extent such provisions may not be enforceable due to applicable law or principles of public policy.

(g) Each of the Transaction Documents conforms in all material respects to the description thereof contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The Reorganization Transactions conform in all material respects to the descriptions thereof contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(h) The authorized capital stock of the Company and the authorized membership interests of Foundation Technology will conform, as of the Closing Date, as to legal matters to the descriptions thereof contained in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(i) The shares of Common Stock (including the shares to be sold by the Selling Shareholders) outstanding prior to the issuance of the Firm Shares and the membership interests of Foundation Technology outstanding prior to the consummation of this offering have been duly authorized and are validly issued, fully paid and non-assessable. Except as described in or expressly contemplated by the Registration Statement, the Time of Sale Prospectus and the Prospectus, there are no outstanding rights (including, without limitation, preemptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company, Foundation Technology or any subsidiaries of the Company or Foundation Technology, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company, Foundation Technology or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options.
(j) The Firm Shares have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable, and the issuance of such Firm Shares will not be subject to any preemptive or similar rights that have not been validly waived. The shares of Class B Common Stock to be issued by the Company pursuant to the Reorganization Transactions have been duly authorized and, when issued and delivered as provided in the Transaction Documents, will be validly issued, fully paid and non-assessable and will conform to the description thereto in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, and the issuance of such shares of Class B Common Stock will not be subject to any preemptive or similar rights that have not been validly waived. All of the membership interests of Foundation Technology outstanding as of the Closing Date have been duly authorized and, after giving effect to the Reorganization Transactions, will be validly issued, and to the extent owned by the Company, will be owned free and clear of any liens, encumbrances or claims.

(k) With respect to any stock options, restricted stock units, and other equity-based compensation awards (each, an “Equity Award”) granted pursuant to the equity compensation plans and agreements of the Company, Foundation Technology and their subsidiaries (the “Equity Plans”), each grant of an Equity Award was made in accordance with the terms of the Equity Plans and all applicable laws and regulatory rules or requirements, including all applicable federal securities laws, in each case, except as would not reasonably be expected to have a material adverse effect.

(l) The execution and delivery by the Company and Foundation Technology of, and the performance by the Company and Foundation Technology of their obligations under, each of the Transaction Documents will not contravene any provision of applicable law or the certificate of incorporation, certificate of formation, bylaws or limited liability company agreement of the Company or Foundation Technology, as applicable, or any agreement or other instrument binding upon the Company, Foundation Technology or the subsidiaries of the Company or Foundation Technology, as applicable that is material to the Company, Foundation Technology and the subsidiaries of the Company and Foundation Technology, taken as a whole, or any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Company, Foundation Technology or any subsidiary of the Company or Foundation Technology, and no consent, approval, authorization or order of, or qualification with, any governmental body, agency or court is required for the performance by the Company or Foundation Technology of their obligations under this Agreement, except (i) such as have previously been obtained and (ii) such as may be required by the securities or Blue Sky laws of the various states or foreign jurisdictions or the rules and regulations of the Financial Industry Regulation Authority, Inc. (“FINRA”) in connection with the offer and sale of the Shares.
(m) There has not occurred any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole, from that set forth in the Time of Sale Prospectus.

(n) Neither the Company nor Foundation Technology is (i) in violation of its certificate of incorporation, certificate of formation, bylaws or limited liability company agreement, as applicable, (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or Foundation Technology is a party or by which the Company, Foundation Technology or any of their respective subsidiaries is bound or to which any of the property or assets of the Company or Foundation Technology is subject, or (iii) in violation of any law or statute or any judgment order, rule or regulation or any court or arbitrator or governmental or regulatory authority, except, in the case of clause (ii) above, for any such default or violation that would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology or their respective subsidiaries.

(o) There are no legal or governmental proceedings pending or, to the Company’s or Foundation Technology’s knowledge, threatened to which the Company, Foundation Technology or any of their respective subsidiaries is a party or to which any of the properties of the Company, Foundation Technology, or any of their respective subsidiaries is subject (i) other than proceedings accurately described in all material respects in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus and proceedings that would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology or their respective subsidiaries, taken as a whole, or on the power or ability of the Company and Foundation Technology to perform their obligations under this Agreement or to consummate the Reorganization Transactions and the transactions contemplated by each of the Registration Statement, the Time of Sale Prospectus and the Prospectus or (ii) that are required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus and are not so described; and there are no statutes, regulations, contracts or other documents to which the Company, Foundation Technology or their respective subsidiaries are bound that are required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus or to be filed as exhibits to the Registration Statement that are not described in all material respects or filed as required.

(p) Each preliminary prospectus filed as part of the Registration Statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 under the Securities Act, complied when so filed in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder.
(q) The Company is not, and after giving effect to the offering and sale of the Firm Shares and the application of the proceeds thereof as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(r) The Company, Foundation Technology and each of their respective subsidiaries (i) are in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“Environmental Laws”), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology and their respective subsidiaries, taken as a whole.

(s) There are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties) which would, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company and Foundation Technology and their respective subsidiaries, taken as a whole.

(t) There are no contracts, agreements or understandings between the Company or Foundation Technology and any person granting such person the right to require the Company or Foundation Technology, as applicable, to file a registration statement under the Securities Act with respect to any securities of the Company or Foundation Technology or to require the Company or Foundation Technology to include such securities with the Shares registered pursuant to the Registration Statement, except as have been validly waived in connection with the issuance and sale of the Shares contemplated hereby, or as have been described in the Time of Sale Prospectus.

(u) (i) None of the Company, Foundation Technology or any of their respective subsidiaries or affiliates, (including any director, officer, or employee thereof, or, to the Company’s or Foundation Technology’s knowledge, any agent or representative of the Company, Foundation Technology or of any of their subsidiaries or affiliates), has taken or will take any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment, giving or receipt of money, property, gifts or anything else of value, directly or indirectly, to any government official (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or
any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) in order to influence official action, or to or from any person in violation of any applicable anti-corruption laws; (ii) the Company, Foundation Technology and each of their subsidiaries and affiliates have conducted their businesses in compliance with applicable anti-corruption laws and have instituted and maintained and will continue to maintain policies, procedures and internal controls (including, but not limited to, accounting systems, purchasing systems and billing systems) reasonably designed to promote and achieve compliance with such laws and with the representations and warranties contained herein; and (iii) none of the Company, Foundation Technology, nor any of their subsidiaries and affiliates will use, directly or indirectly, the proceeds of the offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any applicable anti-corruption laws; and (iv) except as would not reasonably be expected to have a material adverse effect on the Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole, none of the Company, Foundation Technology or any of their respective subsidiaries or affiliates, nor any director, officer, or employee thereof, or, to the knowledge of the Company or Foundation Technology, any agent or representative of the Company, Foundation Technology or any of their respective subsidiaries or affiliates, (A) has received any notice of violation or threat of litigation, any allegation of wrongdoing (including formal or informal whistleblower complaints), conducted any investigation, or been subject to a civil or criminal enforcement action related to applicable anti-corruption laws or (B) is any aware of any actions, conditions or circumstances pertaining to their respective activities that could reasonably be expected to give rise to any of the foregoing.

(v) The operations of the Company, Foundation Technology and each of their respective subsidiaries are and have been conducted at all times in material compliance with all applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act, as amended, the criminal money laundering statutes at 18 U.S.C. 1956 and 2957, and the other applicable anti-money laundering statutes of jurisdictions where the Company, Foundation Technology and each of their respective subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “Anti-Money Laundering Laws”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company, Foundation Technology or their respective subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company or Foundation Technology, threatened.

(w) (i) None of the Company, Foundation Technology, any of their respective subsidiaries, or any director or officer of the Company, Foundation Technology, or any of the respective subsidiaries of the Company or Foundation Technology, or, to the Company’s or Foundation Technology’s knowledge, any employee, agent, affiliate or representative of the Company, Foundation Technology or any subsidiaries of the Company or Foundation Technology is an individual or entity (“Person”) that is, or is owned or controlled by one or more Persons that are:
(A) the subject of any sanctions administered or enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), or

(B) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Crimea, Cuba, Iran, North Korea and Syria).

(ii) The Company and Foundation Technology will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person:

(A) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(B) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

(iii) For the past five years, the Company, Foundation Technology and each of their respective subsidiaries have not knowingly engaged in, are not now knowingly engaged in, and will not engage in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions.

(x) Subsequent to the respective dates as of which information is given in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, (i) the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole, have not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction; (ii) the Company and Foundation Technology have not purchased any of their outstanding capital stock or membership interests other than from its employees or other service providers in connection with the termination of their service, as applicable, nor declared, paid or otherwise made any dividend or distribution of any kind on their capital stock or membership interests other than ordinary and customary dividends; and (iii) there has not been any material change in the capital stock, or membership interests, short-term debt or long-term debt of the Company, Foundation Technology and each of their respective subsidiaries taken as a whole, except in each case as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, respectively.
(y) The Company, Foundation Technology and each of their respective subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property (other than intellectual property) owned by them which is material to the business of the Company, Foundation Technology and each of their respective subsidiaries, in each case free and clear of all liens, encumbrances and defects except as are described in the Time of Sale Prospectus or such as do not materially diminish the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole; and any real property and buildings held under lease by the Company, Foundation Technology and each of their respective subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole, in each case except as described in the Time of Sale Prospectus.

(z) (i) The Company, Foundation Technology and each of their respective subsidiaries own or have a valid license to all patents, inventions, copyrights, know how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names (collectively, "Intellectual Property Rights") used in and reasonably necessary to the conduct of their businesses; (ii) the Intellectual Property Rights owned by the Company, Foundation Technology and each of their respective subsidiaries, and, to the knowledge of the Company and Foundation Technology, the Intellectual Property Rights licensed to the Company, Foundation Technology and each of their respective subsidiaries, are valid, subsisting and enforceable, and there is no pending or, to the knowledge of the Company and Foundation Technology, threatened action, suit, proceeding or claim by others challenging the validity, scope or enforceability of any such Intellectual Property Rights, other than office actions arising in the ordinary course of prosecuting applications for registration or where the existence of any of the foregoing would not reasonably be expected to have a material adverse effect; (iii) none of the Company, Foundation Technology or any of their respective subsidiaries has received any notice alleging any infringement, misappropriation or other violation of Intellectual Property Rights which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the Company or Foundation Technology and each of their respective subsidiaries, taken as a whole; (iv) to the knowledge of the Company and Foundation Technology, no third party is infringing, misappropriating or otherwise violating, or has infringed, misappropriated or otherwise violated, any Intellectual Property Rights owned by the Company or Foundation Technology in any material respect or in a manner that has not been resolved, or would not
reasonably be expected to be resolved in the ordinary course of business that would have a material adverse effect; (v) none of the Company, Foundation Technology or any of their respective subsidiaries infringes, misappropriates or otherwise violates, or has infringed, misappropriated or otherwise violated, any Intellectual Property Rights in a way that would have a material adverse effect on the business; (vi) all employees or contractors engaged in the development of Intellectual Property Rights on behalf of the Company, Foundation Technology or any of their subsidiaries have executed an invention assignment agreement whereby such employees or contractors presently assign all of their right, title and interest in and to such Intellectual Property Rights to the Company, Foundation Technology or their respective applicable subsidiaries and agree to keep confidential all information and materials received or created in the course of performing such work, and to the knowledge of the Company and Foundation Technology, no such agreement has been breached or violated or where the failure to have any of the foregoing would not reasonably be expected to have a material adverse effect; and (vii) the Company, Foundation Technology and their subsidiaries use, and have used, commercially reasonable efforts consistent within the industry to appropriately maintain all information intended to be maintained as a trade secret.

(aa) (i) The Company, Foundation Technology and each of their respective subsidiaries use and have used any and all software and other materials distributed under a “free,” “open source,” or similar licensing model (including but not limited to the MIT License, Apache License, GNU General Public License, GNU Lesser General Public License and GNU Affero General Public License) (“Open Source Software”) in compliance with all license terms applicable to such Open Source Software, or where the failure to do any of the foregoing would not reasonably be expected to have a material adverse effect; and (ii) neither the Company, Foundation Technology nor any of their subsidiaries uses or distributes or has used or distributed any Open Source Software in any manner that requires or has required (A) the Company, Foundation Technology or any of their subsidiaries to permit reverse engineering of any software code or other technology owned by the Company, Foundation Technology or any of their subsidiaries or (B) any software code or other technology owned by the Company, Foundation Technology or any of their subsidiaries to be (1) disclosed or distributed in source code form, (2) licensed for the purpose of making derivative works or (3) redistributed at no charge, in each case except as has been approved in accordance with the Company’s, Foundation Technology’s and each of their respective subsidiaries’ policies and procedures for the use and distribution of Open Source Software, and as would not reasonably be expected to affect the value of the software or Intellectual Property Rights, the proprietary and confidential nature of which is material to the business of the Company, Foundation Technology and each of their respective subsidiaries, or where the failure to do any of the foregoing would not reasonably be expected to have a material adverse effect.

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(bb) (i) The Company, Foundation Technology and each of their respective subsidiaries have complied and are presently in compliance with all internal and external privacy policies, contractual obligations, industry standards, applicable laws, statutes, judgments, orders, rules and regulations of any court or arbitrator or other governmental or regulatory authority and any other legal obligations, in each case, relating to the collection, use, transfer, import, export, storage, protection, disposal and disclosure by the Company, Foundation Technology or any of their respective subsidiaries of personal, personally identifiable, household, sensitive, confidential or regulated data ("Data Security Obligations", and such data, “Data”), or where the failure to do any of the foregoing would not reasonably be expected to have a material adverse effect; (ii) neither the Company nor Foundation Technology have not received any notification of or complaint regarding and are unaware of any other facts that, individually or in the aggregate, would reasonably indicate non-compliance with any Data Security Obligation; and (iii) of there is no action, suit or proceeding by or before any court or governmental agency, authority or body pending or threatened alleging non-compliance with any Data Security Obligation.

(cc) The Company, Foundation Technology and each of their subsidiaries have taken all technical and organizational measures necessary to protect the information technology systems and Data used in connection with the operation of the Company’s, Foundation Technology’s and each of their respective subsidiaries’ businesses, or where the failure to do any of the foregoing would not reasonably be expected to have a material adverse effect. Without limiting the foregoing, the Company, Foundation Technology and each of their respective subsidiaries have used reasonable efforts consistent within the industry to establish and maintain, and have established, maintained, implemented and complied with, reasonable information technology, information security, cyber security and data protection controls, policies and procedures, including oversight, access controls, encryption, technological and physical safeguards and business continuity/disaster recovery and security plans that are designed to protect against and prevent breach, destruction, loss, unauthorized distribution, use, access, disablement, misappropriation or modification, or other compromise or misuse of or relating to any information technology system or Data used in connection with the operation of the Company’s, Foundation Technology’s and each of their respective subsidiaries’ businesses (“Breach”), or where the failure to do any of the foregoing would not reasonably be expected to have a material adverse effect. There has been no known such Breach, and the Company and its subsidiaries have not been notified of and have no knowledge of any event or condition that would reasonably be expected to result in, any such Breach, or where there is such Breach it would not reasonably be expected to have a material adverse effect.

(dd) No material labor dispute with the employees of the Company, Foundation Technology or any of their respective subsidiaries exists, or, to the knowledge of the Company or Foundation Technology, is imminent; and neither the Company nor Foundation Technology is aware of any existing, threatened or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers or contractors that would be reasonably likely to have a material adverse effect on the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole.
(ee) (i) Each employee benefit plan, within the meaning of Section 3(3) of and subject to the requirements of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), for which the Company, Foundation Technology, or any member of its “Controlled Group” (defined as any entity, whether or not incorporated, that is under common control with the Company within the meaning of Section 4001(a)(14) of ERISA or any entity that would be regarded as a single employer with the Company under Section 414(b),(c),(m) or (o) of the Internal Revenue Code of 1986, as amended (the “Code”)) would have any liability (each, a “Plan”) has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no Plan has failed (whether or not waived), or is reasonably expected to fail, to satisfy the minimum funding standards (within the meaning of Section 302 of ERISA or Section 412 of the Code) applicable to such Plan; (iv) no Plan is, or is reasonably expected to be, in “at risk status” (within the meaning of Section 303(i) of ERISA) and no Plan that is a “multiemployer plan” within the meaning of Section 4001(a)(3) of ERISA is in “endangered status” or “critical status” (within the meaning of Sections 304 and 305 of ERISA); (v) no “reportable event” (within the meaning of Section 4043(c) of ERISA and the regulations promulgated thereunder) has occurred or is reasonably expected to occur; (vi) each Plan that is intended to be qualified under Section 401(a) of the Code is the subject of a favorable determination letter from the Internal Revenue Service (“IRS”) or is able to rely on a favorable opinion or advisory letter from the IRS regarding its tax-qualified status, and nothing has occurred, whether by action or by failure to act, which would be reasonably expected to cause such letter to be revoked; (vii) neither the Company, Foundation Technology nor any member of the Controlled Group has in the last six (6) years incurred, nor reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guarantee Corporation, in the ordinary course and without default) in respect of a Plan (including a “multiemployer plan” within the meaning of Section 4001(a)(3) of ERISA); and (x) no material increase in the Company and Foundation Technology and their subsidiaries’ “accumulated post-retirement benefit obligations” (within the meaning of Accounting Standards Codification Topic 715-60) compared to the amount of such obligations in the Company and Foundation Technology and their subsidiaries’ most recently completed fiscal year has occurred in the most recently completed fiscal year, except in each case with respect to the events or conditions set forth in (i) through (x) hereof, as would not, singly or in the aggregate, reasonably be expected to have a material adverse effect.

(ff) The Company, Foundation Technology and each of their respective subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are, in the Company’s reasonable judgment, prudent and customary in the businesses in which they are engaged; none
of the Company, Foundation Technology or any of their respective subsidiaries have any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not, singly or in the aggregate, reasonably be expected have a material adverse effect on the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole, except as described in the Time of Sale Prospectus.

(gg) The financial statements included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, together with the related schedules and notes thereto, comply as to form in all material respects with the applicable accounting requirements of the Securities Act and present fairly the consolidated financial position of the Company and its subsidiaries as of the dates shown and its results of operations and cash flows for the periods shown, and such financial statements have been prepared in conformity with generally accepted accounting principles in the United States ("U.S. GAAP") applied on a consistent basis throughout the periods covered thereby except for any normal year-end adjustments in the Company’s quarterly financial statements. The other financial information included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus has been derived from the accounting records of the Company and its consolidated subsidiaries and presents fairly in all material respects the information shown thereby. All disclosures in the Registration Statement, the Time of Sale Prospectus and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable. The pro forma financial statements and the related notes thereto included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly the information shown therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements and have been properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein.

(hh) The statistical, industry-related and market-related data included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus are based on or derived from sources which the Company reasonably and in good faith believes are reliable and accurate and such data is consistent with the sources from which they are derived in each case in all material respects.

(ii) Ernst & Young LLP ("EY") and PricewaterhouseCoopers LLP ("PwC"), each of who have certified certain financial statements of the Company and its subsidiaries and delivered their reports with respect to the audited consolidated financial statements and schedules filed with the Commission as part of the Registration Statement and included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, are independent registered public accounting firms with respect to the Company within the meaning of the Securities Act and the applicable rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States).
The Company, Foundation Technology and each of their respective subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, and none of the Company, Foundation Technology nor any subsidiaries of the Company or Foundation Technology has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole.

The Company, Foundation Technology and each of their respective subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with U.S. GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Since the end of the Company’s most recent audited fiscal year, there has been (i) no material weakness in the Company’s or Foundation Technology’s internal control over financial reporting (whether or not remediated) and (ii) no change in the Company’s and Foundation Technology’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s and Foundation Technology’s internal control over financial reporting.

Other than the Reorganization Transactions and except as described in the Time of Sale Prospectus, the Company has not sold, issued or distributed any shares of Common Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or S of, the Securities Act, other than shares issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants.

The Company, Foundation Technology and each of their respective subsidiaries have filed all federal, state, local and foreign tax returns required to be filed through the date of this Agreement or have requested extensions thereof (except where the failure to file would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology and their subsidiaries, taken as a whole) and have paid all taxes required to be paid thereon (except for cases in which the failure to file or pay would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, Foundation Technology and their subsidiaries, taken as a whole).
effect on the Company, Foundation Technology and each of their respective subsidiaries, taken as a whole, or, except as currently being contested in good faith and for which reserves required by U.S. GAAP have been created in the financial statements of the Company and Foundation Technology), and no tax deficiency has been determined adversely to the Company, Foundation Technology or any of their respective subsidiaries which, singly or in the aggregate, remains unpaid and has had (nor does the Company, Foundation Technology, nor any of their respective subsidiaries have any notice or knowledge of any tax deficiency which remains unpaid and would reasonably be expected to be determined adversely to the Company, Foundation Technology or any of their respective subsidiaries and which would reasonably be expected to have) a material adverse effect on the Company, Foundation Technology and their subsidiaries, taken as a whole.

(nn) The Company (i) has not alone engaged in any Testing-the-Waters Communication with any person and (ii) has not authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. The Company reconfirms that the Representatives have been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act [other than those listed on Schedule [ ] hereto]. “Testing-the-Waters Communication” means any communication with potential investors undertaken in reliance on Section 5(d) or Rule 163B of the Securities Act.

(oo) As of the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers, none of (A) the Time of Sale Prospectus, (B) any free writing prospectus, and (C) any individual Testing-the-Waters Communication, when considered together with the Time of Sale Prospectus included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information.

(pp) The statements in the Time of Sale Prospectus and the Prospectus under the headings “Material U.S. Federal Income Tax Considerations for Non-U.S. Holders,” “Description of Capital Stock,” “Certain Relationships and Related Party Transactions,” “The Reorganization Transactions,” and “Underwriters” insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate and fair summaries of such legal matters, agreements, documents or proceedings.

(qq) No relationships, direct or indirect, exists between or among the Company, Foundation Technology or any of their respective subsidiaries, on the one hand, and the directors, officers, stockholders, customers, suppliers or other affiliates of the Company or Foundation Technology or any of their respective subsidiaries, on the other, that is required by the Securities Act to be described in each of the Registration Statement and the Prospectus and that is not so described in such documents and in the Time of Sale Prospectus.
(rr) (i) The holders of Shares or securities convertible into or exercisable or exchangeable for Shares representing all of the Shares or securities convertible into or exercisable or exchangeable for Shares that have not delivered executed Lock-up Agreements (as described in Section 6(g)) to the Representatives as of the date hereof and (ii) any Shares or securities convertible into or exercisable or exchangeable for Shares that are issuable pursuant to any employee benefit plan in effect on the date hereof and described in the Time of Sale Prospectus are bound by market standoff provisions with the Company that impose restrictions with respect to such securities during the Restricted Period (as defined below) without the consent of the Company ("Market Standoff Provisions") that are enforceable by the Company. Each such Market Standoff Provision is in full force and effect as of the date hereof and shall remain in full force and effect during the Restricted Period.

2. Representations and Warranties of the Selling Shareholders. Each Selling Shareholder, severally and not jointly, represents and warrants to and agrees with each of the Underwriters that:

   (a) This Agreement has been duly authorized, executed and delivered by or on behalf of such Selling Shareholder.

   (b) The execution and delivery by such Selling Shareholder of, and the performance by such Selling Shareholder of its obligations under this Agreement, will not contravene (i) any provision of applicable law applicable to such Selling Shareholder, (ii) the organizational documents of such Selling Shareholder (if such Selling Shareholder is a corporation, limited liability company, partnership or other entity), (iii) any agreement or other instrument binding upon such Selling Shareholder or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over such Selling Shareholder, except in the case of clauses (i), (iii) and (iv) as would not, singly or in the aggregate, have a material adverse effect on the ability of the Selling Shareholders to consummate the transactions contemplated by this Agreement and no consent, approval, authorization or order of, or qualification with, any governmental body or agency is required for the performance by such Selling Shareholder of its obligations under this Agreement of such Selling Shareholder, except (i) such as may have already been obtained, (ii) such as may be required by the securities or Blue Sky laws of the various states or foreign jurisdictions or the rules and regulations of FINRA in connection with the offer and sale of the Shares or (iii) such that would not reasonably be expected to have a material adverse effect on the ability of such Selling Shareholder to consummate the transactions contemplated by this Agreement.
Such Selling Shareholder has, and on the Closing Date will have, valid title to, or a valid "security entitlement" (as defined in Section 8-102 of the New York Uniform Commercial Code) in respect of, the Shares to be sold by such Selling Shareholder free and clear of all security interests, claims, liens, equities or other encumbrances and the legal right and power, and all authorization and approval required by law, to enter into this Agreement and to sell, transfer and deliver the Shares to be sold by such Selling Shareholder or a security entitlement in respect of such Shares.

With respect to any Selling Shareholder that is a non-U.S. person, no stamp, documentary, issuance, registration, transfer, withholding, capital gains, income or other taxes or duties are payable by or on behalf of the Underwriters, the Company or any of its subsidiaries in India, the UK or Ireland, or to any taxing authority thereof or therein in connection with (i) the execution, delivery or consummation of this Agreement, (ii) the sale and delivery of the Shares to the Underwriters or purchasers procured by the Underwriters, or (iii) the resale and delivery of the Shares by the Underwriters in the manner contemplated herein.

Upon payment for the Shares to be sold by such Selling Shareholder pursuant to this Agreement, delivery of such Shares, as directed by the Underwriters, to Cede & Co. ("Cede") or such other nominee as may be designated by the Depository Trust Company ("DTC"), registration of such Shares in the name of Cede or such other nominee and the crediting of such Shares on the books of DTC to the securities account of Goldman Sachs (assuming that neither DTC nor Goldman Sachs has notice of any adverse claim (within the meaning of Section 8-105 of the New York Uniform Commercial Code (the "UCC"))) to such Shares, (A) DTC shall be a "protected purchaser" of such Shares within the meaning of Section 8-303 of the UCC, (B) under Section 8-501 of the UCC, Goldman Sachs will acquire a valid security entitlement in respect of such Shares and (C) no action based on any "adverse claim", (as defined in Section 8-102 of the UCC) to such Shares may be asserted against Goldman Sachs with respect to such security entitlement; for purposes of this representation, such Selling Shareholder may assume that when such payment, delivery and crediting occur, (x) such Shares will have been registered in the name of Cede or another nominee designated by DTC, in each case on the Company’s share registry in accordance with its certificate of incorporation, bylaws and applicable law, (y) DTC will be registered as a “clearing corporation” (as defined in Section 8-102 of the UCC) and (z) appropriate entries to the account of Goldman Sachs on the records of DTC will have been made pursuant to the UCC.

Such Selling Shareholder has delivered to the Representatives an executed lock-up agreement in substantially the form attached hereto as Exhibit A (the "Lock-up Agreement").

The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection
with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 5), the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (iii) the Prospectus does not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph 2(g) are limited in all respects to statements or omissions made in reliance upon and in conformity with the information relating to such Selling Shareholder furnished to the Company in writing by or on behalf of such Selling Shareholder expressly for use in the Registration Statement, the Time of Sale Prospectus or the Prospectus, it being understood and agreed that for purposes of this Agreement, the only information furnished by such Selling Shareholder consists of the name of such Selling Shareholder, the number of offered shares and the address and other information with respect to such Selling Shareholder (excluding percentages) which appear in the Registration statement or the Prospectus in the table (and corresponding footnotes) under the caption “Principal and Selling Stockholders” (with respect to each Selling Shareholder, the “Selling Shareholder Information”).

3. Agreements to Sell and Purchase. Each Seller, severally and not jointly, hereby agrees to sell to the several Underwriters, and each Underwriter, upon the basis of the representations and warranties herein contained, but subject to the terms and conditions hereinafter stated, agrees, severally and not jointly, to purchase from such Seller at $[______] a share (the “Purchase Price”) the number of Firm Shares (subject to such adjustments to eliminate fractional shares as Morgan Stanley may determine) that bears the same proportion to the number of Firm Shares to be sold by such Seller as the number of Firm Shares set forth in Schedule II hereto opposite the name of such Underwriter bears to the total number of Firm Shares.

On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Sellers agree to sell to the Underwriters the Additional Shares, and the Underwriters shall have the right to purchase, severally and not jointly, up to [_____________] Additional Shares at the Purchase Price, provided, however, that the amount paid by the Underwriters for any Additional Shares shall be reduced by an amount per share equal to any dividends declared by the Company and payable on the Firm Shares but not payable on such Additional Shares. The Representatives may exercise this right on behalf of the Underwriters in whole or from time to time in part by giving written notice to the Sellers not later than 30 days after the date of this Agreement. Any exercise notice shall specify the number of Additional Shares to be purchased by the Underwriters and the date on which such shares are to be purchased. Each purchase date must be at least one business day after the written notice is given and may not be earlier than the closing date for the Firm Shares or later than ten business days after the date of such notice. Additional Shares may be purchased as provided in Section 5 hereof solely for the purpose of covering over-allotments made in connection with the
offering of the Firm Shares. On each day, if any, that Additional Shares are to be purchased (an “Option Closing Date”), each Underwriter agrees, severally and not jointly, to purchase the number of Additional Shares (subject to such adjustments to eliminate fractional shares as the Representatives may determine) that bears the same proportion to the total number of Additional Shares to be purchased on such Option Closing Date as the number of Firm Shares set forth in Schedule II hereto opposite the name of such Underwriter bears to the total number of Firm Shares.

4. **Terms of Public Offering.** The Sellers are advised by the Representatives that the Underwriters propose to make a public offering of their respective portions of the Shares as soon after the Registration Statement and this Agreement have become effective as in the Representatives’ judgment is advisable. The Sellers are further advised by the Representatives that the Shares are to be offered to the public initially at $[_____________] a share (the “Public Offering Price”) and to certain dealers selected by the Representatives at a price that represents a concession not in excess of $[______] a share under the Public Offering Price, and that any Underwriter may allow, and such dealers may reallow, a concession, not in excess of $[_____] a share, to any Underwriter or to certain other dealers.

5. **Payment and Delivery.** Payment for the Firm Shares to be sold by each Seller shall be made to such Seller in Federal or other funds immediately available in New York City against delivery of such Firm Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on [____________], 20[__], or at such other time on the same or such other date, not later than [_________], 20[__], as shall be designated in writing by the Representatives. The time and date of such payment are hereinafter referred to as the “Closing Date.”

Payment for any Additional Shares shall be made to the Selling Shareholders in Federal or other funds immediately available in New York City against delivery of such Additional Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on the date specified in the corresponding notice described in Section 3 or at such other time on the same or on such other date, in any event not later than [_______], 20[__], as shall be designated in writing by the Representatives.

The Firm Shares and Additional Shares shall be registered in such names and in such denominations as the Representatives shall request not later than one full business day prior to the Closing Date or the applicable Option Closing Date, as the case may be. The Firm Shares and Additional Shares shall be delivered to the Representatives on the Closing Date or an Option Closing Date, as the case may be, for the respective accounts of the several Underwriters, with any transfer taxes payable in connection with the transfer of the Shares to the Underwriters duly paid, against payment of the Purchase Price therefor.

6. **Conditions to the Underwriters’ Obligations.** The obligations of the Sellers to sell the Shares to the Underwriters and the several obligations of the Underwriters to purchase and pay for the Shares on the Closing Date are subject to the condition that the Registration Statement shall have become effective not later than [_____] (New York City time) on the date hereof.
The several obligations of the Underwriters are subject to the following further conditions:

(a) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date:

(i) the respective representations and warranties of the Company, Foundation Technology and the Selling Shareholders contained herein shall be true and correct on the date hereof and on and as of the Closing Date; and the statements of the Company, Foundation Technology and the Selling Shareholders and their respective officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date;

(ii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any of the securities of the Company or any of its subsidiaries by any “nationally recognized statistical rating organization,” as such term is defined in Section 3(a)(62) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”);

(iii) no order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose or pursuant to Section 8A under the Securities Act shall be pending before or, to the knowledge of the Company, threatened by the Commission;

(iv) there shall not have occurred any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business, management or operations of the Company, Foundation Technology and the subsidiaries of the Company or Foundation Technology, taken as a whole, from that set forth in the Time of Sale Prospectus that, in the Representatives’ judgment, is material and adverse and that makes it, in the Representatives’ judgment, impracticable to market the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus.

(b) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed by an executive officer of each of the Company and Foundation Technology, to the effect forth in Sections 6(a)(i), 6(a)(ii), 6(a)(iii) and 6(a)(iv) above and to the effect that the Company and Foundation Technology, as applicable, have complied with all of the agreements and satisfied all of the conditions on their respective parts to be performed or satisfied hereunder on or before the Closing Date.

The officer signing and delivering such certificate may rely upon the best of his or her knowledge as to proceedings threatened.
(c) The Underwriters shall have received on the Closing Date an opinion and negative assurance letter of Ropes & Gray, LLP ("Ropes and Gray"), outside counsel for the Company and Foundation Technology in the form and substance reasonably satisfactory to the Representatives.

(d) The Underwriters shall have received on the Closing Date an opinion of (i) Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden"), counsel for Intel, (ii) Kirkland & Ellis LLP ("Kirkland & Ellis"), counsel for Thoma Bravo, L.P., (iii) Sidley Austin LLP ("Sidley Austin"), counsel for Snowlake Investment Pte Ltd, and (iv) Ropes and Gray, counsel for TPG Global, LLC, for the Selling Shareholders in the form and substance reasonably satisfactory to the Representatives.

(e) The Underwriters shall have received on the Closing Date an opinion and negative assurance letter of Wilson Sonsini Goodrich & Rosati, Professional Corporation ("Wilson Sonsini"), counsel for the Underwriters, dated the Closing Date, in form and substance reasonably satisfactory to the Representatives.

(f) The Underwriters shall have received, on each of the date hereof and the Closing Date, letters dated the date hereof or the Closing Date, as the case may be, in form and substance satisfactory to the Representatives, from each of PwC and EY, independent public accountants, containing statements and information of the type ordinarily included in accountants’ “comfort letters” to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus; provided that the letters delivered on the Closing Date shall use a “cut-off date” not earlier than the date hereof.

(g) The “lock-up” agreements, each substantially in the form of Exhibit A hereto, between the Representatives and certain holders of shares of Common Stock or membership interests of Foundation Technology or any other securities convertible into or exercisable or exchangeable for Common Stock or units of Foundation Technology (such shares of Common Stock, units of Foundation Technology or such other securities collectively, the “Securities”), officers, directors and managers of the Company and Foundation Technology, as applicable, relating to restrictions on sales and certain other dispositions of Securities, delivered to the Representatives on or before the date hereof (the “Lock-up Agreements”), shall be in full force and effect on the Closing Date.

(h) The Reorganization Transactions shall have been completed, or will be completed substantially concurrently with the Closing Date, as described in the Prospectus.

(i) As of the Closing Date:
(i) The Transaction Documents shall have been executed and delivered; and

(ii) The Amended and Restated Charter shall have been filed with the Secretary of State of the State of Delaware and shall be in full force and effect.

(j) The Underwriters shall have received, on the date hereof and the Closing Date, a certificate of the principal financial officers of each of the Company and Foundation Technology dated the date hereof, in form and substance satisfactory to the Underwriters, containing statements and information with respect to certain information contained in the Time of Sale Prospectus and the Prospectus.

(k) The several obligations of the Underwriters to purchase Additional Shares hereunder are subject to the delivery to the Representatives on the applicable Option Closing Date of the following:

(i) the respective representations and warranties of the Company, Foundation Technology and the Selling Shareholders contained herein shall be true and correct on the date hereof and on and as of the applicable Option Closing Date;

(ii) certificates, dated the Option Closing Date and signed by an executive officer of each of the Company and Foundation Technology, confirming that the respective certificates of the Company and Foundation Technology delivered on the Closing Date pursuant to Section 5(b) hereof remains true and correct as of such Option Closing Date;

(iii) an opinion and negative assurance letter of Ropes & Gray, outside counsel for the Company and Foundation Technology, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinion required by Section 5(c) hereof;

(iv) opinions from each of Skadden, Kirkland & Ellis, Sidley Austin and Ropes and Gray, counsel for the Selling Shareholders in the form and substance reasonably satisfactory to the Representatives;

(v) an opinion and negative assurance letter of Wilson Sonsini, counsel for the Underwriters, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinion required by Section 6(e) hereof;
(vi) letters dated the Option Closing Date, in form and substance satisfactory to the Underwriters, from each of PwC and EY, independent public accountants, substantially in the same form and substance as the letters furnished to the Underwriters pursuant to Section 6(f) hereof; provided that the letter delivered on the Option Closing Date shall use a “cut-off date” not earlier than two business days prior to such Option Closing Date;

(vii) a certificate of the principal financial officers of each of the Company and Foundation Technology dated the Option Closing Date, substantially in the same form and substance as the letters furnished to the Underwriters pursuant to Section 6(i) hereof, containing statements and information with respect to certain information contained in the Time of Sale Prospectus and the Prospectus; and

(viii) such other documents as the Representatives may reasonably request with respect to the good standing of the Company and Foundation Technology, the due authorization and issuance of the Additional Shares to be sold on such Option Closing Date and other matters related to the issuance of such Additional Shares.

With respect to the negative assurance letters to be delivered pursuant to Sections 6(c) and 6(e) above, Ropes and Gray and Wilson Sonsini may state that their opinions and beliefs are based upon their participation in the preparation of the Registration Statement, the Time of Sale Prospectus and the Prospectus and any amendments or supplements thereto and review and discussion of the contents thereof, but are without independent check or verification, except as specified.

7. Covenants of the Company and Foundation Technology. Each of the Company and Foundation Technology, jointly and severally, covenants with each Underwriter as follows:

(a) To furnish to the Representatives without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period mentioned in Section 7(e) or 7(f) below, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as the Representatives may reasonably request.

(b) Before amending or supplementing the Registration Statement, the Time of Sale Prospectus or the Prospectus, to furnish to the Representatives a copy of each such proposed amendment or supplement and not to file any such proposed amendment or supplement to which the Representatives reasonably object, and to file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) To furnish to the Representatives a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and Foundation Technology and not to use or refer to any proposed free writing prospectus to which the Representatives reasonably object.
(d) Not to take any action that would result in an Underwriter or the Company and Foundation Technology being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Underwriter that the Underwriter otherwise would not have been required to file thereunder.

(e) If the Time of Sale Prospectus is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement then on file, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances when the Time of Sale Prospectus is delivered to a prospective purchaser, be misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(f) If, during such period after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is required by law to be delivered in connection with sales by an Underwriter or dealer, any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, not misleading, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses the Representatives will furnish to the Company and Foundation Technology) to which Shares may have been sold by the Representatives on behalf of the Underwriters and to any other dealers upon request, either amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law.
(g) To endeavor to qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request; provided that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Shares, or taxation in any jurisdiction where it is not now so subject.

(h) To make generally available to the Company’s security holders and to the Underwriters as soon as practicable an earnings statement covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the date of this Agreement which shall satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

(i) If any Selling Shareholder is not a U.S. person for U.S. federal income tax purposes, the Company will deliver to each Underwriter (or its agent), on or before the Closing Date, (i) a certificate with respect to the Company’s status as a “United States real property holding corporation,” dated not more than thirty (30) days prior to the Closing Date, as described in Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3), and (ii) proof of delivery to the IRS of the required notice, as described in Treasury Regulations 1.897-2(h)(2).

(j) Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, to pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including: (i) the fees, disbursements and expenses of the Company’s and Foundation Technology’s counsel and the Company’s and Foundation Technology’s accountants in connection with the registration and delivery of the Shares under the Securities Act and all other fees or expenses in connection with the preparation and filing of the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company and Foundation Technology and amendments and supplements to any of the foregoing, including all printing costs associated therewith, and the mailing and delivering of copies thereof to the Underwriters and dealers, in the quantities hereinabove specified, (ii) all costs and expenses related to the transfer and delivery of the Shares to the Underwriters, including any transfer or other taxes payable thereon, (iii) the reasonably incurred cost of printing or producing any Blue Sky or Legal Investment memorandum in connection with the offer and sale of the Shares under state securities laws and all reasonably incurred and documented expenses incurred in connection with the qualification of the Shares for offer and sale under state securities laws as provided in Section 7(g) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky or Legal Investment memorandum, (iv) all filing fees and the reasonable and documented fees and disbursements of counsel to the Underwriters incurred in connection with the review and qualification of the offering of the Shares by FINRA (provided that the aggregate amount payable by the Company with respect to fees and disbursements of counsel to the Underwriters pursuant to clauses (iii) and (iv) of this Section 7(j)
shall not exceed $50,000), (v) all fees and expenses in connection with the preparation and filing of the registration statement on Form 8-A relating to the Common Stock and all costs and expenses incident to listing the Shares on NASDAQ Global Market, (vi) the cost of printing certificates representing the Shares, (vii) the costs and charges of any transfer agent, registrar or depositary, (viii) the costs and expenses of the Company and Foundation Technology relating to investor presentations on any “road show” undertaken in connection with the marketing of the offering of the Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company and Foundation Technology, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and 50% of the cost of any aircraft chartered in connection with the road show, (ix) the document production charges and expenses associated with printing this Agreement and (x) all other costs and expenses incident to the performance of the obligations of the Company and Foundation Technology hereunder for which provision is not otherwise made in this Section. It is understood, however, that except as provided in this Section, Section 10 entitled “Indemnity and Contribution” and the last paragraph of F below, the Underwriters will pay all of their costs and expenses, including fees and disbursements of their counsel, stock transfer taxes payable on resale of any of the Shares by them and any advertising expenses connected with any offers they may make, and travel and lodging expenses incurred by them in connection with any road show (including 50% of the cost of any aircraft chartered in connection with such road show). The Company agrees and confirms that references to “affiliates” of Morgan Stanley that appear in this agreement shall be understood to include Mitsubishi UFJ Morgan Stanley Securities Co., Ltd.

(k) The Company and Foundation Technology will apply the net proceeds from the sale of the Shares as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the heading “Use of Proceeds”.

(l) The Company and Foundation Technology has not taken, and will not take, directly or indirectly, any action designed to or that would reasonably be expected to cause or result in any stabilization or manipulation of the price of the Common Stock.

(m) If at any time following the distribution of any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act there occurred or occurs an event or development as a result of which such Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.
The Company and Foundation Technology will deliver to each Underwriter (or its agent), on the date of execution of this Agreement, a properly completed and executed Certification Regarding Beneficial Owners of Legal Entity Customers, together with copies of identifying documentation, and the Company and Foundation Technology undertake to provide such additional supporting documentation as each Underwriter may reasonably request in connection with the verification of the foregoing certification.

The Company and Foundation Technology also covenant with the Representatives that, without the prior written consent of the Representatives on behalf of the Underwriters, it will not, and will not publicly disclose an intention to, during the period ending 180 days after the date of the Prospectus (the “Restricted Period”), (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or units of Foundation Technology or any securities convertible into or exercisable or exchangeable for Common Stock, or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock or units of Foundation Technology, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise or (3) file any registration statement with the Commission relating to the offering of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock.

The restrictions contained in the preceding paragraph shall not apply to (A) the Shares to be sold hereunder, (B) the issuance of Common Stock or other securities to effect the Reorganization Transactions, (C) the issuance by the Company of shares of Common Stock upon the exercise of an option or warrant or the conversion of a security outstanding on the date hereof as described in each of the Time of Sale Prospectus and Prospectus, (D) facilitating the establishment of a trading plan on behalf of a shareholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, provided that (i) such plan does not provide for the transfer of Common Stock during the Restricted Period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of Common Stock may be made under such plan during the Restricted Period, (E) the grant by the Company or Foundational Technology of awards under equity incentive plans (including employee stock purchase plans) or other similar arrangements, so long as each plan or arrangement is disclosed in the Time of Sale Prospectus and the Prospectus, (F) the filing of a registration statement on Form S-8 (or equivalent form) with the Commission in connection with an employee stock compensation plan or agreement of the Company, which plan or agreement is disclosed in the Time of Sale Prospectus and the Prospectus, (G) the issuance of securities by the Company in exchange for securities of Foundation Technology pursuant to the terms of the limited
liability company agreement of Foundation Technology (as amended from time to time), and (H) the issuance of shares of Common Stock or other securities (including securities convertible into shares of Common Stock) in connection with the acquisition by the Company or any of its subsidiaries of the securities, businesses, joint ventures, products or technologies, properties or other assets of another person or entity or pursuant to any equity incentive plan or arrangement, or any employee benefit plan, assumed by the Company in connection with any such transaction (or any equity incentive plan or arrangement, or any employee benefit plan, to the extent used to issue awards substitute awards or securities related to any such transaction); provided that the aggregate amounts of Securities (on an as converted, as exercised or as exchanged basis) that the Company may sell or issue or agree to sell or issue pursuant to clause (H) shall not exceed 10% of the total number of Common Stock of the Company issued and outstanding immediately following the completion of the transactions contemplated by this Agreement determined on a fully diluted basis, and provided further that in the case of clauses (F) and (H), any recipients of such shares of Common Stock shall deliver a “lock-up” agreement to the Representatives substantially in the form of Exhibit A hereto.

In addition, during the Restricted Period, the Company agrees to (a) enforce the Market Standoff Provisions and any similar transfer restrictions contained in any agreement between the Company and any of its securityholders, including, without limitation, through the issuance of stop transfer instructions to the Company’s transfer agent with respect to any transaction that would constitute a breach of, or default under, the transfer restrictions, and (b) not amend or waive any such transfer restrictions with respect to any such holder without the prior written consent of the Representatives on behalf of the Underwriters.

If the Representatives, in the Representatives’ sole discretion, agrees to release or waive the restrictions on the transfer of Shares set forth in a Lock-up Agreement for an officer or director of the Company and Foundation Technology and provides the Company and Foundation Technology with notice of the impending release or waiver at least three business days before the effective date of the release or waiver, the Company and Foundation Technology agree to announce the impending release or waiver by a press release substantially in the form of Exhibit B hereto through a major news service at least two business days before the effective date of the release or waiver.

8. Covenants of the Selling Shareholders. Each Selling Shareholder, severally and not jointly, covenants with each Underwriter as follows:

(a) Each Selling Shareholder will deliver to each Underwriter (or its agent), prior to or at the Closing Date, a properly completed and executed Internal Revenue Service (“IRS”) Form W-9 or an IRS Form W-8, as appropriate, together with all required attachments to such form.

(b) Each Selling Shareholder will deliver to each Underwriter (or its agent), on the date of execution of this Agreement, to the extent applicable to such Selling Shareholder, a properly completed and executed Certification Regarding Beneficial Owners of Legal Entity Customers, together with copies of any additional documentation necessary to comply with 31 CFR § 1010.230.
(c) All sums payable by the Company or the Selling Shareholder under this Agreement shall be paid free and clear of and without deductions or withholdings of any present or future taxes or duties, unless the deduction or withholding is required by law, in which case the Company or the Selling Shareholder, as the case may be, shall pay such additional amount as will result in the receipt by each Underwriter of the full amount that would have been received had no deduction or withholding been made.

(d) All sums payable to an Underwriter shall be considered exclusive of any value added or similar taxes. Where the Company or, as the case may be, a Selling Shareholder is obliged to pay value added or similar tax on any amount payable hereunder to an Underwriter, the Company or the Selling Shareholder, as the case may be, shall in addition to the sum payable hereunder pay an amount equal to any applicable value added or similar tax.

9. **Covenants of the Underwriters.** Each Underwriter, severally and not jointly, covenants with the Company and Foundation Technology not to take any action that would result in the Company and Foundation Technology being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not be required to be filed by the Company and Foundation Technology thereunder, but for the action of the Underwriter.

10. **Indemnity and Contribution.** (a) The Company and Foundation Technology, jointly and severally, agree to indemnify and hold harmless each Underwriter, its directors, officers, employees and agents, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any documented legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) that arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus or any amendment or supplement thereto, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company and Foundation Technology information that the Company and Foundation Technology have filed, or are required to file, pursuant to Rule 433(d) under the Securities Act, any road show as defined in Rule 433(h) under the Securities Act (a “road show”), or the Prospectus or any amendment or supplement thereto, or any Testing-the-Waters Communication, that arise out of, or are based upon, any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities that arise out of, or are based upon, any such untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company and Foundation Technology in writing by such Underwriter through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by the Underwriters through the Representatives consists of the Underwriter
(b) Each Selling Shareholder agrees, severally and not jointly, in proportion to the number of shares to be sold by such Selling Shareholder hereunder, to indemnify and hold harmless each Underwriter, its directors, officers, employees and agents, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) that arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus or any amendment or supplement thereto, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, the Prospectus or any amendment or supplement thereto, or any Testing the Waters Communication that arise out of, or are based upon, any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, (A) except insofar as such losses, claims, damages or liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any Underwriter Information and (B) only to the extent such losses, claims, damages or liabilities are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with the Selling Shareholder Information provided by such Selling Shareholder. The liability of each Selling Shareholder under the indemnity agreement contained in this paragraph shall be limited to an amount equal to the aggregate Public Offering Price of the Shares sold by such Selling Shareholder under this Agreement.

(c) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, Foundation Technology, the Selling Shareholders, the directors of the Company and Foundation Technology, the officers who sign the Registration Statement and each person, if any, who controls the Company, Foundation Technology or any Selling Shareholder within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company and the Selling Shareholders to such Underwriter, but only with reference to information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement or any amendment thereof, the Time of Sale Prospectus or any amendment or supplement thereto, any issuer free writing prospectus, road show or the Prospectus or any amendment or
supplement thereto, it being understood and agreed that the only such information furnished by any Underwriter consists of: the selling concession amount appearing in the [third] paragraph under the caption “Underwriters” in the Prospectuses, the information concerning sales to discretionary accounts appearing in the [seventh] paragraph under the caption “Underwriters” in the Prospectuses, and the information concerning stabilization and the Underwriters’ option to purchase additional shares in the [eleventh] paragraph under the caption “Underwriters” in the Prospectuses (the “Underwriter Information”).

(d) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to Section 10(a), 10(b) or 10(c), such person (the “indemnified party”) shall promptly notify the person against whom such indemnity may be sought (the “indemnifying party”) in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the reasonably incurred and documented fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the reasonably incurred and documented fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in respect of the legal expenses of any indemnified party in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonably incurred and documented fees and expenses of more than one separate firm (in addition to any local counsel) for all such indemnified parties and that all such reasonably incurred and documented fees and expenses shall be reimbursed as they are incurred. Such firm shall be designated in writing by the Representatives, in the case of parties indemnified pursuant to Section 10(a), and by the Company, in the case of parties indemnified pursuant to Section 10(c). The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonably incurred and documented fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the indemnifying party agrees that it shall be liable for any settlement of

1 NTD: Underwriter information will be limited to specific sentences to be discussed as the UW Section is finalized.
any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party (which consent shall not be unreasonably withheld), effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding.

(e) To the extent the indemnification provided for in Section 10(a), 10(b) or 10(c) is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by indemnifying party or parties on the one hand and the indemnified party or parties on the other hand from the offering of the Shares or (ii) if the allocation provided by clause 10(e)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 10(e)(i) above but also the relative fault of the indemnifying party or parties on the one hand and of the indemnified party or parties on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by each Seller and Foundation Technology on the one hand and the Underwriters on the other hand in connection with the offering of the Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Shares (before deducting expenses) received by each Seller and Foundation Technology and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate Public Offering Price of the Shares. The relative fault of each Seller and Foundation Technology on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by such Seller or Foundation Technology or by the Underwriters and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Underwriters’ respective obligations to contribute pursuant to this Section 10 are several in proportion to the respective number of Shares they have purchased hereunder, and not joint. Notwithstanding anything to the contrary in this Section 10, the liability of each Selling Shareholder under Section 10(b) and this Section 10(e) shall in no event exceed the amount of such Selling Shareholders’ net proceeds (after deducting underwriting discounts and commissions but before deducting any other expenses) from its sale of the Shares under this Agreement.
(f) The Sellers, Foundation Technology and the Underwriters agree that it would not be just or equitable if contribution pursuant to this Section 10 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in Section 10(e). The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in Section 10(e) shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 10, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in this Section 10 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(g) The indemnity and contribution provisions contained in this Section 10 and the representations, warranties and other statements of the Company, Selling Shareholders and Foundation Technology contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Underwriter, any person controlling any Underwriter or by or on behalf of any Selling Shareholder or any person controlling any Selling Shareholder, or by or on behalf of the Company, Foundation Technology, their respective officers, directors, or managers, as applicable, or any person controlling the Company or Foundation Technology and (iii) acceptance of and payment for any of the Shares.

11. Termination. The Underwriters may terminate this Agreement by notice given by the Representatives to the Company and Foundation Technology and the Selling Shareholders, if after the execution and delivery of this Agreement and prior to the Closing Date, or any Option Closing Date, as the case may be, (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, any of the New York Stock Exchange or the NASDAQ Global Select Market, (ii) trading of any securities of the Company shall have been suspended on any national exchange or in any over-the-counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) a general moratorium on commercial banking activities shall have been declared by Federal or New York State authorities or (v) there shall have occurred any outbreak or escalation of hostilities, or any change in financial markets, or any calamity or crisis that, in the Representatives’ judgment, is material and adverse and which, singly or together with any other event specified in this clause (v), makes it, in the Representatives’ judgment, impracticable or inadvisable to proceed with the offer, sale or delivery of the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus or the Prospectus.
12. Effectiveness; Defaulting Underwriters. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

If, on the Closing Date or an Option Closing Date, as the case may be, any one or more of the Underwriters shall fail or refuse to purchase Shares that it has or they have agreed to purchase hereunder on such date, and the aggregate number of Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the aggregate number of the Shares to be purchased on such date, the other Underwriters shall be obligated severally in the proportions that the number of Firm Shares set forth opposite their respective names in Schedule I bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as the Representatives may specify, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; provided that in no event shall the number of Shares that any Underwriter has agreed to purchase pursuant to this Agreement be increased pursuant to this Section 12 by an amount in excess of one-ninth of such number of Shares without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Firm Shares and the aggregate number of Firm Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Firm Shares to be purchased on such date, and arrangements satisfactory to the Representatives and the Company, Selling Shareholders and Foundation Technology for the purchase of such Firm Shares are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter, the Company, Selling Shareholders or Foundation Technology. In any such case either the Representatives or the Company or Foundation Technology shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement, in the Time of Sale Prospectus, in the Prospectus or in any other documents or arrangements may be effected. If, on an Option Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Additional Shares and the aggregate number of Additional Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Additional Shares to be purchased on such Option Closing Date, the non-defaulting Underwriters shall have the option to (i) terminate their obligation hereunder to purchase the Additional Shares to be sold on such Option Closing Date or (ii) purchase not less than the number of Additional Shares that such non-defaulting Underwriters would have been obligated to purchase in the absence of such default. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company or Foundation Technology to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company or Foundation Technology shall be unable to perform its obligations under this Agreement, in each case other than as a result of a termination by the Underwriters pursuant
to clauses (i) or (iii)-(v) of Section 11 hereof, the Company and Foundation Technology, jointly and severally, will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the reasonable and documented fees and disbursements of their counsel) reasonably incurred by such Underwriters in connection with this Agreement or the offering contemplated hereunder.

13. Entire Agreement. (a) This Agreement represents the entire agreement between the Company, Selling Shareholders and Foundation Technology, on the one hand, and the Underwriters, on the other, with respect to the preparation of any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

(b) The Company, each Selling Shareholder and Foundation Technology acknowledge that in connection with the offering of the Shares:
(i) the Underwriters have acted at arms length, are not agents of, and owe no fiduciary duties to, the Company, any of the Selling Shareholders, Foundation Technology or any other person, (ii) the Underwriters owe the Company, each Selling Shareholder and Foundation Technology only those duties and obligations set forth in this Agreement and prior written agreements (to the extent not superseded by this Agreement), if any, (iii) the Underwriters may have interests that differ from those of the Company and those of Foundation Technology, and (iv) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice, or solicitation of any action by the Underwriters with respect to any entity or natural person. Each of the Company, Selling Shareholders and Foundation Technology waives to the full extent permitted by applicable law any claims it may have against the Underwriters arising from an alleged breach of fiduciary duty in connection with the offering of the Shares.

(c) Each Selling Shareholder further acknowledges and agrees that, although the Underwriters may provide certain Selling Shareholders with certain Regulation Best Interest and Form CRS disclosures or other related documentation in connection with the offering, the Underwriters are not making a recommendation to any Selling Shareholder to participate in the offering or sell any Shares at the Purchase Price, and nothing set forth in such disclosures or documentation is intended to suggest that any Underwriter is making such a recommendation.

14. Recognition of the U.S. Special Resolution Regimes. (a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.
(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section a “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

15. Counterparts; Electronic Signature. This Agreement may be signed in two or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed Agreement by one party to the other may be made by facsimile, electronic mail or other transmission method as permitted by applicable law, and the parties hereto agree that any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. A party’s electronic signature (complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law) of this Agreement shall have the same validity and effect as a signature affixed by the party’s hand.

16. Applicable Law. This Agreement, and any claim, controversy or dispute arising under or related to this Agreement, shall be governed by and construed in accordance with the internal laws of the State of New York.

17. Headings. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

18. Notices. All communications hereunder shall be in writing and effective only upon receipt and if to the Underwriters shall be delivered, mailed or sent to Morgan Stanley at in care of Morgan Stanley & Co. LLC, 1585 Broadway, New York, New York 10036, Attention: Equity Syndicate Desk, with a copy to the Legal Department, in case of Goldman Sachs at in care of Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282, Attention: Equity Capital Markets, with a copy to the Legal Department; and if to the Company or Foundation Technology shall be delivered, mailed or sent to McAfee Corp., 6220 America Center Drive, San Jose, California 95002 and if to the Selling Shareholders shall be delivered, mailed or sent to [address].
Very truly yours,
McAfee Corp.

By: ________________________________
    Name: ________________________________
    Title: ________________________________

Very truly yours,
Foundation Technology Worldwide LLC

By: ________________________________
    Name: ________________________________
    Title: ________________________________

[Selling Shareholder]

By: ________________________________
    Name: ________________________________
    Title: ________________________________

Accepted as of the date hereof

Morgan Stanley & Co. LLC
Goldman Sachs & Co. LLC
Acting severally on behalf of themselves and the several Underwriters named in Schedule I hereto.

By: Morgan Stanley & Co. LLC

By: ________________________________
  Name:
  Title:

By: Goldman Sachs & Co. LLC

By: ________________________________
  Name:
  Title:
<table>
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<td>Goldman Sachs &amp; Co. LLC</td>
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<td>[NAMES OF OTHER UNDERWRITERS]</td>
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<tr>
<td>Total:</td>
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</table>
Time of Sale Prospectus

1. Preliminary Prospectus issued [date]
2. [identify all free writing prospectuses filed by the Company under Rule 433(d) of the Securities Act]
3. [free writing prospectus containing a description of terms that does not reflect final terms, if the Time of Sale Prospectus does not include a final term sheet]
4. [orally communicated pricing information such as price per share and size of offering if a Rule 134 pricing term sheet is used at the time of sale instead of a pricing term sheet filed by the Company under Rule 433(d) as a free writing prospectus]
Significant Subsidiaries

IV-1
FORM OF WAIVER OF LOCK-UP

___________________, 20__

[Name and Address of Officer or Director Requesting Waiver]

Dear Mr./Ms. [Name]:

This letter is being delivered to Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC (collectively the “Representatives”) in connection with the offering by McAfee Corp. (the “Company”) of _____ shares of Class A Common Stock, $0.001 par value (the “Class A Common Stock”), of the Company and the lock-up agreement dated ____, 20__ (the “Lock-up Agreement”), executed by you in connection with such offering, and your request for a [waiver] [release] dated ____, 20__, with respect to ____ shares of Class A Common Stock (the “Shares”).

The Representatives hereby agrees to [waive] [release] the transfer restrictions set forth in the Lock-up Agreement, but only with respect to the Shares, effective _____, 20__; provided, however, that such [waiver] [release] is conditioned on the Company announcing the impending [waiver] [release] by press release through a major news service at least two business days before effectiveness of such [waiver] [release]. This letter will serve as notice to the Company of the impending [waiver] [release].

Except as expressly [waived] [released] hereby, the Lock-up Agreement shall remain in full force and effect.

Very truly yours,

Morgan Stanley & Co. LLC
Acting severally on behalf of themselves and the several Underwriters named in Schedule I hereto

By: ____________________________

Name:
Title:

1 Insert if the Public Offering is an IPO and the undersigned is an executive officer or director of the Company.
Goldman Sachs & Co. LLC
Acting severally on behalf of themselves and the several Underwriters named in Schedule I hereto

By:

Name:  
Title:  

cc: Company
McAfee Corp. (the “Company”) announced today that Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC, the lead book-running manager in the Company’s recent public sale of ____ shares of its Class A common stock is [waiving][releasing] a lock-up restriction with respect to ____ shares of the Company’s Class A common stock held by [certain officers or directors] [an officer or director] of the Company. The [waiver][release] will take effect on ____, 20__, and the shares may be sold on or after such date.

This press release is not an offer for sale of the securities in the United States or in any other jurisdiction where such offer is prohibited, and such securities may not be offered or sold in the United States absent registration or an exemption from registration under the United States Securities Act of 1933, as amended.
Exhibit 4.1

MCAFEE CORP.

This certifies that

is the record holder of
FULLY PAID AND NONASSESSABLE SHARES OF CLASS A COMMON STOCK, $0.001 PAR VALUE PER SHARE, OF
MCAFEE CORP.
transferable on the books of the corporation in person or by duly authorized attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

CHIEF EXECUTIVE OFFICER

SECRETARY
The Corporation shall furnish without charge to each stockholder who so requests a statement of the powers, designations, preferences and relative, participatory, optional or other special rights of each class of stock of the Corporation or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Such requests shall be made to the Corporation's Secretary at the principal office of the Corporation.

**KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN, OR DESTROYED THE CORPORATION WILL REQUIRE A BOND INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.**

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

- **TEN COM** - as tenants in common
- **TEN ENT** - as tenants by the entirety
- **JT TEN** - as joint tenants with right of survivorship and not as tenants in common
- **COM PROP** - as community property
- **UNIF GIFT MIN ACT** - Custodian of Uniform Gifts to Minors Act
- **UNIF TRI MIN ACT** - Custodian of Uniform Transfers to Minors Act
- **Custodian**
- **Minor**
- **Uniform Gifts to Minors Act**
- **Uniform Transfers to Minors Act**
- **(State)**
- **(Minor)**
- **(Cust)**
- **(TEN COM)**
- **(TEN ENT)**
- **(JT TEN)**
- **(COM PROP)**
- **(UNIF GIFT MIN ACT)**
- **(UNIF TRI MIN ACT)**
- **(Cust)**
- **(Minor)**
- **(State)**
- **(Minor)**
- **(State)**

**Additional abbreviations may also be used though not in the above list.**

**FOR VALUE RECEIVED**

_____________ hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

__________ shares

of the capital stock represented by within Certificate, and do hereby irrevocably constitute and appoint

__________ attorney-in-fact

to transfer the said stock on the books of the within named Corporation with full power of the substitution in the premises.

Dated ____________________________

[Signature(s)]

**Signature(s) Guaranteed:**

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

By

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION.

( Banks, Stock Brokers, Savings and Loan Associations and Credit Unions with membership in an approved signature guarantee medallion program, pursuant to S.E.C. Rule 17A-45. Guarantees by a Notary Public are not acceptable. Signature Guarantees must not be printed.)
McAfee Corp.
6220 America Center Drive
San Jose, CA 95002

Ladies and Gentlemen:

We have acted as counsel to McAfee Corp., a Delaware corporation (the “Company”), in connection with the Registration Statement on Form S-1 (File No. 333-249101) (as amended through the date hereof, the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”), for the registration of up to 42,550,000 shares of the Class A common stock, $0.001 par value per share (“Common Stock”), of the Company, including 5,550,000 shares of Common Stock that may be purchased at the option of Morgan Stanley & Co. LLC and Goldman Sachs & Co. LLC, in their capacity as representatives of the underwriters named in the Underwriting Agreement (as defined below). Of the shares of Common Stock to be registered pursuant to the Registration Statement, 32,213,099 shares are being offered by the Company (the “Company Shares”) and up to 10,336,901 shares are being offered by certain selling stockholders (the “Selling Stockholder Shares” and, together with the Company Shares, the “Shares”). The Shares are proposed to be sold pursuant to an underwriting agreement (the “Underwriting Agreement”) to be entered into among the Company and the underwriters named therein.

In connection with this opinion letter, we have examined such certificates, documents and records and have made such investigation of fact and such examination of law as we have deemed appropriate in order to enable us to render the opinions set forth herein. In conducting such investigation, we have relied, without independent verification, upon certificates of officers of the Company, public officials and other appropriate persons.

The opinions expressed below are limited to the Delaware General Corporation Law.
Based upon and subject to the foregoing, we are of the opinion that (1) the Company Shares have been duly authorized and, when issued and delivered pursuant to the Underwriting Agreement against payment of the consideration set forth therein, will be validly issued, fully paid and non-assessable, and (2) the Selling Stockholder Shares have been duly authorized and are validly issued, fully paid and non-assessable.

We hereby consent to your filing this opinion as an exhibit to the Registration Statement and to the use of our name therein and in the related prospectus under the caption “Legal Matters.” In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Ropes & Gray LLP
Ropes & Gray LLP
AMENDMENT NO. 2 TO FIRST LIEN CREDIT AGREEMENT

This AMENDMENT NO. 2 TO FIRST LIEN CREDIT AGREEMENT, dated as of November 1, 2018 (this “Amendment”), is entered into by and among McAfee, LLC, a Delaware limited liability company (the “Borrower”), the Guarantors party hereto, the Lenders party hereto, Morgan Stanley Senior Funding, Inc. (“MSSF”), as administrative agent (the “Administrative Agent”) and Morgan Stanley Bank, N.A., as Additional Term B USD Lender (as defined in Exhibit A), Additional Term B Euro Lender (as defined in Exhibit A) and Term B Euro Incremental Lender (as defined in Exhibit A). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower, McAfee Finance 2, LLC, a Delaware limited liability company (“Holdings”), the Administrative Agent and the lenders from time to time party thereto are party to that certain First Lien Credit Agreement, dated as of September 29, 2017 (as amended, supplemented or otherwise modified prior to the date hereof, the “Credit Agreement”); capital terms not otherwise defined in this Amendment have the same meanings as specified in the Credit Agreement;

WHEREAS, Section 10.01 of the Credit Agreement provides that the relevant Loan Parties and the Required Lenders may amend the Credit Agreement and the other Loan Documents for certain purposes, including to permit additional extensions of credit to be included in the Credit Agreement;

WHEREAS, (i) each Second Amendment Consenting Lender (as defined in Exhibit A) has agreed, on the terms and conditions set forth herein, to consent to the amendments to the Credit Agreement as provided in Section 1 below, (ii) each Second Amendment Consenting Lender that has indicated on its signature page that it is consenting to convert its Closing Date USD Term Loans into a Term B USD Loan (as defined in Exhibit A) on the Amendment No. 2 Effective Date (as defined below) will have up to all of its outstanding Closing Date USD Term Loans (or such lesser amount as may be notified to such Lender by the Administrative Agent prior to the Amendment No. 2 Effective Date), converted into a like principal amount of Term B USD Loan effective as of the Amendment No. 2 Effective Date, (iii) each Second Amendment Consenting Lender that has indicated on its signature page that it is consenting to convert its Closing Date Euro Term Loans into a Term B Euro Loan (as defined in Exhibit A) on the Amendment No. 2 Effective Date will have up to all of its outstanding Closing Date Euro Term Loans (or such lesser amount as may be notified to such Lender by the Administrative Agent prior to the Amendment No. 2 Effective Date), converted into a like principal amount of Term B Euro Loan effective as of the Amendment No. 2 Effective Date, (iv) the Additional Term B USD Lender has agreed to make an Additional Term B USD Loan (as defined in Exhibit A) pursuant to the Additional Term B USD Commitment (as defined in Exhibit A) in a principal amount equal to $2,801,013,908.93 minus the principal amount of Converted Closing Date USD Term Loans (as defined in Exhibit A), the proceeds of which shall be applied to repay in full any Non-Converted Closing Date USD Term Loans (as defined in Exhibit A) and (v) the Additional Term B Euro Lender has agreed to make an Additional Term B
Euro Loan (as defined in Exhibit A) pursuant to the Additional Term B Euro Commitment (as defined in Exhibit A) in a principal amount equal to €694,835,645.83 minus the principal amount of Converted Closing Date Euro Term Loans (as defined in Exhibit A), the proceeds of which shall be applied to repay in full any Non-Converted Closing Date Euro Term Loans (as defined in Exhibit A):

WHEREAS, (i) pursuant to Section 2.14(1) of the Credit Agreement, the Borrower has delivered a request for a Term Loan Increase to the Administrative Agent in an aggregate principal Euro-denominated amount of €45,966,534.57 and (ii) the Borrower has requested that immediately following the incurrence by the Borrower of the Term B Euro Loans, the financial institution signatory hereto as the Term B Euro Incremental Lender provide, pursuant to Section 2.14(4)(c) of the Credit Agreement, a Term B Euro Incremental Commitment (as defined in Exhibit A) under the Amended Credit Agreement, and make Term B Euro Incremental Loans (as defined in Exhibit A) as a Term Loan Increase of the Term B Euro Loans, which Term B Euro Incremental Loans will be of the same Class as the Term B Euro Loans, in an aggregate principal amount equal to €645,966,534.57 on the Amendment No. 2 Effective Date, the proceeds of which will be used by the Borrower, to prepay indebtedness of the Borrower under the Second Lien Credit Agreement, by and among Holdings, the Borrower, the lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent, dated as of September 29, 2017, and each Term B Euro Incremental Lender is prepared to provide its Term B Euro Incremental Commitment and to make the Term B Euro Incremental Loans pursuant to the Amended Credit Agreement in the principal amount set forth opposite such Term B Euro Incremental Lender’s name under the heading “Term B Euro Incremental Commitment” on Schedule 2.01(a) to the Amended Credit Agreement, in each case subject to the other terms and conditions set forth herein; and

WHEREAS, each of MSSF, JPMorgan Chase Bank N.A. (“JPM”), Goldman Sachs Bank USA (“GS”), Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPFS”), Barclays Bank PLC (“Barclays”), Citigroup Global Markets Inc. (“Citi”), Deutsche Bank Securities Inc. (“DB”), RBC Capital Markets (“RBC”), UBS Securities LLC (“UBS”), and Mizuho Bank, Ltd. (“Mizuho”, and together with MSSF, JPM, GS, MLPFS, Barclays, Citi, DB, RBC and UBS, in such capacity, each an “Arranger”, and collectively the “Arrangers”) have acted as joint lead arrangers and joint lead bookrunners in connection with this Amendment and TPG Capital BD (“TPG BD”, and together with the Arrangers, in such capacity, each an “Engagement Party”, and collectively the “Engagement Parties”) has acted as a co-manager in connection with this Amendment;
NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. **Amendment.** The Credit Agreement is, effective as of the Amendment No. 2 Effective Date, hereby 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 in the pages of the Credit Agreement attached as Exhibit A hereto (the “Amended Credit Agreement”).

Section 2. **Representations and Warranties, No Default.** The Borrower hereby represents and warrants that as of the Amendment No. 2 Effective Date, after giving effect to the amendments set forth in this Amendment, (i) no Default or Event of Default exists and is continuing and (ii) all representations and warranties of the Loan Parties contained in the Amended Credit Agreement and the other Loan Documents are true and correct in all material respects; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

Section 3. **Effectiveness.** Section 1 of this Amendment shall become effective on the date (such date, if any, the “Amendment No. 2 Effective Date”) that the following conditions have been satisfied or waived:

(i) **Consents.** The Administrative Agent shall have received executed signature pages hereto from each of the Revolving Lenders, the Lenders constituting the Required Facility Lenders with respect to each Term Facility, the Lenders constituting the Required Lenders, the Additional Term B USD Lender, the Additional Term B Euro Lender, the Term B Euro Incremental Lender and each Loan Party.

(ii) **Fees.** The Administrative Agent shall have received for the account of the Engagement Parties all fees required to be paid, and, to the extent invoiced at least two Business Days prior to the Amendment No. 2 Effective Date, all expenses required to be reimbursed, to the Engagement Parties in connection with this Amendment as separately agreed by the Borrower and the Engagement Parties.

(iii) **Legal Opinions.** The Administrative Agent shall have received a customary written opinion of Ropes & Gray LLP, counsel to the Loan Parties.

(iv) **Committed Loan Notice.** The Administrative Agent shall have received a completed Committed Loan Notice with respect to the Term B USD Loans and a completed Committed Loan Notice with respect to the Term B Euro Loans.
(v) **Officer’s Certificate.** The Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower dated the Amendment No. 2 Effective Date certifying as to the representations and warranties set forth in Section 2.

(vi) **Other Documents.** The Administrative Agent shall have received such certificates of good standing or status (to the extent that such concepts exist) from the applicable secretary of state (or equivalent authority) of the jurisdiction of organization of each Loan Party (in each case, to the extent such concept exists in the applicable jurisdiction), certificates of customary Board of Directors resolutions or other customary corporate authorizing action, incumbency certificates and/or other customary certificates of Responsible Officers of each Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment. The Administrative Agent shall have received customary consents to assignments of the Term B USD Loans and the Term B Euro Loans.

(vii) **Committed Loan Notice.** The Administrative Agent and the Term B Euro Incremental Lender shall have received a Committed Loan Notice no later than 1:00 p.m. (New York time) at least one Business Day prior to the requested date of the Borrowing in respect of the Term B Euro Incremental Loans.

SECTION 4. **Costs and Expenses.** The Borrower agrees to pay (a) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent (including the Attorney Costs of the Administrative Agent to the extent provided for in Section 10.04 of the Credit Agreement) in connection with the preparation, execution and delivery of this Amendment and any other instruments and documents to be delivered hereunder or in connection herewith, including all Attorney Costs of a single U.S. counsel to the Administrative Agent and (b) all reasonable and documented out-of-pocket expenses incurred by the Term B Euro Incremental Lender to the extent separately agreed between the Term B Euro Incremental Lender and the Borrower on or prior to the date hereof.

SECTION 5. **Execution in Counterparts; Effectiveness.** This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging (including in.pdf format) means shall be effective as delivery of a manually executed counterpart of this Amendment.

SECTION 6. **GOVERNING LAW.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Clauses (b) and (c) of Section 10.16 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

SECTION 7. **Headings.** The headings of this Amendment are included for convenience of reference only and shall not affect the interpretation of this Amendment.

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SECTION 8. **Effect of Amendment.** Except as expressly set forth herein, (i) this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders, the Administrative Agent or any other Agent, in each case under the Credit Agreement or any other Loan Document, and (ii) shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other Loan Document. Each and every term, condition, obligation, covenant and agreement contained in the Credit Agreement as amended hereby, or any other Loan Document as amended hereby, is hereby ratified and re-affirmed in all respects and shall continue in full force and effect. This Amendment shall constitute a Loan Document for purposes of the Credit Agreement and from and after the Amendment No. 2 Effective Date, all references to the Credit Agreement in any Loan Document and all references in the Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, shall, unless expressly provided otherwise, refer to the Credit Agreement as amended by this Amendment. Each of the Loan Parties hereby consents to this Amendment and confirms that all obligations of such Loan Party under the Loan Documents to which such Loan Party is a party shall continue to apply to the Credit Agreement as amended hereby. The parties hereto acknowledge and agree that the amendment of the Credit Agreement pursuant to this Amendment and all other Loan Documents amended and/or executed and delivered in connection herewith shall not constitute a novation of the Credit Agreement and the other Loan Documents as in effect prior to the Amendment No. 2 Effective Date.

SECTION 9. **Reaffirmation.** Each of the Loan Parties hereby consents to the amendment of the Credit Agreement described in Section 1 of this Amendment and hereby confirms its respective guarantees, pledges, grants of security interests, subordinations and other obligations, as applicable, under and subject to the terms of each of the Loan Documents to which it is party, and confirms, agrees and acknowledges that, notwithstanding the consummation of this Amendment, such guarantees, pledges, grants of security interests, subordinations and other obligations, and the terms of each of the Loan Documents to which it is a party, except as expressly modified by this Amendment, are not affected or impaired in any manner whatsoever and shall continue to be in full force and effect and shall also guarantee and secure all obligations as amended and reaffirmed pursuant to the Credit Agreement and this Amendment. Each of the Loan Parties confirms, acknowledges and agrees that the Lenders, the Additional Term B USD Lender providing Term B USD Loans, the Additional Term B Euro Lender providing Term B Euro Loans and the Term B Euro Incremental Lender providing the Term B Euro Incremental Loans are “Lenders” and “Secured Parties” for all purposes under the Loan Documents. For the avoidance of doubt, each Loan Party hereby restates the provisions of Article II of the Security Agreement and agrees that all references in the Security Agreement to the “Secured Obligations” shall include the Term B USD Loans and the Term B Euro Loans.

SECTION 10. **WAIVER OF RIGHT OF TRIAL BY JURY.** EACH PARTY TO THIS AMENDMENT 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 AMENDMENT OR THE TRANSACTIONS CONTEMPLATED.
HEREBY (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 AMENDMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.

SECTION 11. **Waiver of Breakage Costs.** Each Second Amendment Consenting Lender waives any right to compensation pursuant to Section 3.05 of the Credit Agreement that such Second Amendment Consenting Lender would otherwise have a right to pursuant to the transactions described in this Amendment to occur on or about the Amendment No. 2 Effective Date.
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the day and year first above written.

MCAFEE, LLC

By: /s/ Michael Berry
   Name: Michael Berry
   Title: Chief Financial Officer

GUARANTORS:

MCAFEE FINANCE 2, LLC
MCAFEE EMPLOYEE HOLDINGS, LLC
MCAFEE EXECUTIVE HOLDINGS, INC.
MCAFEE PUBLIC SECTOR LLC
MCAFEE ACQUISITION CORP.
SKYHIGH NETWORKS ACQUISITION CORP.
SKYHIGH NETWORKS HOLDINGS CORP.
SKYHIGH NETWORKS, LLC
MCAFEE CONSUMER AFFAIRS NORTH, LLC
TUNNELBEAR, LLC

By: /s/ Michael Berry
   Name: Michael Berry
   Title: Vice President
MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent

By: /s/ Andrew Earls
   Name: Andrew Earls
   Title: Authorized Signatory

[Signature Page to Amendment No. 2 to First Lien Credit Agreement]
MORGAN STANLEY BANK, N.A., as the Additional Term B USD Lender, the Additional Term B Euro Lender and the Term B Euro Incremental Lender

By: /s/ Andrew Earls
Name: Andrew Earls
Title: Authorized Signatory

[Signature Page to Amendment No. 2 to First Lien Credit Agreement]
FIRST LIEN CREDIT AGREEMENT

Dated as of September 29, 2017

among

MCAFEE, LLC,
as the Borrower,

MCAFEE FINANCE 2, LLC,
as Holdings,

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent, Collateral Agent and Issuing Bank,

and

THE OTHER LENDERS PARTY HERETO

Morgan Stanley Senior Funding, Inc.,
JPMorgan Chase Bank N.A.,
Goldman Sachs Bank USA,
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Barclays Bank PLC,
Citigroup Global Markets Inc.,
Deutsche Bank Securities Inc.,
RBC Capital Markets,
UBS Securities LLC, and
Mizuho Bank, Ltd.,
as Joint Lead Arrangers and Joint Lead Bookrunners

1 RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.
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FIRST LIEN CREDIT AGREEMENT

This FIRST LIEN CREDIT AGREEMENT (this “Agreement”) is entered into as of September 29, 2017 by and among McAfee, LLC, a Delaware limited liability company (the “Borrower”), McAfee Finance 2, LLC, a Delaware limited liability company, as Holdings, Morgan Stanley Senior Funding, Inc., as administrative agent (in such capacity, including any successor thereto, the “Administrative Agent”) under the Loan Documents, as collateral agent (in such capacity, including any successor thereto, the “Collateral Agent”) under the Loan Documents and as an Issuing Bank, and each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”).

PRELIMINARY STATEMENTS

The Borrower has requested that (a) the Lenders extend credit to the Borrower in the form of $2,555.0 million of Closing Date USD Term Loans, €507.0 million of Closing Date Euro Term Loans and $500.0 million of Revolving Commitments on the Closing Date as first lien secured credit facilities and (b) from time to time on and after the Closing Date, the Lenders lend to the Borrower and the Issuing Banks issue Letters of Credit for the account of the Borrower, each to provide working capital for, and for other general corporate purposes of, the Borrower and its Subsidiaries, pursuant to the Revolving Commitments hereunder and pursuant to the terms of, and subject to the conditions set forth in, this Agreement.

On the Closing Date, the Borrower will enter into the Second Lien Credit Agreement pursuant to which the Borrower will obtain $600.0 million in initial aggregate principal amount of second lien term loans (the “Second Lien Initial Term Loans”).

The proceeds of the Closing Date Term Loans and the Closing Date Revolving Borrowings, together with the proceeds of the Second Lien Initial Term Loans and cash on hand, will be used on the Closing Date to fund the Transactions.

The applicable Lenders have indicated their willingness to lend, and the applicable Issuing Banks have indicated their willingness to issue Letters of Credit, in each case on the terms and subject to the 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

SECTION 1.01 Defined Terms. As used in this Agreement (including the introductory paragraph hereof and the preliminary statements hereto), the following terms have the meanings set forth below:

“Acceptable Discount” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acceptable Non-USD Currency” means (i) Sterling and Euros and (ii) subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned) and each Lender under the applicable Revolving Facility, any other currency.
“Acceptable Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Acceptance and Prepayment Notice” means a notice of the Borrower’s acceptance of the Acceptable Discount in substantially the form of Exhibit M.

“Acceptance Date” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acquired Indebtedness” means, with respect to any specified Person,

(1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Additional Lender” means, at any time, any bank, other financial institution or institutional lender or investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.14, (b) Other Loans pursuant to a Refinancing Amendment in accordance with Section 2.15 or (c) Replacement Loans pursuant to Section 10.01; provided that each Additional Lender shall be subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed, in each case solely to the extent that any such consent would be required from the Administrative Agent under Section 10.07(b)(iii)(B) for an assignment of Loans to such Additional Lender, and in the case of Incremental Revolving Commitments and Other Revolving Commitments and the Issuing Bank, such approval not to be unreasonably withheld, conditioned or delayed, in each case solely to the extent such consent would be required for any assignment to such Additional Lender under Section 10.07(b)(iii).

“Additional Term B Euro Commitment” means, with respect to the Additional Term B Euro Lender, its commitment to make a Term B Euro Loan on the Second Amendment Effective Date in an amount equal to €694,835,645.83 minus the aggregate principal amount of all Converted Closing Date Euro Term Loans.

“Additional Term B Euro Lender” means Morgan Stanley Bank, N.A., in its capacity as such.

“Additional Term B Euro Loan” means a Term B Euro Loan made by the Additional Term B Euro Lender on the Second Amendment Effective Date pursuant to Section 2.01(1)(f).

“Additional Term B USD Commitment” means, with respect to the Additional Term B USD Lender, its commitment to make a Term B USD Loan on the Second Amendment Effective Date in an amount equal to $2,801,013,908.93 minus the aggregate principal amount of all Converted Closing Date USD Term Loans.

“Additional Term B USD Lender” means Morgan Stanley Bank, N.A., in its capacity as such.
“Additional Term B USD Loan” means a Term B USD Loan made by the Additional Term B USD Lender on the Second  Amendment Effective Date pursuant to Section 2.01(1)(e).

“Administrative Agent” has the meaning specified in the introductory paragraph to this Agreement.

“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 the Borrower and the Lenders.

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

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Affiliate Transaction” has the meaning specified in Section 7.07.

“Affiliated Lender” means, at any time, any Lender that is an Investor or an Affiliate of an Investor (other than (a) Holdings, the Borrower or any Subsidiary, (b) any Debt Fund Affiliate or (c) any natural person) at such time.

“Affiliated Lender Assignment and Assumption” has the meaning specified in Section 10.07(h)(vi).

“Affiliated Lender Cap” has the meaning specified in Section 10.07(h)(iv).

“Agent Parties” has the meaning specified in Section 10.02(4).

“Agent-Related Distress Event” means, with respect to the Administrative Agent or any other Person that directly or indirectly controls the Administrative Agent (each, a “Distressed Agent”), (a) that such Distressed Agent is or becomes subject to a voluntary or involuntary case under any Debtor Relief Law, (b) a custodian, conservator, receiver, or similar official is appointed for such Distressed Agent or any substantial part of such Distressed Agent’s assets, or (c) such Distressed Agent is subject to a forced liquidation, makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Agent or its assets to be, insolvent or bankrupt; provided that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent or any Person that directly or indirectly controls the Administrative Agent by a Governmental Authority or an instrumentality thereof so long as such ownership interest does not result in or provide the Administrative Agent 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 the Administrative Agent (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with the Administrative Agent.
“Agent-Related Persons” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons’ Affiliates.

“Agents” means, collectively, the Administrative Agent, the Collateral Agent and the Supplemental Administrative Agents (if any).

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“AHYDO Payment” means any mandatory prepayment or redemption pursuant to the terms of any Indebtedness that is intended or designed to cause such Indebtedness not to be treated as an “applicable high yield discount obligation” within the meaning of Section 163(i) of the Code.

“All-In Yield” means, as to any Indebtedness, the yield thereof, whether in the form of interest rate, margin, OID, upfront fees, a Eurodollar Rate floor, Base Rate floor or EURIBOR floor (with such increased amount being determined in the manner described in the final proviso of this definition), or otherwise, in each case, incurred or payable by the Borrower ratably to all lenders of such Indebtedness; provided that OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of incurrence of the applicable Indebtedness); provided, further, that “All-In Yield” shall not include arrangement fees, structuring fees, commitment fees, underwriting fees, success fees, advisory fees, ticking fees, consent or amendment fees and any similar fees (regardless of how such fees are computed and whether shared or paid, in whole or in part, with or to any or all lenders) and any other fees not generally paid ratably to all lenders of such Indebtedness; provided further that, with respect to any Loans of an applicable Class that includes a Eurodollar Rate floor, Base Rate floor or EURIBOR floor, (1) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the Applicable Rate for such Loans of such Class for the purpose of calculating the All-In Yield and (2) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the All-In Yield.

“All-In Yield” means, as to any Indebtedness, the yield thereof, whether in the form of interest rate, margin, OID, upfront fees, a Eurodollar Rate floor, Base Rate floor or EURIBOR floor (with such increased amount being determined in the manner described in the final proviso of this definition), or otherwise, in each case, incurred or payable by the Borrower ratably to all lenders of such Indebtedness; provided that OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of incurrence of the applicable Indebtedness); provided, further, that “All-In Yield” shall not include arrangement fees, structuring fees, commitment fees, underwriting fees, success fees, advisory fees, ticking fees, consent or amendment fees and any similar fees (regardless of how such fees are computed and whether shared or paid, in whole or in part, with or to any or all lenders) and any other fees not generally paid ratably to all lenders of such Indebtedness; provided further that, with respect to any Loans of an applicable Class that includes a Eurodollar Rate floor, Base Rate floor or EURIBOR floor, (1) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the Applicable Rate for such Loans of such Class for the purpose of calculating the All-In Yield and (2) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the All-In Yield.

“Annual Financial Statements” means the audited combined balance sheets and related audited combined statements of operations, comprehensive operations, cash flows and equity of the McAfee Business (derived from the financial statements of Intel Corporation as if the McAfee Business had operated on a standalone basis) for the fiscal year ended December 31, 2016 and the period ended April 3, 2017.

“Applicable Discount” has the meaning specified in Section 2.05(1)(e)(C)(2).

“Applicable Percentage” means, in respect of the Revolving Facility, with respect to any Revolving Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Facility represented by such Revolving Lender’s Revolving Commitments at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Revolving Lender to make Revolving Loans and the obligation of the Issuing Banks to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Commitments have otherwise expired in full, then the Applicable Percentage of each Revolving Lender in respect of the Revolving Facility shall be determined based on the Applicable Percentage of such Revolving Lender in respect of the Revolving Facility most recently in effect, giving effect to any subsequent assignments.
“Applicable Rate” means a percentage per annum equal to:

(a) (x) with respect to Closing Date Term B USD Term Loans, (i) 4.50% for Eurodollar Rate Loans and (ii) 3.50% for Base Rate Loans and (y) with respect to Closing Date Term B Euro Term Loans, 4.75%.

(b) with respect to Revolving Loans and unused Revolving Commitments under the Closing Date Revolving Facility and Letter of Credit fees (i) until delivery of financial statements and a Compliance Certificate for the first full fiscal quarter ending after the Closing Second Amendment Effective Date pursuant to Section 6.01(6.02(1)), (A) 4.50% for Eurodollar Rate Loans and Letter of Credit fees, (B) 3.50% for Base Rate Loans and (C) 0.50% for the Commitment Fee Rate for unused Revolving Commitments and (ii) thereafter, the following percentages per annum, based upon the First Lien Net Leverage Ratio as specified in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(1):

<table>
<thead>
<tr>
<th>Pricing Level</th>
<th>First Lien Net Leverage Ratio</th>
<th>Eurodollar Rate and Letter of Credit Fees</th>
<th>Base Rate</th>
<th>Commitment Fee Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>&gt;3.50:1.00</td>
<td>4.50%</td>
<td>3.75%</td>
<td>0.50%</td>
</tr>
<tr>
<td>2</td>
<td>≤3.50:1.00 and &gt; 3.00:1.00</td>
<td>4.25%</td>
<td>3.50%</td>
<td>0.375%</td>
</tr>
<tr>
<td>3</td>
<td>≤3.00:1.00</td>
<td>4.00%</td>
<td>3.25%</td>
<td>0.25%</td>
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Any increase or decrease in the Applicable Rate resulting from a change in the First Lien Net 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(1); provided that, at the option of the Required Facility Lenders under the Closing Date Revolving Facility, “Pricing Level 1” (as set forth above) shall apply as of (x) the first Business Day after the date on which a Compliance Certificate was required to have been delivered but was not delivered, and shall continue to so apply to and including the date on which such Compliance Certificate is so delivered (and thereafter the pricing level otherwise determined in accordance with this definition shall apply) or (y) the first Business Day after an Event of Default under Section 8.01(1) shall have occurred and be continuing, and shall continue to so apply to but excluding the date on which such Event of Default is cured or waived (and thereafter the pricing level otherwise determined in accordance with this definition shall apply).

“Appropriate Lender” means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class and (b) with respect to Letters of Credit, (i) the relevant Issuing Banks and (ii) the relevant Revolving Lenders.

“Approved Fund” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.


“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions of property or assets of the Borrower or any Restricted Subsidiary (each referred to in this definition as a “disposition”); or
(2) the issuance or sale of Equity Interests (other than Preferred Stock or Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.02 and directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable Law) of any Restricted Subsidiary (other than to the Borrower or another Restricted Subsidiary), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of:

   (i) Cash Equivalents or Investment Grade Securities,

   (ii) obsolete, damaged or worn out property or assets, any disposition of inventory or goods (or other assets) held for sale and property or assets no longer used or useful in the ordinary course,

   (iii) assets no longer economically practicable or commercially reasonable to maintain (as determined in good faith by the management of the Borrower),

   (iv) improvements made to leased real property to landlords pursuant to customary terms of leases entered into in the ordinary course of business and

   (v) assets for purposes of charitable contributions or similar gifts to the extent such assets are not material to the ability of the Borrower and its Restricted Subsidiaries, taken as a whole, to conduct its business in the ordinary course;

(b) the disposition of all or substantially all of the assets of the Borrower in a manner permitted pursuant to Section 7.03;

(c) any disposition in connection with the making of any Restricted Payment that is permitted to be made, and is made, under Section 7.05, any Permitted Investment or any acquisition otherwise permitted under this Agreement;

(d) any disposition of property or assets or issuance or sale of Equity Interests of any Restricted Subsidiary with an aggregate fair market value for any individual transaction or series of related transactions of less than $40.0 million;

(e) any disposition of property or assets or issuance of securities by a Restricted Subsidiary to the Borrower or by the Borrower or a Restricted Subsidiary to a Restricted Subsidiary;

(f) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(g) (i) the lease, assignment or sublease, license or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice and (ii) the exercise of termination rights with respect to any lease, sublease, license or sublicense or other agreement;
(h) any issuance, disposition or sale of Equity Interests in, or Indebtedness, assets or other securities of, an Unrestricted Subsidiary;

(i) foreclosures, condemnation, expropriation, eminent domain or any similar action (including for the avoidance of doubt, any Casualty Event) with respect to assets;

(j) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility, sales of receivables in connection with Receivables Financing Transactions or the disposition of an account receivable in connection with the collection or compromise thereof in the ordinary course of business or consistent with industry practice or in bankruptcy or similar proceedings;

(k) any financing transaction with respect to property built or acquired by the Borrower or any Restricted Subsidiary after the Closing Date, including asset securitizations permitted hereunder;

(l) the sale, lease, assignment, license, sublease or discount of inventory, equipment, accounts receivable, notes receivable or other current assets in the ordinary course of business or consistent with industry practice or the conversion of accounts receivable to notes receivable or other dispositions of accounts receivable in connection with the collection thereof;

(m) the licensing or sublicensing of intellectual property or other general intangibles in the ordinary course of business or consistent with industry practice;

(n) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business or consistent with industry practice;

(o) the unwinding of any Hedging Obligations;

(p) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(q) the lapse, abandonment or other disposition of intellectual property rights in the ordinary course of business or consistent with industry practice, which in the reasonable good faith determination of the Borrower, are not material to the conduct of the business of the Borrower and its Restricted Subsidiaries taken as a whole;

(r) the granting of a Lien that is permitted under Section 7.01;

(s) the issuance of directors’ qualifying shares and shares of Capital Stock of Foreign Subsidiaries issued to foreign nationals as required by applicable Law;

(t) the disposition of any assets (including Equity Interests) (i) acquired in a transaction permitted hereunder, which assets are (x) not used or useful in the principal business of the Borrower and its Restricted Subsidiaries or (y) non-core assets or surplus or unnecessary to the business or operations of the Borrower and its Restricted Subsidiaries or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the good faith determination of the Borrower to consummate any acquisition permitted hereunder;
(u) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property;
(v) dispositions of property in connection with any Sale-Leaseback Transaction;
(w) the settlement or early termination of any Permitted Bond Hedge Transaction and the settlement or early termination of any related Permitted Warrant Transaction;
(x) the sales of property or assets for an aggregate fair market value since the date of this Agreement not to exceed the greater of $155.0 million and 20.0% of Consolidated EBITDA of the Borrower for the most recently ended Test Period (calculated on a pro forma basis) determined at the time of the making of such disposition; and
(y) the sales of property or assets for an aggregate fair market value not to exceed $60.0 million in any calendar year with unused amounts in any calendar year being carried over to successive calendar years.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D-1 or any other form approved by the Administrative Agent.

“Attorney Costs” means all reasonable fees, expenses and disbursements of any law firm or other external legal counsel, to the extent documented in reasonable detail and invoiced.

“Attributable Indebtedness” means, on any date, in respect of any Capitalized Lease Obligation of any Person, the amount thereof that would appear as a liability on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“Auction Agent” means (a) the Administrative Agent or (b) any other financial institution or advisor engaged by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Term Loan Prepayment pursuant to Section 2.05(1)(e); provided that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); provided further that neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“Australian Dollars” means the lawful currency of Australia.

“Auto-Extension Letter of Credit” has the meaning specified in Section 2.03(2)(c).

“Available Incremental Amount” has the meaning specified in Section 2.14(4)(c).

“Available LC Currency” means (i) with respect to Letters of Credit issued after the Closing Date, Dollars, Euros, Sterling, Yen and Australian Dollars and (ii) with respect to Existing Letters of Credit, Dollars, Euros, Sterling, Yen, Australian Dollars, Shekels and Rupees.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.
“Bail-In Legislation” means, 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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bankruptcy Code” has the meaning specified in Section 8.02.

“Base Rate” means for any day a fluctuating rate per annum (subject solely in the case of the Closing Date Term USD Loans to a floor of 2.00% 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 announced from time to time by the Administrative Agent as its “prime rate” and (c) the Eurodollar Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day). The “prime rate” is a rate set by the Administrative Agent based upon various factors including the Administrative Agent’s costs and desired return, general economic conditions and 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 rate announced by the Administrative Agent shall take effect at the opening of business on the day specified in the announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Article III hereof, then the Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Basket” means any amount, threshold, exception or value (including by reference to the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio, the Interest Coverage Ratio, Consolidated EBITDA or Total Assets) permitted or prescribed with respect to any Lien, Indebtedness, Asset Sale, Investment, Restricted Payment, transaction, action, judgment or amount under any provision in this Agreement or any other Loan Document.

“Big Boy Letter” means a letter from a Lender acknowledging that (1) an assignee may have information regarding Holdings, the Borrower and any Subsidiary of the Borrower, their ability to perform the Obligations or any other material information that has not previously been disclosed to the Administrative Agent and the Lenders (“Excluded Information”), (2) the Excluded Information may not be available to such Lender, (3) such Lender has independently and without reliance on any other party made its own analysis and determined to assign Term Loans to such assignee pursuant to Section 10.07(h) or (l) notwithstanding its lack of knowledge of the Excluded Information and (4) such Lender waives and releases any claims it may have against the Administrative Agent, such assignee, Holdings, the Borrower and the Subsidiaries of the Borrower with respect to the nondisclosure of the Excluded Information; or otherwise in form and substance reasonably satisfactory to such assignee, the Administrative Agent and assigning Lender.

“Board of Directors” means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the Board of Directors of such entity, or, in either case, any committee thereof duly authorized to act on behalf of such Board of Directors. Unless otherwise provided, “Board of Directors” means the Board of Directors of the Borrower.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Borrower Materials” has the meaning specified in Section 6.02.
“Borrower Offer of Specified Discount Prepayment” means any offer by any Borrower Party to make a voluntary prepayment of Loans at a specified discount to par pursuant to Section 2.05(1)(e)(B).

“Borrower Parties” means the collective reference to Holdings, the Borrower and each Subsidiary of the Borrower and “Borrower Party” means any of them.

“Borrower Solicitation of Discount Range Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Loans at a specified range of discounts to par pursuant to Section 2.05(1)(e)(C).

“Borrower Solicitation of Discounted Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Loans at a discount to par pursuant to Section 2.05(1)(e)(D).

“Borrowing” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurodollar Rate Loans or EURIBOR Rate Loans, having the same Interest Period.

“Broker-Dealer Regulated Subsidiary” means any Subsidiary of the Borrower that is registered as a broker-dealer under the Exchange Act or any other applicable Laws requiring such registration.

“Business Day” means any day that is not a Legal Holiday and (i) with respect to any interest rate settings as to a Eurodollar Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurodollar Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, any day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market and (ii) with respect to any interest rate settings as to a EURIBOR Rate Loan, any fundings, disbursements, settlements and payments in respect of any such EURIBOR Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such EURIBOR Rate Loan, any day on which dealings in deposits in Euros are conducted by and between banks in the European interbank market.

“Canadian Dollars” means the lawful currency of Canada.

“Capital Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Lease Obligations) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower and the Restricted Subsidiaries.

“Capital Stock” means:

(1) in the case of a corporation, corporate stock or shares in the capital of such corporation;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into or exchangeable for Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP in accordance with Section 1.03.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

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

“Cash Collateral” has the meaning specified in the definition of “Cash Collateralize.”

“Cash Collateral Account” means an account held at, and subject to the sole dominion and control of, the Collateral Agent.

“Cash Collateralize” means, in respect of an Obligation, to provide and pledge cash or Cash Equivalents in Dollars as collateral, at a location and pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent or the relevant Issuing Bank with respect to any Letter of Credit, as applicable (and “Cash Collateralization” has a corresponding meaning). “Cash Collateral” has a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means:

(1) Dollars;

(2) (a) Euros, Yen, Canadian Dollars, Sterling or any national currency of any participating member state of the EMU;

(b) in the case of any Foreign Subsidiary or any jurisdiction in which the Borrower or any Restricted Subsidiary conducts business, such local currencies held by it from time to time in the ordinary course of business or consistent with industry practice;

(3) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 36 months or less from the date of acquisition;

(4) certificates of deposit, time deposits and eurodollar time deposits with maturities of three years or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding three years and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than $500.0 million in the case of U.S. banks and $100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;
(5) repurchase obligations for underlying securities of the types described in clauses (3) and (4) above or clauses (7) and (8) below entered into with any financial institution or recognized securities dealer meeting the qualifications specified in clause (4) above;

(6) commercial paper and variable or fixed rate notes rated at least P-2 by Moody’s or at least A-2 by S&P (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) and in each case maturing within 36 months after the date of acquisition thereof;

(7) marketable short-term money market and similar liquid funds having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower);

(8) securities issued or directly and fully and unconditionally guaranteed by any state, commonwealth or territory of the United States or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof having maturities of not more than 36 months from the date of acquisition thereof;

(9) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from either Moody’s or S&P (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) with maturities of 36 months or less from the date of acquisition;

(10) Indebtedness or Preferred Stock issued by Persons with a rating of “A” or higher from S&P or “A2” or higher from Moody’s (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) with maturities of 36 months or less from the date of acquisition;

(11) Investments with average maturities of 36 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower);

(12) investment funds investing substantially all of their assets in securities of the types described in clauses (1) through (11) above; and

(13) solely with respect to any Captive Insurance Subsidiary, any investment that the Captive Insurance Subsidiary is not prohibited to make in accordance with applicable Law.

In the case of Investments by any Foreign Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents will also include (i) investments of the type and maturity described in clauses (1) through (13) above of foreign obligors, which investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (13) and in this paragraph.

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Notwithstanding the foregoing, Cash Equivalents will include amounts denominated in currencies other than those set forth in clauses (1) and (2) above, provided that such amounts, except amounts used to pay non-Dollar denominated obligations of the Borrower or any Restricted Subsidiary in the ordinary course of business, are expected by the Borrower to be converted into any currency listed in clause (1) or (2) above as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts (and solely to the extent so converted on or prior to such tenth (10th) Business Day).

“Cash Management Agreement” means any agreement entered into from time to time by Holdings, the Borrower or any Restricted Subsidiary in connection with cash management services for collections, other Cash Management Services and for operating, payroll and trust accounts of such Person, including automatic clearing house services, controlled disbursement services, electronic funds transfer services, information reporting services, lockbox services, stop payment services and wire transfer services.

“Cash Management Bank” means any Person that is an Agent, a Lender or an Affiliate of an Agent or Lender on the Closing Date or at the time it entered into a Secured Cash Management Agreement, whether or not such Person subsequently ceases to be an Agent, a Lender or an Affiliate of an Agent or Lender.

“Cash Management Obligations” means obligations owed by Holdings, the Borrower or any Restricted Subsidiary to any Cash Management Bank in connection with, or in respect of, any Cash Management Services.

“Cash Management Services” means (a) commercial credit cards, merchant card services, purchase or debit cards, including non-card e-payables services, (b) treasury management services (including controlled disbursement, overdraft, automatic clearing house fund transfer services, return items and interstate depository network services), (c) foreign exchange, netting and currency management services and (d) any other demand deposit or operating account relationships or other cash management services, including under any Cash Management Agreements.

“Casualty Event” means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption of any law, rule, regulation or treaty (excluding the taking effect after the Closing Date of a law, rule, regulation or treaty adopted prior to the Closing Date), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd–Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203, H.R. 4173), all Laws relating thereto and all interpretations and applications thereof and (ii) 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 regulatory authorities, in each case pursuant to Basel III, shall, for the purpose of this Agreement, be deemed to be adopted subsequent to the Closing Date.
“Change of Control” means the occurrence of any of the following after the Closing Date:

1. at any time prior to the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, the Permitted Holders ceasing to beneficially own (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), in the aggregate, directly or indirectly, at least a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower; or

2. at any time following the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, (a) any Person (other than a Permitted Holder) or (b) Persons (other than one or more Permitted Holders) constituting a “group” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), becoming the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) (excluding any employee benefit plan of such Person and its subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), directly or indirectly, of Equity Interests of the Borrower representing more than forty percent (40%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower and the percentage of aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of the Borrower beneficially owned, directly or indirectly, in the aggregate by the Permitted Holders (it being understood and agreed that for purposes of measuring beneficial ownership held by any Person that is not a Permitted Holder, Equity Interests held by any Permitted Holder will be excluded);

3. any “Change of Control” (or any comparable term) in any document pertaining to the Second Lien Credit Facility or any Refinancing Indebtedness thereof, in each case with an aggregate outstanding principal amount in excess of the Threshold Amount; or

4. the Borrower ceases to be directly or indirectly wholly owned by Holdings (or any successor or Parent Company that has become a Guarantor in lieu of Holdings);

unless, in the case of clause (1) or (2) above, the Permitted Holders have, at such time, directly or indirectly, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the board of directors of the Borrower.

“Charge” means any charge, fee, expense, expenditure, cost, loss, accrual, reserve of any kind and any other deduction included in the calculation of Consolidated Net Income.

“Class” (a) when used with respect to Lenders, refers to whether such Lenders have Loans or Commitments with respect to a particular Class of Loans or Commitments, (b) when used with respect to Commitments, refers to whether such Commitments are Closing Date Term B USD Term Loan Commitments, Closing Date Term B Euro Term Loan Commitments, Revolving Commitments, Incremental Revolving Commitments, Other Revolving Commitments, Incremental Term Commitments, Commitments in respect of any Class of Replacement Loans, Extended Revolving Commitments of a given Extension Series or Other Term Loan Commitments of a given Class of Other Loans, in each case not designated part of another existing Class and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Closing Date USD Term Loans, Closing Date Euro Term Loans, Term B USD Loans, Term B Euro Loans, Revolving Loans under the Closing Date Revolving Facility, Incremental Term Loans, Incremental Revolving Loans, Other.
Revolving Loans, Replacement Loans, Extended Term Loans, Loans made pursuant to Extended Revolving Commitments, or Other Term Loans, in each case not designated part of another existing Class. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have different terms and conditions shall be construed to be in different Classes. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class. For the avoidance of doubt, the Closing Date USD Term Loans and the Closing Date Euro Term Loans shall each constitute a separate Class of Loans.

“Closing Date” means the first date on which all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01, and the Closing Date Term Loans are made to the Borrower pursuant to Section 2.01(1)(a) and (b), which date was September 29, 2017.

“Closing Date Euro Term Loan Commitment” means, as to each Euro Term Lender, its obligation to make a Closing Date Euro Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Euro Term Lender’s name on Schedule 2.01 under the caption “Closing Date Euro Term Loan Commitment” or in the Assignment and Assumption (or Affiliated Lender Assignment and Assumption) pursuant to which such Euro Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement (including pursuant to Sections 2.14, 2.15 or 2.16). The initial aggregate amount of the Closing Date Euro Term Loan Commitments is €507.0 million. Loans” means all Euro Term Loans outstanding under this Agreement immediately prior to the Second Amendment Effective Date.

“Closing Date Euro Term Loans” means the Euro Term Loans made by the Euro Term Lenders on the Closing Date to the Borrower pursuant to Section 2.01(1)(b).

“Closing Date Loans” means the Closing Date Term Loans and any Closing Date Revolving Borrowing.

“Closing Date Revolving Borrowing” means one or more Borrowings of Revolving Loans on the Closing Date pursuant to Section 2.01(2) in accordance with the requirements specified or referred to in Section 6.14; provided, that, without limitation, Letters of Credit may be issued on the Closing Date to backstop or replace letters of credit outstanding on the Closing Date (including deemed issuances of Letters of Credit under this Agreement resulting from an existing issuer of letters of credit outstanding on the Closing Date agreeing to become an Issuing Bank under this Agreement).

“Closing Date Revolving Facility” means the Revolving Facility made available by the Revolving Lenders as of the Closing Date.

“Closing Date Term Loans” means the Closing Date USD Term Loans and the Closing Date Euro Term Loans.

“Closing Date USD Term Loan Commitment” means, as to each USD Term Lender, its obligation to make a Closing Date USD Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such USD Term Lender’s name on Schedule 2.01 under the caption “Closing Date USD Term Loan Commitment” or in the Assignment and Assumption (or Affiliated Lender Assignment and Assumption) pursuant to which such USD Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement (including pursuant to Sections 2.14, 2.15 or 2.16). The initial aggregate amount of the Closing Date USD Term Loan Commitments is $2,555.0 million. Loans” means all USD Term Loans outstanding under this Agreement immediately prior to the Second Amendment Effective Date.
“Closing Date USD Term Loans” means the USD Term Loans made by the USD Term Lenders of the Closing Date to the Borrower pursuant to Section 2.01(a). 


“Collateral” means all the “Collateral” (or equivalent term) as defined in any Collateral Document and the Mortgaged Properties, if any. 

“Collateral Agent” has the meaning specified in the introductory paragraph to this Agreement. 

“Collateral and Guarantee Requirement” means, at any time, the requirement that: 

1. the Collateral Agent shall have received each Collateral Document required to be delivered (a) on the Closing Date pursuant to Section 4.01(c) or (b) pursuant to the Security Agreement or Sections 6.11 or 6.13 at such time required by the Security Agreement or by such Sections to be delivered, in each case, duly executed by each Loan Party that is party thereto; 

2. all Obligations shall have been unconditionally guaranteed by (a) Holdings (or any successor thereto), (b) each Restricted Subsidiary of the Borrower that is a wholly owned Material Subsidiary (other than any Excluded Subsidiary), which as of the Closing Date shall include those that are listed on Schedule 1.01(c) hereof and (c) any Restricted Subsidiary of the Borrower that Guarantees (or is the borrower or issuer of) (i) the Second Lien Term Loans (or any Refinancing Indebtedness in respect thereof having an aggregate principal amount in excess of the Threshold Amount), (ii) any Junior Indebtedness, (iii) any Permitted Incremental Equivalent Debt or (iv) any Credit Agreement Refinancing Indebtedness (the Persons in the preceding clauses (a) through (c) collectively, the “Guarantors”); 

3. except to the extent otherwise provided hereunder or under any Collateral Document, the Obligations and the Guaranty shall have been secured by a perfected security interest, subject only to Liens permitted by Section 7.01, in 

(a) all the Equity Interests of the Borrower, 

(b) all Equity Interests of each direct, wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) that is directly owned by any Loan Party and 

(c) 65% of the issued and outstanding Equity Interests of each class of each (i) wholly owned Material Domestic Subsidiary that is (a) a Foreign Subsidiary Holdco and (b) directly owned by a Loan Party and (ii) wholly owned Material Foreign Subsidiary, in each case, that is directly owned by a Loan Party (in each case, to the extent such Material Domestic Subsidiary or Material Foreign Subsidiary is not an Excluded Subsidiary (other than by virtue of being a Foreign Subsidiary Holdco or Foreign Subsidiary, as applicable)); 

4. except to the extent otherwise provided hereunder or under any Collateral Document, including subject to Liens permitted by Section 7.01, and in each case subject to exceptions and limitations otherwise set forth in this Agreement and the Collateral Documents, the Obligations and the Guaranty shall have been secured by a security interest in substantially all tangible and intangible personal property of the Borrower and each Guarantor (including accounts other than Securitization Assets), inventory, equipment, investment property, contract rights, applications and registrations of intellectual property filed in the United States, other general intangibles, and proceeds of the foregoing (in each case, other than Excluded Assets), in each case,
(a) that has been perfected (to the extent such security interest may be perfected) by

(i) delivering certificated securities and instruments, in which a security interest can be perfected by physical control, in each case to the extent expressly required hereunder or the Security Agreement (solely in respect of any promissory note in excess of $25.0 million, Indebtedness of any Restricted Subsidiary that is not a Guarantor that is owing to any Loan Party (which may be evidenced by the Intercompany Note and pledged to the Collateral Agent) and certificated Equity Interests of the wholly owned Restricted Subsidiaries that are Material Subsidiaries otherwise required to be pledged pursuant to the Collateral Documents to the extent required under clause (3) above),

(ii) filing financing statements under the Uniform Commercial Code of any applicable jurisdiction,

(iii) making any necessary filings with the United States Patent and Trademark Office or United States Copyright Office or

(iv) filings in the applicable real estate records with respect to Mortgaged Properties (or any fixtures related to Mortgaged Properties) to the extent required by the Collateral Documents and

(b) with the priority required by the Collateral Documents; provided that any such security interests in the Collateral shall be subject to the terms of the Intercreditor Agreements to the extent expressly required by this Agreement; and

(5) subject to the exceptions and limitations set forth in this Agreement, the Collateral Agent shall have received counterparts of a Mortgage, together with the other deliverables described in Section 6.11(2)(b), with respect to each Material Real Property listed on Schedule 1.01(2) to the extent required to be delivered pursuant to Section 6.11 or Section 6.13 (the “Mortgaged Properties”) duly executed and delivered by the record owner of such property within the time periods set forth in said Sections; provided that (i) to the extent any Mortgaged Property is located in a jurisdiction which imposes mortgage recording taxes, intangibles tax, documentary tax or similar recording fees or taxes, (a) the relevant Mortgage shall not secure an amount in excess of the fair market value of the Mortgaged Property subject thereto and (b) the relevant Mortgage shall not secure the Indebtedness in respect of Letters of Credit or the Revolving Facility to the extent those jurisdictions impose such aforementioned taxes on paydowns or re-advances applicable to such Indebtedness unless it is feasible to limit recovery to a capped amount that would not be subject to re-borrowing and (ii) no flood insurance or compliance with any flood insurance laws shall be required with respect to any Mortgaged Property.
The foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, the creation, perfection or maintenance of pledges of, or security interests in, Mortgages on, or the obtaining of Mortgage Policies, surveys, abstracts or appraisals or taking other actions with respect to, any Excluded Assets.

The Collateral Agent may grant extensions of time for the creation, perfection or maintenance of security interests in, or the execution or delivery of any Mortgage and the obtaining of title insurance, surveys or Opinions of Counsel with respect to, particular assets (including extensions beyond the Closing Date for the creation, perfection or maintenance of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation, perfection or maintenance cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

No actions required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in any assets or to perfect or make enforceable such security interests in any assets (including any intellectual property registered or applied for in any non-U.S. jurisdiction) (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction). No perfection through control agreements or perfection by “control” shall be required with respect to any assets (other than to the extent required under clause (4)(a)(i) above). There shall be no (x) Guaranties governed under the laws of any non-U.S. jurisdiction, (y) requirement to obtain any landlord waivers, estoppels or collateral access letters or (z) requirement to perfect a security interest in any letter of credit rights, other than by the filing of a UCC financing statement.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages (if any), each of the collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent, Collateral Agent or the Lenders pursuant to Sections 4.01(1)(c), 6.11 or 6.13 and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitment” means a Revolving Commitment, Incremental Revolving Commitment, Closing Date Additional Term B USD Term Loan Commitment, Closing Date Additional Term B Euro Term Loan Commitment, Incremental Term Commitment, Other Revolving Commitment, Other Term Loan Commitment, Extended Revolving Commitment of a given Extension Series, or any commitment in respect of Replacement Loans, as the context may require.

“Commitment Fee Rate” means a percentage per annum equal to the Applicable Rate set forth in the “Commitment Fee Rate” column of the chart in the definition of “Applicable Rate.”

“Committed Loan Notice” means a notice of (1) a Borrowing with respect to a given Class of Loans, (2) a conversion of Loans of a given Class from one Type to the other or (3) a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans of a given Class, pursuant to Section 2.02(1), which, if in writing, shall be substantially in the form of Exhibit A, or such other form as may be approved by the Administrative Agent and the Borrower (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent and the Borrower), 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.), as amended from time to time and any successor statute.

“Compensation Period” has the meaning specified in Section 2.12(3)(b).
“Compliance Certificate” means a certificate substantially in the form of Exhibit C and which certificate shall in any event be a certificate of a Financial Officer of the Borrower:

(1) certifying as to whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto (in each case, other than any Default with respect to which the Administrative Agent has otherwise obtained notice in accordance with Section 6.03(1)),

(2) in the case of financial statements delivered under Section 6.01(1), setting forth reasonably detailed calculations of (i) Excess Cash Flow for each fiscal year commencing with the financial statements for the fiscal year ending on or about December 29, 2018 and (ii) the Net Proceeds received during the applicable period (after the Closing Date in the case of the fiscal year ending on or about December 30, 2017) by or on behalf of the Borrower or any Restricted Subsidiary in respect of any Asset Sale or Casualty Event subject to prepayment pursuant to Section 2.05(2)(b) (i) and the portion of such Net Proceeds that has been invested or is intended to be reinvested in accordance with Section 2.05(2)(b)(ii),

(3) commencing with the certificate delivered pursuant to Section 6.02(1) for the first full fiscal quarter ending after the Closing Date, (x) if on the last day of the relevant fiscal quarter there are outstanding Revolving Loans and Letters of Credit (excluding (i) undrawn Letters of Credit in an aggregate amount of up to $30.0 million and (ii) Letters of Credit (whether drawn or undrawn) to the extent Cash Collateralized or backstopped on terms reasonably acceptable to the applicable Issuing Bank) in an aggregate principal amount exceeding 35% of the aggregate principal amount of all Revolving Commitments under all outstanding Revolving Facilities (including any Incremental Revolving Facilities), setting forth a calculation of the First Lien Net Leverage Ratio as of the last day of the most recent Test Period, or (y) if the First Lien Net Leverage Ratio as of the last day of the most recent Test Period would result in a change in the applicable “Pricing Level” as set forth in the definition of “Applicable Rate,” setting forth a calculation of such First Lien Net Leverage Ratio.

“Consolidated Current Assets” means, as at any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees, derivative financial instruments and any assets in respect of Hedge Agreements, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding (A) the current portion of any Funded Debt, (B) the current portion of interest, (C) accruals for current or deferred taxes based on income or profits, (D) accruals of any costs or expenses related to restructuring reserves or severance, (E) Revolving Loans and L/C Obligations under this Agreement or any other revolving loans and letter of credit obligations under any other revolving credit facility, (F) the current portion of any Capitalized Lease Obligation, (G) deferred revenue arising from cash receipts that are earmarked for specific projects, (H) liabilities in respect of unpaid earn-outs, (I) the current portion of any other long-term liabilities, (J) accrued litigation settlement costs, (K) any liabilities in respect of Hedge Agreements and (L) deferred revenue, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.
“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense of such Person and its Restricted Subsidiaries, including the amortization of intangible assets, deferred financing fees, debt issuance costs, commissions, fees and expenses and the amortization of Capitalized Software Expenditures of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period:

(1) increased (without duplication) by the following, in each case (other than clauses (h), (l), (q), and (r)) to the extent deducted (and not added back) in determining Consolidated Net Income for such period:

(a) total interest expense and, to the extent not reflected in such total interest expense, any losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such Hedging Obligations or such derivative instruments, and bank and letter of credit fees, letter of guarantee and bankers’ acceptance fees and costs of surety bonds in connection with financing activities, together with items excluded from the definition of “Consolidated Interest Expense” pursuant to the definition thereof; plus

(b) provision for taxes based on income, profits, revenue or capital, including federal, foreign and state income, franchise, excise, value added and similar taxes, property taxes and similar taxes, and foreign withholding taxes paid or accrued during such period (including any future taxes or other levies that replace or are intended to be in lieu of taxes, and any penalties and interest related to taxes or arising from tax examinations) and the net tax expense associated with any adjustments made pursuant to the definition of “Consolidated Net Income,” and any payments to a Parent Company in respect of such taxes permitted to be made hereunder; plus

(c) Consolidated Depreciation and Amortization Expense for such period; plus

(d) any other non-cash Charges, including any write-offs or write-downs reducing Consolidated Net Income for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, (i) the Borrower in its sole discretion may determine not to add back such non-cash Charge in the current period and (ii) to the extent the Borrower does decide to add back such non-cash Charge, the cash payment in respect thereof, with the exception of any cash payments related to the settlement of deferred compensation balances awarded prior to the Closing Date, in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

(e) Charges consisting of income attributable to minority interests and non-controlling interests of third parties in any non-wholly-owned Restricted Subsidiary, excluding cash distributions in respect thereof, and the amount of any reductions in arriving at Consolidated Net Income resulting from the application of Accounting Standards Codification Topic No. 810, Consolidation; plus

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(f) (i) the amount of board of director fees and any management, monitoring, consulting, transaction, advisory and other fees (including transaction and termination fees) and indemnities and expenses paid or accrued in such period under the Management Services Agreement or otherwise to the extent permitted under Section 7.07 and (ii) the amount of payments made to optionholders of such Person or any Parent Company in connection with, or as a result of, any distribution being made to equityholders of such Person or its Parent Companies, which payments are being made to compensate such optionholders as though they were equityholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted hereunder; plus

(g) Charges, including any loss or discount, related to the sale of receivables, Securitization Assets and related assets to any Securitization Subsidiary in connection with a Qualified Securitization Facility; plus

(h) cash receipts (or any netting arrangements resulting in reduced cash Charges) not representing Consolidated EBITDA or Consolidated Net Income in any prior period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to clause (2) below for any previous period and not added back; plus

(i) any Charges pursuant to any management equity plan, stock option plan or any other management or employee benefit plan, agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of such Person or net cash proceeds of an issuance of Equity Interests of such Person (other than Disqualified Stock); plus

(j) any net pension or other post-employment benefit Charges representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification Topic 715—Compensation—Retirement Benefits, and any other items of a similar nature, plus

(k) the amount of earnout obligation expense incurred in connection with (including adjustments thereto) any acquisitions and Investments, whether consummated prior to or after the Closing Date; plus

(l) the amount of “run rate” cost savings, synergies and operating expense reductions (and revenue enhancements in the case of price increases instituted prior to the Closing Date) related to restructurings, cost savings initiatives, operational changes or other initiatives or recommended (in reasonable detail) by any quality of earnings or similar diligence report made available to the Administrative Agent conducted by financial advisors (which financial advisors are nationally recognized or reasonably acceptable to the Administrative Agent (it being understood and agreed that any of the “Big Four” accounting firms are acceptable)) that are projected by the Borrower in good faith to result from actions either taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) within 18 months after the end of such period (which cost savings, synergies and
operating expense reductions (and revenue enhancements) shall be calculated on a pro forma basis as though such cost savings, synergies
and operating expense reductions (and revenue enhancements) had been realized on the first day of such period, net of the amount of
actual benefits realized from such actions during such period (it is understood and agreed that “run rate” means the full recurring benefit
that is associated with any action taken or with respect to which substantial steps have been taken or are expected to be taken, whether
prior to or following the Closing Date) (which adjustments may be incremental to (but not duplicative of) pro forma cost savings,
synergies or operating expense reduction adjustments made pursuant to Section 1.07); provided that such cost savings, synergies and
operating expenses are reasonably identifiable and factually supportable; provided, that the aggregate amount of any such “run rate”
adjustments added back pursuant to this clause (l) and Section 1.07 shall not exceed in the aggregate 25% of Consolidated EBITDA for
such period (as calculated before giving effect to any such “run rate” adjustments), plus

(m) for periods occurring prior to the Closing Date, any corporate allocations made to Borrower or any of its Restricted Subsidiaries
in excess of the costs incurred by the McAfee Business on a standalone basis; plus

(n) any payments in the nature of compensation or expense reimbursement made to independent board members; plus

(o) (i) for periods occurring prior to the Closing Date, internal software development costs expensed during the period and (ii) for
periods occurring after the Closing Date, internal software development costs that are expensed during the period but could have been
capitalized in accordance with GAAP; plus

(p) any loss from discontinued operations (but if such operations are classified as discontinued due to the fact that they are being held
for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the
extent such operations are actually disposed of); plus

(q) adjustments, exclusions and add-backs consistent with Regulation S-X of the SEC; plus

(r) without duplication of revenues recognized in any other period, the net amount, if any, of the difference between (to the extent the
amount in the following clause (i) exceeds the amount in the following clause (ii)): (i) the deferred revenue of such Person and its
Restricted Subsidiaries as of the last day of such period (the “Determination Date”) and (ii) the deferred revenue of such Person and its
Restricted Subsidiaries as of the date that is 12 months prior to the Determination Date, in each case, calculated without giving effect to
adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) related to the
application of recapitalization accounting or purchase accounting; and

(2) decreased (without duplication) by the following, in each case to the extent included in determining Consolidated Net Income for such
period:

(a) non-cash gains for such period (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a
potential cash item that reduced Consolidated Net Income or Consolidated EBITDA in any prior period other than any such accrual or
reserve that has been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition),
(b) the amount of any income consisting of losses attributable to non-controlling interests of third parties in any non-wholly-owned Restricted Subsidiary added to (and not deducted from) Consolidated Net Income in such period; and

(c) any net income from discontinued operations (but if such operations are classified as discontinued due to the fact that they are being held for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the extent such operations are actually disposed of).

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the fiscal quarters ended on October 1, 2016, December 31, 2016, April 1, 2017 and July 1, 2017, Consolidated EBITDA for such fiscal quarters shall be $161.021 million, $257.868 million, $175.604 million and $170.962 million, respectively (the “Deemed EBITDA Numbers”), in each case, as may be subject to add-backs and adjustments (without duplication and other than add-backs and adjustments related to the Transactions) pursuant to the definition of “Consolidated EBITDA” and appropriate exclusions in the definition of “Consolidated Net Income” (for the avoidance of doubt, without duplication of add-backs, adjustments and exclusions already incorporated in arriving at such Deemed EBITDA Numbers) and Section 1.07 for the applicable Test Period. For the avoidance of doubt, Consolidated EBITDA shall be calculated, including pro forma adjustments, in accordance with Section 1.07.

“Consolidated First Lien Secured Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of (i) Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness, in each case secured by a first priority lien on the Collateral on a pari passu basis with the Closing Date Term B Loans and (ii) other Capitalized Lease Obligations and purchase money Indebtedness of the Loan Parties in excess of the Threshold Amount and secured by a first priority lien; provided, Consolidated First Lien Secured Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees and performance or similar bonds, except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the cash interest expense (including that attributable to Capitalized Lease Obligations), net of cash interest income, with respect to Indebtedness of such Person and its Restricted Subsidiaries for such period, other than Non-Recourse Indebtedness, including commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net cash costs under hedging agreements (other than in connection with the early termination thereof);
excluding, in each case:

(i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clauses (2)(a) and (2)(b) above (including as a result of the effects of acquisition method accounting or pushdown accounting),

(ii) interest expense attributable to the movement of the mark-to-market valuation of obligations under Hedging Obligations or other derivative instruments, including pursuant to FASB Accounting Standards Codification Topic 815, Derivatives and Hedging,

(iii) costs associated with incurring or terminating Hedging Obligations and cash costs associated with breakage in respect of hedging agreements for interest rates,

(iv) commissions, discounts, yield, make-whole premium and other fees and charges (including any interest expense) incurred in connection with any Non-Recourse Indebtedness,

(v) “additional interest” owing pursuant to a registration rights agreement with respect to any securities,

(vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions,

(vii) penalties and interest relating to taxes,

(viii) accretion or accrual of discounted liabilities not constituting Indebtedness,

(ix) interest expense attributable to a Parent Company resulting from push-down accounting,

(x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting,

(xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto in connection with the Transactions, any acquisition or Investment and

(xii) annual agency fees paid to any administrative agents and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or collateral trust arrangements related thereto), including the Facilities and the Second Lien Credit Facilities.

For purposes of this definition, interest on a Capitalized Lease Obligation will be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the net income (loss) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding (and excluding the effect of), without duplication,

(1) extraordinary, one-time, non-recurring or unusual gains or Charges (including relating to any strategic initiatives and accruals and reserves in connection with such gains or Charges and including legal fees, expenses, settlements and judgments) and special items;
restructuring Charges; accruals or reserves (including restructuring and integration costs related to acquisitions and adjustments to existing reserves, and in each case, whether or not classified as such under GAAP); Charges related to any reconstruction, decommissioning, recommissioning or reconfiguration of facilities and fixed assets for alternative uses; exit, separation, transition and start-up stand-alone Charges associated with the separation of the McAfee Business from Intel Corporation; Excluded TPG/Intel Costs; Public Company Costs; Charges related to the integration, consolidation, opening, pre-opening and closing of facilities and fixed assets; severance and relocation costs and expenses; special compensation Charges, consulting fees; signing, retention or completion bonuses and charges, and executive recruiting costs; Charges incurred in connection with strategic initiatives; transition Charges and duplicative running and operating Charges; Charges in connection with non-ordinary course product and intellectual property development; Charges incurred in connection with acquisitions (or purchases of assets) prior to or after the Closing Date (including integration costs); business optimization Charges (including Charges relating to business optimization programs, new systems design, Charges related to systems establishment, implementation, integration and upgrades and project start-up); accruals and reserves; Charges attributable to the implementation of cost-savings initiatives and operating improvements and consolidations; curtailments and modifications to pension and post-employment employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments);

(2) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period whether effected through a cumulative effect adjustment or a retroactive application, in each case in accordance with GAAP;

(3) Transaction Expenses;

(4) any gain (loss) on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business);

(5) the Net Income for such period of any Person that is an Unrestricted Subsidiary and, solely for the purpose of determining the amount available for Restricted Payments under clause (3)(a) of Section 7.05(a), the Net Income for such period of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting; "provided" that the Consolidated Net Income of a Person will be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or to the extent converted into cash or Cash Equivalents) to such Person or a Restricted Subsidiary thereof in respect of such period;

(6) solely for the purpose of determining Excess Cash Flow and the amount available for Restricted Payments under clause (3)(a) of Section 7.05(a), the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived (or the Borrower reasonably believes such restriction could be waived and is using commercially reasonable efforts to pursue such waiver); provided that Consolidated Net Income of a Person will be increased by the amount of dividends or other distributions or other payments actually paid in cash or Cash Equivalents (or to
the extent converted into cash or Cash Equivalents), or the amount that could have been paid in cash or Cash Equivalents without violating any such restriction or requiring any such approval, to such Person or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein;

(7) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) related to the application of recapitalization accounting or purchase accounting (including in the inventory, property and equipment, software, goodwill, intangible assets, in process research and development, deferred revenue and debt line items);

(8) income (loss) from the early extinguishment or conversion of (a) Indebtedness, (b) Hedging Obligations or (c) other derivative instruments;

(9) any impairment Charges or asset write-off or write-down in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;

(10) (a) any equity based or non-cash compensation charge or expense, including any such charge or expense arising from grants of stock appreciation, equity incentive programs or similar rights, stock options, restricted stock or other rights to, and any cash charges associated with the rollover, acceleration or payout of, Equity Interests by management of such Person or of a Restricted Subsidiary or any Parent Company, (b) noncash compensation expense resulting from the application of Accounting Standards Codification Topic No. 718, Compensation—Stock Compensation or Accounting Standards Codification Topic 505-50, Equity-Based Payments to Non-Employees, and (c) any income (loss) attributable to deferred compensation plans or trusts;

(11) any Charges during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, disposition, incurrence or repayment of Indebtedness (including such fees, expenses or charges related to the syndication and incurrence of any Indebtedness, including the Second Lien Credit Facility and any Facilities hereunder), issuance of Equity Interests (including by any direct or indirect parent of the Borrower), recapitalization, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of any Indebtedness, including the Second Lien Credit Documents and the Loan Documents) and including, in each case, any such transaction whether consummated on, after or prior to the Closing Date and any such transaction undertaken but not completed, and any charges or nonrecurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful or consummated (including, for the avoidance of doubt, the effects of expensing all transaction related expenses in accordance with Accounting Standards Codification Topic No. 805, Business Combinations);

(12) accruals and reserves that are established or adjusted in connection with the Transactions, an Investment or an acquisition that are required to be established or adjusted as a result of the Transactions, such Investment or such acquisition, in each case in accordance with GAAP;

(13) any expenses, charges or losses to the extent covered by insurance that are, directly or indirectly, reimbursed or reimbursable by a third party, and any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any acquisition, Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement;
(14) any non-cash gain (loss) attributable to the mark to market movement in the valuation of Hedging Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—Derivatives and Hedging or mark to market movement of other financial instruments pursuant to FASB Accounting Standards Codification Topic 825—Financial Instruments;

(15) any net realized or unrealized gain or loss (after any offset) resulting in such period from currency transaction or translation gains or losses, including those related to currency remeasurements of Indebtedness (including any net loss or gain resulting from (a) Hedging Obligations for currency exchange risk and (b) resulting from intercompany indebtedness) and any other foreign currency transaction or translation gains and losses;

(16) any adjustments resulting from the application of Accounting Standards Codification Topic No. 460, Guarantees, or any comparable regulation;

(17) any non-cash rent expense;

(18) [reserved];

(19) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures; and

(20) earn-out and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments.

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, Consolidated Net Income will include the amount of proceeds received or receivable from business interruption insurance, the amount of any expenses or charges incurred by such Person or its Restricted Subsidiaries during such period that are, directly or indirectly, reimbursed or reimbursable by a third party, and amounts that are covered by indemnification or other reimbursement provisions in connection with any acquisition, Investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder.

Notwithstanding the foregoing, for the purpose of Section 7.05(a) (other than clause (3)(d) of Section 7.05(a)), there will be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by such Person and its Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from such Person and its Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by such Person or any Restricted Subsidiary, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under clause (3)(d) of Section 7.05(a).

“Consolidated Secured Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of (i) Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness, in each case secured by a lien on the Collateral and (ii) other Capitalized Lease Obligations and purchase money Indebtedness of the Loan Parties in excess of the Threshold Amount and secured by a lien; provided, Consolidated Secured Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees
and performance or similar bonds, except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

“Consolidated Total Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness; provided, Consolidated Total Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees and performance or similar bonds, except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

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

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other monetary obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Contract Consideration” has the meaning specified in clause (2)(k) of the definition of “Excess Cash Flow.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.
“Controlled Investment Affiliate” means, as to any Person, any other Person, other than any Investor, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower or other companies.

“Converted Closing Date Euro Term Loan” means each Closing Date Euro Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date Euro Term Loans being converted to Term B Euro Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was €650,802,180.40).

“Converted Closing Date Term Loans” means the Converted Closing Date USD Term Loans and the Converted Closing Date Euro Term Loans.

“Converted Closing Date USD Term Loan” means each Closing Date USD Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date USD Term Loans being converted to Term B USD Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was $2,703,592,110.32).

“Convertible Indebtedness” means Indebtedness of the Borrower (which may be guaranteed by the Guarantors) permitted to be incurred hereunder that is either (a) convertible into common equity of the Borrower (and cash in lieu of fractional shares) or cash (in an amount determined by reference to the price of such common equity) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common equity of the Borrower or cash (in an amount determined by reference to the price of such common equity).

“Corrective Extension Amendment” has the meaning specified in Section 2.16(6).

“Credit Agreement Refinanced Debt” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“Credit Agreement Refinancing Indebtedness” means (a) Permitted Equal Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt or (c) Permitted Unsecured Refinancing Debt; provided that, in each case, such Indebtedness is issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) to Refinance, in whole or in part, existing Loans (or, if applicable, unused Commitments) or any then-existing Credit Agreement Refinancing Indebtedness (“Credit Agreement Refinanced Debt”); provided, further, that (i) the terms of any such Indebtedness (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates), interest margins, rate floors, fees, funding discounts, original issue discounts and prepayment or redemption premiums and terms) shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith) or (B) if otherwise not consistent with the terms of such Credit Agreement Refinanced Debt, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Credit Agreement Refinanced Debt, except with respect to covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such Refinancing, (ii) any such Indebtedness shall have a maturity date that is no earlier than the Credit Agreement Refinanced Debt and a Weighted Average Life to Maturity equal to or greater than that of the Credit Agreement Refinanced Debt as of the date of determination, (iii) such Indebtedness shall not have a greater principal amount (or shall not have a greater accreted value, if applicable) than the principal amount (or accreted value, if applicable) of the Credit Agreement Refinanced Debt plus accrued interest, fees and premiums (including tender premium) and penalties (if any) thereon and fees, expenses, original issue discount and upfront fees incurred in
connection with such Refinancing plus the amount of any other Indebtedness permitted under one or more other Baskets under Section 7.02 (which shall be deemed a utilization of any such Baskets), (iv) such Credit Agreement Refinanced Debt shall be repaid, defeased or satisfied and discharged, and all accrued interest, fees and premiums (if any) in connection therewith shall be paid, within five (5) Business Days after the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained with the Net Proceeds received from the incurrence or issuance of such Indebtedness and (v) any mandatory prepayments of (I) any Permitted Junior Priority Refinancing Debt may not be made except to the extent that prepayments are not prohibited hereunder and to the extent required hereunder or pursuant to the terms of any Permitted Equal Priority Refinancing Debt, first made or offered to the holders of the Term Loans constituting First Lien Obligations and any such Permitted Equal Priority Refinancing Debt, and (II) any Permitted Equal Priority Refinancing Debt in respect of events described in Section 2.05(2)(a), (b) and (d)(i), may be made on a pro rata basis, less than a pro rata basis or greater than a pro rata basis (but not greater than a pro rata basis as compared to any Class of Term Loans constituting First Lien Obligations with an earlier maturity date unless the Credit Agreement Refinanced Debt was so entitled to participate on a greater than a pro rata basis) with each Class of Term Loans constituting First Lien Obligations under Section 2.05(2)(a), (b) and (d)(i), provided, further, that “Credit Agreement Refinancing Indebtedness” may be incurred in the form of a bridge or other interim credit facility intended to be Refinanced with (or which converts into or is exchanged for) long-term indebtedness (and such bridge or other interim credit facility shall be deemed to satisfy clause (ii) of the second proviso in this definition so long as (x) such credit facility includes customary “rollover” provisions and (y) assuming such credit facility were to be extended pursuant to such “rollover” provisions, such extended credit facility would comply with clause (ii) above) and in which case, on or prior to the first anniversary of the incurrence of such “bridge” or other interim credit facility, clause (v) of the preceding proviso in this definition shall not prohibit the inclusion of customary terms for “bridge” facilities, including customary mandatory prepayment, repurchase or redemption provisions.

“Credit Extension” means each of the following: (i) a Borrowing and (ii) an L/C Credit Extension.

“Cure Amount” has the meaning specified in Section 8.04(1).

“Cure Expiration Date” has the meaning specified in Section 8.04(1)(a).

“Debt Fund Affiliate” means any Affiliate of an Investor that is a bona fide diversified debt fund that is not (a) a natural person or (b) Holdings, the Borrower or any Subsidiary of the Borrower.

“Debt Representative” means, with respect to any series of Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent or representative under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“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.

“Declined Proceeds” has the meaning specified in Section 2.05(2)(g).

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.
“Default Rate” means (i) with respect to any amounts denominated in Dollars, an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans plus (c) 2.00% per annum; provided that with respect to the outstanding principal amount of any Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.02(3)) plus 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws and (ii) with respect to any amounts denominated in Euros, an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to Euro Term Loans (giving effect to Section 2.02(3)) plus 2.00% per annum, to the fullest extent permitted by applicable Laws.

“Defaulting Lender” means, subject to Section 2.17(2), any Lender that (a) has refused (which refusal may be given verbally or in writing and has not been retracted) or failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of L/C Obligations, within one Business Day of the date required to be funded by it hereunder, (b) has failed to pay over to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, (c) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit, (d) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (e) has, or has a direct or indirect parent company that has, either (i) admitted in writing that it is insolvent or (ii) become subject to a Lender-Related Distress Event. Any determination by the Administrative Agent as to whether a Lender is a Defaulting Lender shall be conclusive absent manifest error.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a subsequent sale, redemption or repurchase of, or collection or payment on, such Designated Non-Cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Borrower, any Restricted Subsidiary thereof or any Parent Company (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Borrower or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on or promptly after the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (3) of Section 7.05(a).

“Designated Revolving Commitments” means any commitments to make loans or extend credit on a revolving basis (or delayed draw basis) to the Borrower or any Restricted Subsidiary by any Person other than the Borrower or any Restricted Subsidiary that have been designated in an Officer’s Certificate delivered to the Administrative Agent as “Designated Revolving Commitments” until such time as the Borrower subsequently delivers an Officer’s Certificate to the Administrative Agent to the effect that such commitments will no longer constitute “Designated Revolving Commitments”; provided that, during such time (including at the time of the incurrence of such Designated Revolving Commitments), (i) except for purposes of the definition of “Applicable Rate,” the First Lien Net Leverage Ratios set forth in Section 2.05(2)(a) and Section 2.05(2)(b) and determining actual compliance with the Financial Covenant, such Designated Revolving Commitments will be deemed an incurrence of Indebtedness on such date and will be deemed outstanding for purposes of calculating the Interest Coverage Ratio, Total Net Leverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio.
and the availability of any Baskets hereunder and (ii) commencing on the date such Designated Revolving Commitments are established after giving pro forma effect to the incurrence of the entire committed amount of the Indebtedness thereunder (but without netting any cash proceeds thereof), such committed amount under such Designated Revolving Commitments may thereafter be borrowed (and reborrowed, if applicable), in whole or in part, from time to time, without further compliance with any Basket or financial ratio or test under this Agreement (including the Interest Coverage Ratio, Total Net Leverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio).

“Discharge” means, with respect to any Indebtedness, the repayment, prepayment, repurchase (including pursuant to an offer to purchase), redemption, defeasance or other discharge of such Indebtedness, in any such case in whole or in part.

“Discount Prepayment Accepting Lender” has the meaning assigned to such term in Section 2.05(1)(e)(B)(2).

“Discount Range” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Prepayment Amount” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Prepayment Notice” means a written notice of a Borrower Solicitation of Discount Range Prepayment Offers made pursuant to Section 2.05(1)(e)(C)(1) substantially in the form of Exhibit J.

“Discount Range Prepayment Offer” means the written offer by a Lender, substantially in the form of Exhibit K, submitted in response to an invitation to submit offers following the Auction Agent’s receipt of a Discount Range Prepayment Notice.

“Discount Range Prepayment Response Date” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Proration” has the meaning assigned to such term in Section 2.05(1)(e)(C)(3).

“Discounted Prepayment Determination Date” has the meaning assigned to such term in Section 2.05(1)(e)(D)(3).

“Discounted Prepayment Effective Date” means in the case of a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer, five (5) Business Days following the Specified Discount Prepayment Response Date, the Discount Range Prepayment Response Date or the Solicited Discounted Prepayment Response Date, as applicable, in accordance with Section 2.05(1)(e)(B), Section 2.05(1)(e)(C) or Section 2.05(1)(e)(D), respectively, unless a shorter period is agreed to between the Borrower and the Auction Agent.

“Discounted Term Loan Prepayment” has the meaning assigned to such term in Section 2.05(1)(e)(A).

“disposition” has the meaning set forth in the definition of “Asset Sale.”
“Disqualified Institution” means (a) any competitor of the Borrower or its Subsidiaries identified in writing by or on behalf of the Borrower to (i) the Arrangers on or prior to the Closing Date or (ii) the Administrative Agent from time to time after September 6, 2017, (b) those particular banks, financial institutions, other institutional lenders and other Persons identified by the Borrower to the Arrangers in writing (as provided herein) on or prior to the Closing Date (or related funds of any such Persons) and (c) any Affiliate of the entities described in the preceding clauses (a) or (b) that are either (w) reasonably identifiable as such on the basis of their name or (x) are identified as such in writing by or on behalf of the Borrower to (i) the Arrangers on or prior to the Closing Date or (ii) the Administrative Agent from time to time after the Closing Date (other than bona fide debt funds primarily investing in loans); provided that any Person that is a Lender or a Participant and subsequently becomes a Disqualified Institution (but was not a Disqualified Institution at the time it became a Lender or a Participant, as applicable) shall be deemed to not be a Disqualified Institution hereunder (in the case of any such Participant that is not a Lender, solely with respect to the participations held by such Participant). The identity of Disqualified Institutions may be communicated by the Administrative Agent to a Lender upon request, but will not be otherwise posted or distributed to any Person.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain), in whole or in part, in each case prior to the date 91 days after the earlier of the then Latest Maturity Date or the date the Loans are no longer outstanding and the Commitments have been terminated; provided that if such Capital Stock is issued pursuant to any plan for the benefit of future, current or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower or its Subsidiaries or any Parent Company or by any such plan to such employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof), such Capital Stock will not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s, officer’s, management member’s, consultant’s or independent contractor’s termination, death or disability; provided further any Capital Stock held by any future, current or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries, any Parent Company, or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an “affiliate” by the Board of Directors (or the compensation committee thereof), in each case pursuant to any equity subscription or equity holders’ agreement, management equity plan or stock option plan or any other management or employee benefit plan or agreement will not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or any Subsidiary in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s, officer’s, management member’s, consultant’s or independent contractor’s termination, death or disability. For the purposes hereof, the aggregate principal amount of Disqualified Stock will be deemed to be equal to the greater of its voluntary or involuntary liquidation preference and maximum fixed repurchase price, determined on a consolidated basis in accordance with GAAP, and the “maximum fixed repurchase price” of any Disqualified Stock that does not have a fixed repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which the Consolidated Total Debt, Consolidated First Lien Secured Debt or Consolidated Secured Debt, as applicable, will be required to be determined pursuant to this Agreement, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined in good faith by the Borrower.
“Distressed Agent” shall have the meaning provided in the definition of the term Agent-Related Distress Event.

“Distressed Person” shall have the meaning provided in the definition of the term Lender-Related Distress Event.

“Dollar” and “$” mean lawful money of the United States.

“Dollar Amount” means with respect to any L/C Obligation (or any risk participation therein), (A) if denominated in Dollars, the amount thereof and (B) if denominated in an Available LC Currency other than Dollars, the equivalent amount thereof converted to Dollars as determined by the Administrative Agent on the basis of the Spot Rate.

“Domestic Subsidiary” means any direct or indirect Subsidiary of the Borrower that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“ECF Payment Amount” has the meaning specified in Section 2.05(2)(a).

“ECF Percentage” has the meaning specified in Section 2.05(2)(a).

“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.

“Eligible Assignee” has the meaning specified in Section 10.07(a).

“EMU” means the economic and monetary union as contemplated in the Treaty on European Union.

“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, soil, surface and sub-surface strata, and natural resources such as wetlands, flora and fauna.

“Environmental Claim” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations (other than internal reports prepared by any Loan Party or any of its Subsidiaries (a) in the ordinary course of such Person’s business or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceedings with respect to any Environmental Liability or Environmental
Law (hereinafter “Claims”), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means any and all Laws relating to pollution or the protection of the Environment or, to the extent relating to exposure to Hazardous Materials, human health.

“Environmental Liability” means any liability (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its 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 or (e) any contract or other written agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“Equal Priority Intercreditor Agreement” means, to the extent executed in connection with the incurrence of Indebtedness secured by Liens on the Collateral which are intended to rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), at the option of the Borrower and the Administrative Agent acting together in good faith, either (a) an intercreditor agreement substantially in the form of Exhibit G-1, together with any material changes thereto which are reasonably acceptable to the Administrative Agent and which material changes, at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof, (b) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), in each case with such modifications thereto as the Administrative Agent and the Borrower may agree or (c) any other intercreditor agreement posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such intercreditor agreement within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement is reasonable and to have consented to such intercreditor agreement and to the Administrative Agent’s execution thereof.

“Equity Interests” means, with respect to any Person, the Capital Stock of such Person and all warrants, options or other rights to acquire Capital Stock of such Person, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock of such Person.

“Equity Offering” means any public or private sale of common equity or Preferred Stock of the Borrower or any Parent Company (excluding Disqualified Stock), other than:

(1) public offerings with respect to the Borrower’s or any Parent Company’s common equity registered on Form S-4 or Form S-8;
(2) issuances to any Restricted Subsidiary of the Borrower; and
(3) any such public or private sale that constitutes an Excluded Contribution.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of withdrawal liability or written notification that a Multiemployer Plan is “insolvent” (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement in writing of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the imposition of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or Multiemployer Plan, other than for the payment of PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) a failure to satisfy the minimum funding standard (within the meaning of Section 302 of ERISA or Section 412 of the Code) with respect to a Pension Plan, whether or not waived; (h) the application for a minimum funding waiver under Section 302(c) of ERISA with respect to a Pension Plan; (i) the imposition of a lien under Section 303(k) of ERISA or Section 430(k) of the Code with respect to any Pension Plan; (j) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 303 of ERISA or Section 430 of the Code); or (k) the occurrence of a nonexempt prohibited transaction with respect to any Pension Plan maintained or contributed to by any Loan Party or any of their respective ERISA Affiliates (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could result in liability to any Loan Party.

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.

“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.

“EURIBOR Rate” means for any Interest Period with respect to a EURIBOR Rate Loan, the rate per annum equal to the Euro Interbank Offered Rate (“EURIBOR”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Reuters screen page (or such other commercially available source providing quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, two (2) Business Days prior to the commencement of such Interest Period, for Euro deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period;
provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower; provided, further, that if such rate is not available at such time for any reason, then the “EURIBOR Rate” for such Interest Period shall be (a) a comparable successor or alternative interbank rate for deposits in Euros that is, at such time, broadly accepted as the prevailing market practice for syndicated leveraged loans of this type in lieu of the “EURIBOR Rate” and is reasonably acceptable to the Borrower and the Administrative Agent or (b) if no such broadly accepted comparable successor interbank rate exists at such time, a successor or alternative index rate as the Administrative Agent and the Borrower may reasonably determine and which successor or alternative index rate described in this clause (b), at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before effectiveness thereof and, if the Required Lenders shall not have objected to such successor or alternative index rate within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that such successor or alternative index rate is reasonable and to have consented to the effectiveness of such successor or alternative index rate; provided, further, that in no event shall the EURIBOR Rate for the Closing Date Term B Euro Term Loans be less than 0%.

“EURIBOR Rate Loan” means a Loan that bears interest at a rate based on the EURIBOR Rate.

“Euro” or “euro” means the single currency of participating member states of the EMU.

“Euro Amortization Percentage” means the percentage equal to the product of (x) 0.25% multiplied by (y) the result of €507,000,000 divided by €505,732,500.00.

“Euro Term Lender” means a Term Lender with a Closing Date Euro Term Loan Commitment or an outstanding Euro Term Loan.

“Euro Term Loan” means each Term Loan denominated in Euros.

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing quotations as may be designated by the Administrative Agent from time to time) (in such case, the “LIBOR Rate”) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at or about 11:00 a.m., London time, two (2) Business Days prior to such date for Dollar deposits with a term of one (1) month commencing that day;
provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower; provided, further, that if such rate is not available at such time for any reason, then the “LIBOR Rate” for such Interest Period shall be (a) a comparable successor or alternative interbank rate for deposits in Dollars that is, at such time, broadly accepted as the prevailing market practice for syndicated leveraged loans of this type in lieu of the “LIBOR Rate” and is reasonably acceptable to the Borrower and the Administrative Agent or (b) if no such broadly accepted comparable successor interbank rate exists at such time, a successor or alternative index rate as the Administrative Agent and the Borrower may reasonably determine and which successor or alternative index rate described in this clause (b), at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before effectiveness thereof and, if the Required Lenders shall not have objected to such successor or alternative index rate within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that such successor or alternative index rate is reasonable and to have consented to the effectiveness of such successor or alternative index rate; provided, further, that in no event shall (x) the Eurodollar Rate for the Closing Date Term B USD Term Loans that bear interest at a rate based on clauses (a) and (b) of this definition be less than 1.00% or (y) the Eurodollar Rate for Revolving Loans that bear interest at a rate based on clauses (a) and (b) of this definition be less than 0%.

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

“Event of Default” has the meaning specified in Section 8.01.

“Excess Cash Flow” means, for any period, an amount equal to the excess of:

(1) the sum, without duplication, of:

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

(b) an amount equal to the amount of all non-cash charges (including depreciation and amortization) for such period to the extent deducted in arriving at such Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period,

(c) decreases in Consolidated Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa) and, without duplication, decreases in long-term accounts receivable and increases in the long-term portion of deferred revenue (except as a result of the reclassification of items from short-term to long-term or vice versa), in each case, for such period (other than any such decreases or increases, as applicable, arising from acquisitions or Asset Sales outside the ordinary course of assets by the Borrower or any Restricted Subsidiary during such period or the application of recapitalization or purchase accounting),

(d) [reserved];

(e) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid in such period and
(f) cash receipts in respect of Hedge Agreements during such fiscal year to the extent not otherwise included in such Consolidated Net Income; over

(2) the sum, without duplication, of:

(a) an amount equal to the amount of all non-cash credits (including, to the extent constituting non-cash credits, amortization of deferred revenue acquired as a result of the Original Transactions or any Permitted Acquisition, Investment permitted hereunder or any similar transaction) included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (1)(b) above) and cash losses, charges (including any reserves or accruals for potential cash charges in any future period), expenses, costs and fees excluded by virtue of the definition of "Consolidated Net Income;"

(b) without duplication of amounts deducted pursuant to clause (k) below in prior fiscal years, the amount of Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property accrued or made in cash during such period, in each case except to the extent financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(c) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Restricted Subsidiaries (including (i) the principal component of payments in respect of Capitalized Lease Obligations, (ii) all scheduled principal repayments of Loans, Permitted Incremental Equivalent Debt and Credit Agreement Refinancing Indebtedness (or any Indebtedness representing Refinancing Indebtedness of any of the foregoing in accordance with the corresponding provisions of the governing documentation thereof), the Second Lien Term Loans, "Permitted Incremental Equivalent Debt," any "Other Loans" and "Credit Agreement Refinancing Indebtedness" (each, as defined in the Second Lien Credit Agreement as in effect on the date hereof) and any other Indebtedness outstanding pursuant to Section 7.02 (or any Indebtedness representing Refinancing Indebtedness of any of the foregoing in accordance with the corresponding provisions of the governing documentation thereof), in each case to the extent such payments are permitted hereunder and actually made and (iii) the amount of any scheduled repayment of Term Loans pursuant to Section 2.07, mandatory prepayment of Term Loans pursuant to Section 2.05(2)(b), any mandatory prepayments of Second Lien Term Loans pursuant to Section 2.05(2) of the Second Lien Credit Agreement (or any Indebtedness representing Refinancing Indebtedness in respect thereof in accordance with the corresponding provisions of the governing documentation thereof) and any mandatory Discharge of (I) Permitted Incremental Equivalent Debt or Credit Agreement Refinancing Indebtedness (or any Indebtedness representing Refinancing Indebtedness of any of the foregoing in accordance with the corresponding provisions of the governing documentation thereof), (II) "Permitted Incremental Equivalent Debt," any "Other Loans" and "Credit Agreement Refinancing Indebtedness" (each, as defined in the Second Lien Credit Agreement as in effect on the date hereof) and (III) of any other Indebtedness outstanding pursuant to Section 7.02 (or any Indebtedness representing Refinancing Indebtedness in respect thereof in accordance with the corresponding provisions of the governing documentation thereof) pursuant to the corresponding provisions of the governing documentation thereof, in each case, to the extent required due to an Asset Sale or Casualty Event that resulted in an increase to Consolidated Net Income for such period and not in excess of the amount of such
increase, but excluding (x) all other prepayments of Term Loans or Second Lien Term Loans, (y) all prepayments of Revolving Loans and all prepayments in respect of any other revolving credit facility, except to the extent there is an equivalent permanent reduction in commitments thereunder and (z) payments on any Junior Indebtedness, except in each case to the extent permitted to be paid pursuant to Section 7.05) made during such period, in each case, except to the extent financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(d) [Reserved],

(e) increases in Consolidated Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa) and, without duplication, increases in long-term accounts receivable and decreases in the long-term portion of deferred revenue (except as a result of the reclassification of items from short-term to long-term or vice versa), in each case, for such period (other than any such increases or decreases, as applicable, arising from acquisitions or Asset Sales outside the ordinary course by the Borrower or any Restricted Subsidiary during such period or the application of recapitalization or purchase accounting),

(f) cash payments by the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and the Restricted Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income,

(g) without duplication of amounts deducted pursuant to clause (k) below in prior fiscal years, the amount of cash consideration paid by the Borrower and the Restricted Subsidiaries (on a consolidated basis) in connection with investments made during such period (including Permitted Acquisitions, investments constituting Permitted Investments and investments made pursuant to Section 7.05), except to the extent such investments were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(h) the amount of Restricted Payments paid in cash during such period (other than Restricted Payments made pursuant to Section 7.05(b)(15)), except to the extent such Restricted Payments were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(i) the aggregate amount of expenditures (including expenditures for the payment of financing fees) paid in cash during such period to the extent that such expenditures are not expensed during such period or are not deducted in calculating Consolidated Net Income, except to the extent such expenditures were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),
(j) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Restricted Subsidiaries during such period that are made in connection with any prepayment or redemption of Indebtedness to the extent (x) such premium, make-whole or penalty payments were not expensed during such period or are not deducted in calculating Consolidated Net Income and (y) such prepayments or redemptions reduced Excess Cash Flow pursuant to clause (2)(c) above or reduced the mandatory prepayment required by Section 2.05(2)(a),

(k) without duplication of amounts deducted from Excess Cash Flow in other periods, and at the option of the Borrower, (1) the aggregate consideration required to be paid in cash by the Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period and (2) any planned cash expenditures by the Borrower or any of its Restricted Subsidiaries (the "Planned Expenditures"), in the case of each of the preceding clauses (1) and (2), relating to Permitted Acquisitions or other investments, Capital Expenditures, Restricted Payments, acquisitions of intellectual property, any scheduled payment of Indebtedness that was permitted by the terms of this Agreement to be incurred and paid or permitted tax distributions, in each case, to be consummated or made, as applicable, during the period of four consecutive fiscal quarters of the Borrower following the end of such period (except to the extent financed with the proceeds of long-term Indebtedness other than revolving Indebtedness)); provided that to the extent that the aggregate amount of internally generated cash flow actually utilized to finance such Permitted Acquisitions or other investments, Capital Expenditures, Restricted Payments, acquisitions of intellectual property, permitted scheduled payments of Indebtedness that were permitted by the terms of this Agreement to be incurred and paid or permitted tax distributions during such following period of four consecutive fiscal quarters is less than the Contract Consideration and Planned Expenditures, the amount of such shortfall shall be added to the calculation of Excess Cash Flow, at the end of such period of four consecutive fiscal quarters,

(l) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period plus the amount of distributions with respect to taxes made in such period under Section 7.05(b)(14), to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period,

(m) cash expenditures in respect of Hedging Obligations during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income,

(n) any fees, expenses or charges incurred during such period (including the Transaction Expenses), or any amortization thereof for such period, in connection with any acquisition, investment, disposition, incurrence or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of this Agreement, the other Loan Documents, the Second Lien Credit Documents and related documents with respect to any other Indebtedness) and including, in each case, any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful, and

(o) at the option of the Borrower, any amounts in respect of investments (including Permitted Acquisitions, Investments constituting Permitted Investments and Investments made pursuant to Section 7.05) and Restricted Payments (including related earnouts and similar payments) which could have been deducted pursuant to clauses (g) or (h) above if made in such period, but which are made after the end of such period and prior to the date upon which a mandatory prepayment for such period would be required under Section 2.05(2)(a) (which amounts, if so deducted in accordance with this clause (o), shall not affect the calculation of Excess Cash Flow in any future period).

“Excluded Assets” means (i) (x) any fee-owned real property (other than Material Real Property), (y) any leasehold interest in real property and (z) any improved fee-owned real property (whether already mortgaged, or is required or intended to be mortgaged, at any time of determination) located in a flood hazard area or such property or mortgage thereon would be subject to any flood insurance due diligence, flood insurance requirements or compliance with any flood insurance laws (it being agreed that (A) if it is subsequently determined that any such improved real property subject to, or otherwise required or intended to be subject to, a mortgage is or might be located in a flood hazard area, such property shall be deemed to constitute an Excluded Asset until a determination is made that such property is not located in a flood hazard area and does not require flood insurance, and (B) if there is an existing mortgage on such property, such mortgage shall be released if located in a special flood hazard area and would require flood insurance or if it cannot determined whether such fee owned real property is located in a special flood hazard area or would require flood insurance if the time or information necessary to make such determination would (as determined by the Borrower in good faith) delay or impair the intended date of funding any Loan or effectiveness of any amendment or supplement under this Agreement), (ii) motor vehicles and other assets subject to certificates of title, except to the extent a security interest therein can be perfected by the filing of a UCC financing statement, (iii) all commercial tort claims that are not expected to result in a judgment or settlement payment in excess of $25.0 million (as determined by the Borrower in good faith), (iv) any governmental or regulatory licenses, authorizations, certificates, charters, franchises, approvals and consents (whether Federal, State, Provincial or otherwise) to the extent a security interest therein is prohibited or restricted thereby or requires any consent or authorization from a Governmental Authority not obtained (without any requirement to obtain such consent or authorization) other than to the extent such prohibition or restriction is ineffective under the UCC or other applicable Law notwithstanding such prohibition and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC, (v) assets to the extent the pledge thereof or grant of security interests therein (x) is prohibited or restricted by any applicable Law, rule or regulation or would require any consent, approval or authorization of any governmental or regulatory authority not obtained (without any requirement to obtain such any consent, approval or authorization) (other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law notwithstanding such prohibition), (y) would cause the destruction, invalidation or abandonment of such asset under applicable Law (solely with respect to any intellectual property), or (z) is prohibited or restricted by any contract or would require any consent, approval, license or other authorization of any third party (other than Holdings or its Subsidiaries) pursuant to a contract, in each case, existing on the Closing Date or at the time of the acquisition of such asset and was not incurred in contemplation thereof (other than in the case of capital leases and purchase money financings) not obtained after giving effect to the anti-assignment provisions of the UCC, (vi) margin stock and Equity Interests in any Person that is not the Borrower or a wholly owned Restricted Subsidiary of the Borrower, (vii) Equity Interests in Immaterial Subsidiaries and Excluded Subsidiaries (other than first tier Foreign Subsidiaries and first tier Foreign Subsidiary Holdcos that are Restricted Subsidiaries; provided that in the case of any first tier Foreign Subsidiary or first tier Foreign Subsidiary Holdco, the pledge of the Equity Interests of such Subsidiary shall be limited to no more than 65% of the total issued and outstanding Equity Interests of a Foreign Subsidiary or Foreign Subsidiary Holdco), (viii) any lease, license or agreement (not otherwise subject to clause (v) above) or any property that is subject to a capital lease, purchase money security interest or similar arrangement, in
each case permitted by this Agreement, to the extent that a grant of a security interest therein (a) would violate or invalidate such lease, license or agreement or purchase money security interest or similar arrangement or create a right of termination in favor of any other party thereto (other than Holdings or any of its Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Law or (b) would require governmental or regulatory approval, consent or authorization not obtained (without any requirement to obtain such approval, consent or authorization), other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law notwithstanding such prohibition), (ix) [reserved], (x) letter of credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest therein is accomplished by the filing of a UCC financing statement, (xi) any intent-to-use trademark applications filed in the United States Patent and Trademark Office, pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. Section 1051, prior to the accepted filing of a “Statement of Use” and issuance of a “Certificate of Registration” pursuant to Section 1(d) of the Lanham Act or an accepted filing of an “Amendment to Allege Use” whereby such intent-to-use trademark application is converted to a “use in commerce” application pursuant to Section 1(c) of the Lanham Act, (xii) assets where the burden or cost (including any adverse tax consequences) of obtaining a security interest therein or perfection thereof exceeds the practical benefit to the Lenders afforded thereby as reasonably determined between the Borrower and the Administrative Agent, (xiii) any assets to the extent a security interest in such assets or perfection thereof would result in material adverse tax consequences to the Borrower, any Parent Company or any Restricted Subsidiary as reasonably determined by the Borrower in good faith, in consultation with the Administrative Agent, (xiv) any assets located in or governed by any non-U.S. jurisdiction law or regulation (other than (x) Equity Interests and intercompany debt of Foreign Subsidiaries otherwise required to be pledged pursuant to the Collateral Documents and (y) assets that can be perfected by the filing of a UCC financing statement), including any intellectual property located in a non-U.S. jurisdiction and (xv) cash and Cash Equivalents (except to the extent constituting identifiable proceeds of Collateral which is perfected by the filing of a UCC financing statement), deposit, securities, commodities and other accounts, securities entitlements and related assets held in such account except, in each case, to the extent a security interest therein is perfected by filing of a UCC financing statement and other than any Cash Collateral, Cash Collateral Account or other cash or assets deposited with a Secured Party as Collateral.

“Excluded Contribution” means net cash proceeds or the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Borrower from:

(1) contributions to its common equity capital;
(2) dividends, distributions, fees and other payments from any joint ventures that are not Restricted Subsidiaries; and
(3) the sale (other than to a Restricted Subsidiary of the Borrower or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Borrower;

in each case, designated as Excluded Contributions pursuant to an Officer’s Certificate and that are excluded from the calculation set forth in clause (3) of Section 7.05(a), provided that Excluded Contributions shall not include Cure Amounts.

“Excluded Proceeds” means, with respect to any Asset Sale or Casualty Event, the sum of, (1) any Net Proceeds therewith that constitute Declined Proceeds and (2) any Net Proceeds therewith that otherwise are waived by the Required Facility Lenders from the requirement to be applied to prepay the applicable Term Loans pursuant to Section 2.05(2)(b).
“Excluded Subsidiaries” means all of the following and “Excluded Subsidiary” means any of them:

1. any Subsidiary that is not a direct, wholly owned Subsidiary of the Borrower or a Subsidiary Guarantor,
2. any Foreign Subsidiary,
3. any Foreign Subsidiary Holdco,
4. any Domestic Subsidiary that is a Subsidiary of any (i) Foreign Subsidiary or (ii) Foreign Subsidiary Holdco,
5. any Subsidiary (including any regulated entity that is subject to net worth or net capital or similar capital and surplus restrictions) that is prohibited or restricted by applicable Law or by Contractual Obligation (including in respect of assumed Indebtedness permitted hereunder) existing on the Closing Date (or, with respect to any Subsidiary acquired by the Borrower or a Restricted Subsidiary after the Closing Date (and so long as such Contractual Obligation was not incurred in contemplation of such acquisition), on the date such Subsidiary is so acquired) from providing a Guaranty (including any Broker-Dealer Regulated Subsidiary) or if such Guaranty would require governmental (including regulatory) or third party (other than any Loan Party or their respective Subsidiaries) consent, approval, license or authorization not obtained,
6. any special purpose vehicle (or similar entity), receivables subsidiary or any Securitization Subsidiary,
7. any Captive Insurance Subsidiary or not-for-profit Subsidiary,
8. any Subsidiary that is not a Material Subsidiary,
9. any Subsidiary where the Borrower and the Administrative Agent reasonably determine that the burden or cost (including any adverse tax consequences) of providing the Guaranty will outweigh the benefits to be obtained by the Lenders therefrom, and
10. any Unrestricted Subsidiary.

“Excluded Swap Obligation” means, with respect to any Loan Party, (a) 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 (each such obligation, a “Swap Obligation”), if, and to the extent that, all or a portion of the guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (i) by virtue of such Loan Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to Section 3.02 of the Guaranty and any other “keepwell, support or other agreement” for the benefit of such Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act) at the time the guarantee of such Loan Party, or a grant by such Loan Party of a security interest, becomes effective with respect to
such Swap Obligation, or (ii) in the case of a Swap Obligation that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act, because such Loan Party is a “financial entity,” as defined in section 2(h)(7)(C) of the Commodity Exchange Act, at the time the guarantee of (or grant of such security interest by, as applicable) such Loan Party becomes or would become effective with respect to such Swap Obligation, or (b) any other Swap Obligation designated as an “Excluded Swap Obligation” of such Loan Party as specified in any agreement between the relevant Loan Parties and hedge counterparty applicable to such Swap Obligations. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest becomes excluded in accordance with the first sentence of this definition.

“Excluded Taxes” means, with respect to each Agent and each Lender,

(1) any tax imposed on (or measured by) such Agent or Lender’s net income or profits (or franchise or net worth tax in lieu of such tax on net income or profits) imposed by a jurisdiction as a result of such Agent or Lender being organized under the laws of or having its principal office or applicable Lending Office located in such jurisdiction or as a result of any other present or former connection between such Agent or Lender and the jurisdiction (including as a result of such Agent or Lender carrying on a trade or business, having a permanent establishment or being a resident for tax purposes in such jurisdiction), other than a connection arising solely from such Agent or Lender having executed, delivered, enforced, 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 any Loan or Loan Document,

(2) any branch profits tax under Section 884(a) of the Code, or any similar tax, imposed by any jurisdiction described in clause (1),

(3) any tax imposed on (or measured by) such Agent or Lender’s net income or profits (or franchise or net worth tax in lieu of such tax on net income or profits) imposed by a jurisdiction as a result of such Agent or Lender being organized under the laws of or having its principal office or applicable Lending Office located in such jurisdiction or as a result of any other present or former connection between such Agent or Lender and the jurisdiction (including as a result of such Agent or Lender carrying on a trade or business, having a permanent establishment or being a resident for tax purposes in such jurisdiction), other than a connection arising solely from such Agent or Lender having executed, delivered, enforced, 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 any Loan or Loan Document,

(4) any withholding tax attributable to such Lender’s failure to comply with Section 3.01(3),

(5) any tax imposed under FATCA,

(6) any U.S. federal backup withholding under Section 3406 of the Code, and
any interest, additions to taxes and penalties with respect to any taxes described in clauses (1) through (6) of this definition.

“Excluded TPG/Intel Costs” means all Charges in connection with services, including consulting arrangements, provided by any employee of TPG Capital L.P. and/or or Intel Corporation or any of their respective Affiliates (other than any such Charges incurred under the TSA).

“Existing Letters of Credit” means any letters of credit or bank guaranties outstanding on the Closing Date described in Schedule 1.01(3).

“Existing Revolving Class” has the meaning specified in Section 2.16(2).

“Existing Term Loan Class” has the meaning specified in Section 2.16(1).

“Extended Revolving Commitments” has the meaning specified in Section 2.16(2).

“Extended Term Loans” has the meaning specified in Section 2.16(1).

“Extending Lender” means an Extending Revolving Lender or an Extending Term Lender, as the case may be.

“Extending Revolving Lender” has the meaning specified in Section 2.16(3).

“Extending Term Lender” has the meaning specified in Section 2.16(3).

“Extension” means the establishment of an Extension Series by amending a Loan pursuant to Section 2.16 and the applicable Extension Amendment.

“Extension Amendment” has the meaning specified in Section 2.16(4).

“Extension Election” has the meaning specified in Section 2.16(3).

“Extension Minimum Condition” means a condition to consummating any Extension that a minimum amount (to be determined and specified in the relevant Extension Request, in the Borrower’s sole discretion) of any or all applicable Classes be submitted for Extension.

“Extension Request” means any Term Loan Extension Request or any Revolving Extension Request, as the case may be.

“Extension Series” means any Term Loan Extension Series or a Revolving Extension Series, as the case may be.

“Facilities” means the Closing Date USD Term Loans, Closing Date Euro Term Loans, the Term B USD Loans, the Term B Euro Loans, the Revolving Facility, a given Extension Series of Extended Revolving Commitments, a given Class of Other Term Loans, a given Extension Series of Extended Term Loans, a given Class of Incremental Term Loans, a given Class of Incremental Revolving Commitments, any Other Revolving Loan (or Commitment) or a given Class of Replacement Loans, as the context may require, and “Facility” means any of them.

“fair market value” means, with respect to any asset or liability, the fair market value of such asset or liability as determined by the Borrower in good faith.

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“FATCA” means Sections 1471 through 1474 of the Code as in effect on the date hereof or any amended or successor version thereof that is substantively comparable and not materially more onerous to comply with (and, in each case, any current or future regulations promulgated thereunder or official interpretations thereof), any applicable intergovernmental agreement entered into in respect thereof, and any provision of law or administrative guidance implementing or interpreting such provisions, including any agreements entered into pursuant to any such intergovernmental agreement or Section 1471(b)(1) of the Code as of the date hereof (or any amended or successor version described above).

“FCPA” has the meaning specified in Section 5.01.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be the rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for the day for such transactions received by the Administrative Agent from three depository institutions of recognized standing selected by it. For the avoidance of doubt, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Financial Covenant” means the covenant specified in Section 7.12(1).

“Financial Covenant Cross Default” has the meaning specified in Section 8.01(2).

“Financial Covenant Event of Default” has the meaning specified in Section 8.01(2).

“Financial Officer” means, with respect to a Person, the chief financial officer, accounting officer, treasurer, controller or other senior financial or accounting officer of such Person, as appropriate.

“First Amendment” means that certain Amendment No. 1 to First Lien Credit Agreement, dated as of January 3, 2018, among the Borrower, the Administrative Agent and the Initial Incremental Term Lenders party thereto.

“First Amendment Effective Date” means January 3, 2018.

“First Lien Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated First Lien Secured Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“First Lien Obligations” means the Obligations, the Permitted Incremental Equivalent Debt and the Credit Agreement Refinancing Indebtedness, in each case, that are, or purported to be, secured by the Collateral on an equal priority basis (but without regard to the control of remedies) with Liens on the Collateral securing the Closing Date Term B Loans. For the avoidance of doubt, “First Lien Obligations” shall include the Closing Date Term B Loans.
“First Lien/Second Lien Intercreditor Agreement” means any of (a) the First Lien/Second Lien Intercreditor Agreement in substantially in the form of Exhibit G-2, dated as of the Closing Date, among the Collateral Agent, the Loan Parties, JPMorgan Chase Bank, N.A., as Second Priority Representative for the Second Priority Debt Parties (each, as defined therein) and each additional representative party thereto from time to time, (b) an intercreditor agreement substantially in the form of Exhibit G-2, together with any material changes thereto which are reasonably acceptable to the Borrower and the Administrative Agent and which material changes, at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof, (c) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement, in each case with such modifications thereto as the Administrative Agent and the Borrower may agree or (d) any other intercreditor agreement posted to the Lenders not less than five (5) Business Days before execution thereof, and if the Required Lenders shall not have objected to such intercreditor agreement within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement is reasonable and to have consented to such intercreditor agreement and to the Administrative Agent’s execution thereof.

“Flood Insurance Laws” means, collectively, (i) National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“floor” means, with respect to any reference rate of interest, any fixed minimum amount specified for such rate.

“Foreign Asset Sale” has the meaning specified in Section 2.05(2)(h).

“Foreign Casualty Event” has the meaning specified in Section 2.05(2)(h).

“Foreign Lender” means a Lender that is not a United States person within the meaning of Section 7701(a)(30) of the Code.

“Foreign Plan” means any employee benefit plan, program or agreement maintained or contributed to by, or entered into with, the Borrower or any Subsidiary of the Borrower with respect to employees employed outside the United States (other than benefit plans, programs or agreements that are mandated by applicable Laws).

“Foreign Subsidiary” means any direct or indirect Restricted Subsidiary of the Borrower that is not a Domestic Subsidiary.

“Foreign Subsidiary Holdco” means a Subsidiary substantially all of whose assets consists (directly or indirectly) of the Capital Stock or indebtedness of one or more Foreign Subsidiaries.
“Fronting Exposure” means, at any time there is a Defaulting Lender, with respect to an Issuing Bank, 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.

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

“Funded Debt” means all Indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“GAAP” means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, as in effect from time to time. At any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP will thereafter be construed to mean IFRS (except as otherwise provided in this Agreement); provided, however, that any such election, once made, will be irrevocable; provided, further that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Borrower’s election to apply IFRS will remain as previously calculated or determined in accordance with GAAP. The Borrower will give notice of any such election made in accordance with this definition to the Administrative Agent. Notwithstanding any other provision contained herein, (i) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations and Attributable Indebtedness shall be determined in accordance with Section 1.03 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or the Loan Parties at “fair value”, as defined therein.

Notwithstanding the foregoing, if at any time any change occurs after the Closing Date in GAAP (or IFRS) or in the application thereof that, in each case, would affect the computation of any financial ratio or financial requirement, or compliance with any covenant, set forth in any Loan Document (including, but not limited to, the impact of Accounting Standards Update 2016-2, Revenue from Contracts with Customers (Topic 606) or similar revenue recognition policies promulgated after the Closing Date), and the Borrower shall so request (regardless of whether any such request is given before or after such change), the Administrative Agent, the Lenders and the Borrower will negotiate in good faith to amend (subject to the approval of the Required Lenders) such ratio, requirement or covenant to preserve the original intent thereof in light of such change in GAAP (or IFRS); provided that until so amended, (a) such ratio, requirement or covenant shall continue to be computed in accordance with GAAP (or IFRS) without giving effect to such change therein and (b) if reasonably requested by the Administrative Agent with respect to periods ending prior to the date that is one year after the effectiveness of such change, the Borrower shall provide the Administrative Agent (for distribution to the Lenders), together with any financial statements to be delivered pursuant to Section 6.01, a summary reconciliation between calculations of any such ratios or requirements required to be included in the
corresponding Compliance Certificate to be delivered pursuant to Section 6.02(4) made before and after giving effect to such change in GAAP (or IFRS). For the avoidance of doubt, subject to the requirements of the foregoing clause (b), the operation of this paragraph shall otherwise have no effect with respect to any financial statements required to be delivered pursuant to Section 6.01 unless the Borrower otherwise elects.

“General Debt Basket Reallocated Amount” means any amount that, at the option of the Borrower, has been reallocated from Section 7.02(b)(12)(b) to clause (A)(1) of the Available Incremental Amount, which shall be deemed to be a utilization of the Basket set forth in Section 7.02(b)(12)(b).

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, local, or otherwise, 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).

“Granting Lender” has the meaning specified in Section 10.07(g).

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business or consistent with industry practice), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

“Guarantee” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing any Indebtedness or other monetary 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 monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary 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 monetary obligation or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with the Transaction or any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.
“Guarantor” has the meaning specified in clause (2) of the definition of “Collateral and Guarantee Requirement.” For avoidance of doubt, the Borrower may, in its sole discretion, cause any Parent Company or Restricted Subsidiary that is not required to be a Guarantor to Guarantee the Obligations by causing such Parent Company or Restricted Subsidiary to execute a joinder to the Guaranty (substantially in the form provided therein or as the Administrative Agent, the Borrower and such Guarantor may otherwise agree), and any such Parent Company or Restricted Subsidiary shall be a Guarantor hereunder for all purposes; provided that (i) in the case of any Parent Company or Restricted Subsidiary organized in a foreign jurisdiction, the Administrative Agent shall be reasonably satisfied with the jurisdiction of organization of such Parent Company or Restricted Subsidiary and (ii) the Administrative Agent shall have received at least two (2) Business Days prior to the effectiveness of such joinder (or such later date as reasonably agreed by the Administrative Agent) all documentation and other information in respect of such Guarantor required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

“Guaranty” means (a) the Guaranty substantially in the form of Exhibit E made by Holdings and each Subsidiary Guarantor, (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11 and (c) each other guaranty and guaranty supplement delivered by any Parent Company or Restricted Subsidiary pursuant to the second sentence of the definition of “Guarantor.”

“Hazardous Materials” means all explosive or radioactive substances or wastes, and all other substances, wastes, pollutants and contaminants and chemicals in any form, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and infectious or medical wastes, to the extent any of the foregoing are regulated pursuant to, or can form the basis for liability under, any Environmental Law.

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

“Hedge Bank” means any Person party to a Secured Hedge Agreement that is an Agent, a Lender, an Arranger or an Affiliate of any of the foregoing on the Closing Date or at the time it enters into such Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, an Arranger or an Affiliate of any of the foregoing.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Hedge Agreement. For the avoidance of doubt, any Permitted Convertible Indebtedness Call Transaction will not constitute Hedging Obligations.

“Holdings” has the meaning specified in the introductory paragraph to this Agreement.

“Honor Date” has the meaning specified in Section 2.03(3)(a).
“Identified Participating Lenders” has the meaning specified in Section 2.05(1)(e)(C)(3).

“Identified Qualifying Lenders” has the meaning specified in Section 2.05(1)(e)(D)(3).

“IFRS” means international financial reporting standards and interpretations issued by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

“Immaterial Subsidiary” means any Restricted Subsidiary of the Borrower that is not a Material Subsidiary.

“Immediate Family Members” means with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including, in each case, adoptive relationships) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“Incremental Amendment” has the meaning specified in Section 2.14(6).

“Incremental Amounts” has the meaning specified in clause (1) of the definition of Refinancing Indebtedness.

“Incremental Commitments” has the meaning specified in Section 2.14(1).

“Incremental Facility Closing Date” has the meaning specified in Section 2.14(4).

“Incremental Lenders” has the meaning specified in Section 2.14(3).

“Incremental Loan” has the meaning specified in Section 2.14(2).

“Incremental Loan Request” has the meaning specified in Section 2.14(1).

“Incremental Revolving Commitments” has the meaning specified in Section 2.14(1).

“Incremental Revolving Facility” has the meaning specified in Section 2.14(1).

“Incremental Revolving Lender” has the meaning specified in Section 2.14(3).

“Incremental Revolving Loan” has the meaning specified in Section 2.14(2).

“Incremental Term Commitments” has the meaning specified in Section 2.14(1).

“Incremental Term Lender” has the meaning specified in Section 2.14(3).

“Incremental Term Loan” has the meaning specified in Section 2.14(2).
“Indebtedness” means, with respect to any Person, without duplication:

1. any indebtedness (including principal and premium) of such Person, whether or not contingent:
   a. in respect of borrowed money;
   b. evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof);
   c. representing the deferred and unpaid balance of the purchase price of any property (including Capitalized Lease Obligations) due more than twelve months after such property is acquired, except (i) any such balance that constitutes an obligation in respect of a commercial letter of credit, a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business or consistent with industry practice, (ii) any earn-out obligations until such obligation is reflected as a liability on the balance sheet (excluding any footnotes thereto) of such Person in accordance with GAAP and is not paid within 60 days after becoming due and payable and (iii) accruals for payroll and other liabilities accrued in the ordinary course of business; or
   d. representing the net obligations under any Hedging Obligations;

if and to the extent that any of the foregoing Indebtedness (other than obligations in respect of letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any Parent Company appearing upon the balance sheet of the Borrower solely by reason of push-down accounting under GAAP will be excluded;

2. to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of this definition of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business or consistent with industry practice; and

3. to the extent not otherwise included, the obligations of the type referred to in clause (1) of this definition of a third Person secured by a Lien on any asset owned by such first Person, whether or not such Indebtedness is assumed by such first Person; provided that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination and (ii) the amount of such Indebtedness of such other Person; provided that notwithstanding the foregoing, Indebtedness will be deemed not to include:
   a. Contingent Obligations incurred in the ordinary course of business or consistent with industry practice,
   b. reimbursement obligations under commercial letters of credit (provided that unreimbursed amounts under commercial letters of credit will be counted as Indebtedness three (3) Business Days after such amount is drawn),
   c. obligations under or in respect of Qualified Securitization Facilities,
(iv) accrued expenses,
(v) deferred or prepaid revenues, and
(vi) asset retirement obligations and obligations in respect of reclamation and workers compensation (including pensions and retiree medical care);

provided further that Indebtedness will be calculated without giving effect to the effects of Accounting Standards Codification Topic No. 815, Derivatives and Hedging, and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

“Indemnified Liabilities” has the meaning specified in Section 10.05.

“Indemnitees” has the meaning specified in Section 10.05.

“Independent Assets or Operations” means, with respect to any Parent Company, that Parent Company’s total assets, revenues, income from continuing operations before income taxes and cash flows from operating activities (excluding in each case amounts related to its investment in the Borrower and the Restricted Subsidiaries), determined in accordance with GAAP and as shown on the most recent balance sheet of such Parent Company, is more than 3.0% of such Parent Company’s corresponding consolidated amount.

“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that, in the good faith judgment of the Borrower, is qualified to perform the task for which it has been engaged.

“Information” has the meaning specified in Section 10.09.

“Initial Incremental Euro Term Lender” means, at any time, any Lender that has an Initial Incremental Euro Term Loan Commitment or an Initial Incremental Euro Term Loan at such time.

“Initial Incremental Euro Term Loan Commitment” means, as to each Initial Incremental Euro Term Lender, its obligations to make an Initial Incremental Euro Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Initial Incremental Euro Term Lender’s name on Schedule 2.01(a) under the caption “Initial Incremental Euro Term Loan Commitment.”

“Initial Incremental Euro Term Loans” means the Term Loans made by each Initial Incremental Euro term Lender of the First Amendment Effective Date to the Borrower pursuant to Section 2.01(d). From and after the First Amendment Effective Date, the Initial Incremental Euro Term Loans shall constitute Closing Date Euro Term Loans for all purposes under this Agreement and the other Loan Documents.

“Initial Incremental Term Lenders” means, collectively, the Initial Incremental USD Term Lenders and the Initial Incremental Euro Term Lenders.

“Initial Incremental Term Loan Commitments” means, collectively, the Initial Incremental USD Term Loan Commitments and the Initial Incremental Euro Term Loan Commitments.
“Initial Incremental Term Loans” means, collectively, the Initial Incremental USD Term Loans and the Initial Incremental Euro Term Loans. From and after the First Amendment Effective Date, the Initial Incremental Term Loans shall constitute Closing Date Term Loans for all purposes under this Agreement and the other Loan Documents.

“Initial Incremental USD Term Lender” means, at any time, and Lender that has an Initial Incremental USD Term Loan Commitment or an Initial Incremental USD Term Loan at such time.

“Initial Incremental USD Term Loan Commitment” means, as to each Initial Incremental USD Term Lender, its obligation to make an Initial Incremental USD Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Initial Incremental USD Term Lender’s name on Schedule 2.01(a) under the caption “Initial Incremental USD Term Loan Commitment”.

“Initial Incremental USD Term Loans” means the Term Loans made by each Initial Incremental USD Term Lender on the First Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(c). From and after the First Amendment Effective Date, the Initial Incremental USD Term Loans shall constitute Closing Date USD Term Loans for all purposes under this Agreement and other Loan Documents.

“Initial Incremental USD Term Loan Commitment” means, at any time, and Lender that has an Initial Incremental USD Term Loan Commitment or an Initial Incremental USD Term Loan at such time.

“Initial Incremental USD Term Loan Commitment” means, as to each Initial Incremental USD Term Lender, its obligation to make an Initial Incremental USD Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Initial Incremental USD Term Lender’s name on Schedule 2.01(a) under the caption “Initial Incremental USD Term Loan Commitment”.

“Initial Incremental USD Term Loans” means the Term Loans made by each Initial Incremental USD Term Lender on the First Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(c). From and after the First Amendment Effective Date, the Initial Incremental USD Term Loans shall constitute Closing Date USD Term Loans for all purposes under this Agreement and other Loan Documents.

“Intellectual Property Security Agreements” has the meaning specified in the Security Agreement.

“Intercompany Note” means the Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit Q executed by the Borrower and each Restricted Subsidiary of the Borrower party thereto.

“Intercreditor Agreement” means, as applicable, any First Lien/Second Lien Intercreditor Agreement and any Equal Priority Intercreditor Agreement.

“Interest Coverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period to (b) Consolidated Interest Expense of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Interest Payment Date” means, (a) as to any Loan of any Class other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the applicable Maturity Date of the Loans of such Class; provided that if any Interest Period for a Eurodollar Rate Loan or EURIBOR Rate 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 of any Class, the last Business Day of each March, June, September and December and the applicable Maturity Date of the Loans of such Class; and (c) with respect to all Closing Date Term Loans (including Converted Closing Date Term Loans), the Second Amendment Effective Date.

“Interest Period” means, as to each Eurodollar Rate Loan and EURIBOR Rate Loan, the period commencing on the date such Eurodollar Rate Loan or EURIBOR Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan or EURIBOR Rate Loan, as applicable, and ending on the date one, two, three or six months thereafter (or, with respect to the initial Interest Period for the Term B Loans, the period set forth in Sections 2.01(1)(c) and (f), or to the extent consented to by each applicable Lender, twelve months, as selected by the Borrower in its Committed Loan Notice; provided that:
(1) 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 immediately preceding Business Day;

(2) 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

(3) no Interest Period shall extend beyond the applicable Maturity Date for the Class of Loans of which such Eurodollar Rate Loan or EURIBOR Rate Loan is a part.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency selected by the Borrower.

“Investment Grade Securities” means:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or debt instruments constituting loans or advances among the Borrower and its Subsidiaries;

(3) investments in any fund that invests substantially all of its assets in investments of the type described in clauses (1) and (2) of this definition which fund may also hold immaterial amounts of cash pending investment or distribution; and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, credit card and debit card receivables, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, members of management, consultants and independent contractors, in each case made in the ordinary course of business or consistent with industry practice), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person. For purposes of the definitions of “Permitted Investments” and “Unrestricted Subsidiary” and Section 7.05,

(1) “Investments” will include the portion (proportionate to the Borrower’s Equity Interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to:
(a) the Borrower’s “Investment” in such Subsidiary at the time of such redesignation; minus
(b) the portion (proportionate to the Borrower’s Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time will be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment.

“Investor” means any of (i) TPG Capital, L.P., Thoma Bravo, LLC, GIC Pte Ltd., StepStone Group L.P, Fisher Lynch Co-Investment Partnership II, L.P., Performance Equity Management, any of their respective Affiliates and funds or partnerships managed or advised by any of them or any of their respective Affiliates but not including, however, any portfolio company of any of the foregoing and (ii) Intel Corporation and any of its Affiliates.

“IP Rights” has the meaning specified in Section 5.15.

“IRS” means Internal Revenue Service of the United States.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuing Bank” means Morgan Stanley Senior Funding, Inc., JPMorgan Chase Bank, N.A., Citibank, N.A. and Bank of America, N.A., in each case, in its capacity as an issuer of Letters of Credit hereunder and solely with respect to its L/C Commitment, together with its permitted successors and assigns and any other Revolving Lender that becomes an Issuing Bank in accordance with Section 2.03(12). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by any Affiliate of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.03 with respect to such Letters of Credit).

“Issuing Bank Document” means with respect to any Letter of Credit, the L/C Application, and any other document, agreement and instrument entered into by any Issuing Bank and the Borrower (or any of its Subsidiaries) or in favor of such Issuing Bank and relating to such Letter of Credit.

“Junior Indebtedness” means any Indebtedness of any Loan Party that by its terms is contractually subordinated in right of payment or security to the Obligations of such Loan Party arising under the Loans or the Guaranty (including, for the avoidance of doubt, the Second Lien Term Loans).

“Junior Lien Debt” has the meaning specified in clause (39) of the definition of “Permitted Liens”.

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

“L/C 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 relevant Issuing Bank.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed prior to the Honor Date or refinanced as a Revolving Borrowing.

“L/C Commitment” means, with respect to any Person, the amount set forth opposite the name of such Person on Schedule 2.01 under the caption “L/C Commitment.”

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

“L/C Expiration Date” means the day that is five (5) Business Days prior to the scheduled Maturity Date then in effect for the applicable Revolving Facility (or, if such day is not a Business Day, the next preceding Business Day).

“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 the stated amount thereof in effect at such time. 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.

“L/C Sublimit” means an amount equal to the lesser of (a) $50.0 million and (b) the aggregate amount of the Revolving Commitments. The L/C Sublimit is part of, and not in addition to, the Revolving Facility.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Incremental Revolving Commitment, any Other Loan, any Other Revolving Commitments, any Replacement Loan, any Extended Term Loan or any Extended Revolving Commitment, in each case as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all international, foreign, federal, state and local laws (including common law), statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, 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.

“Legal Holiday” means Saturday, Sunday or a day on which commercial banking institutions are not required to be open in the State of New York or at the place of payment.
"Lender" has the meaning specified in the introductory paragraph to this Agreement and, as context requires (including for purposes of the definition of "Secured Parties"), includes any Issuing Bank and its successors and assigns as permitted hereunder, each of which is referred to herein as a "Lender." For the avoidance of doubt, each Additional Lender is a Lender to the extent any such Person has executed and delivered a Refinancing Amendment, an Incremental Amendment or an amendment in respect of Replacement Loans, as the case may be, and to the extent such Refinancing Amendment, Incremental Amendment or amendment in respect of Replacement Loans shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender. Notwithstanding the foregoing, no Disqualified Institution that purports to become a Lender hereunder (notwithstanding the provisions of this Agreement that prohibit Disqualified Institutions from becoming Lenders) without the Borrower’s written consent shall be entitled to any of the rights or privileges enjoyed by the other Lenders with respect to voting, information and lender meetings; provided that the Loans of any such Disqualified Institution shall not be excluded for purposes of making a determination of Required Lenders if the action in question affects such Disqualified Institution in a disproportionately adverse manner than its effect on the other Lenders; provided, further, that if any assignment or participation is made to any Disqualified Institution without the Borrower’s prior written consent in violation of clause (v) of Section 10.07(b) the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate any Revolving Commitment of such Disqualified Institution and repay all obligations of the Borrower owing to such Disqualified Institution in connection with such Revolving Commitment, (B) in the case of outstanding Term Loans held by Disqualified Institutions, purchase or prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and/or (C) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in Section 10.07), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

"Lender-Related Distress Event" means, with respect to any Lender or any direct or indirect parent company of such Lender (each, a "Distressed Person"), (a) that such Distressed Person is or becomes subject to a voluntary or involuntary case under any Debtor Relief Law, (b) a custodian, conservator, receiver, or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, (c) such Distressed Person is subject to a forced liquidation, makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be, insolvent or bankrupt or (d) that such Distressed Person becomes the subject of a Bail-in Action; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in any Lender or any direct or indirect parent company of a Lender by a Governmental Authority or an instrumentality thereof 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 or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.
“Letter of Credit” means any letter of credit or bank guaranty (or similar document with respect to any Letter of Credit denominated in an Available LC Currency other than Dollars) issued hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; provided, however, that any commercial letter of credit issued hereunder shall provide solely for cash payment upon presentation of a sight draft.

“LIBOR” has the meaning specified in the definition of “Eurodollar Rate.”

“Lien” means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event will an operating lease be deemed to constitute a Lien.

“Limited Condition Transactions” means any (1) Permitted Acquisition or other Investment or similar transaction (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise) permitted hereunder by the Borrower or one or more of its Restricted Subsidiaries, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness and (3) any Restricted Payment requiring irrevocable notice in advance thereof (other than in connection with any Restricted Payment to any Permitted Holders or any other beneficial owners of the Borrower).

“Loan” means an extension of credit under Article II by a Lender (x) to the Borrower in the form of a Term Loan or (y) to the Borrower in the form of a Revolving Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment, Extension Amendment or amendment in respect of Replacement Loans, (d) the Guaranty, (e) the Collateral Documents, (f) the Intercreditor Agreements and (g) each L/C Application.

“Loan Increase” means a Term Loan Increase or Revolving Commitment Increase.

“Loan Parties” means, collectively, (a) Holdings, (b) the Borrower and (c) each Subsidiary Guarantor.

“Management Services Agreement” means the management services agreement or similar agreements among one or more of the Investors or certain of their respective management companies associated with it or their advisors, if applicable, and the Borrower (or any Parent Company).

“Management Stockholders” means the members of management (and their Controlled Investment Affiliates and Immediate Family Members and any permitted transferees thereof) of the Borrower (or a Parent Company) who are holders of Equity Interests of any Parent Company on the Closing Date.

“Margin Stock” has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.
“Market Capitalization” means an amount equal to (i) the total number of issued and outstanding shares of common Equity Interests of the Borrower or the applicable Parent Company, as applicable, on the date of the declaration of a Restricted Payment permitted pursuant to Section 7.05(b)(8) multiplied by (ii) the arithmetic mean of the closing prices per share of such common Equity Interests on the principal securities exchange on which such common Equity Interests are traded for the 30 consecutive trading days immediately preceding the date of declaration of such Restricted Payment.

“Material Adverse Effect” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Lenders, the Collateral Agent or the Administrative Agent under the Loan Documents.

“Material Domestic Subsidiary” means any Domestic Subsidiary that is a Material Subsidiary.

“Material Foreign Subsidiary” means any Foreign Subsidiary that is a Material Subsidiary.

“Material Real Property” means any fee-owned real property located in the United States and owned by any Loan Party with a fair market value in excess of $75.0 million on the Closing Date (if owned by a Loan Party on the Closing Date) or at the time of acquisition (if acquired by a Loan Party after the Closing Date).

“Material Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each Restricted Subsidiary of the Borrower (a) whose Total Assets at the last day of the most recent Test Period (when taken together with the Total Assets of the Restricted Subsidiaries of such Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of Total Assets of the Borrower and the Restricted Subsidiaries at such date or (b) whose gross revenues for such Test Period (when taken together with the gross revenues of the Restricted Subsidiaries of such Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; provided that if at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its reasonable discretion), all Restricted Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in the preceding clause (a) or (b) comprise in the aggregate more than (when taken together with the Total Assets of the Restricted Subsidiaries of such Subsidiaries at the last day of the most recent Test Period) 7.5% of Total Assets of the Borrower and the Restricted Subsidiaries as of the last day of the most recent Test Period or more than (when taken together with the gross revenues of the Restricted Subsidiaries of such Subsidiaries for such Test Period) 7.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, then the Borrower shall, not later than sixty (60) days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more Restricted Subsidiaries as “Material Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 with respect to any such Restricted Subsidiaries (to the extent applicable), in each case, other than any Restricted Subsidiaries that otherwise constitute Excluded Subsidiaries. At all times prior to the delivery of the aforementioned financial statements, such determinations shall be made based on the Pro Forma Financial Statements.
“Maturity Date” means (i) with respect to the Closing Date Term B Loans that have not been extended pursuant to Section 2.16, the seventh anniversary of the Closing Date (the “Original Term Loan Maturity Date”), (ii) with respect to the Closing Date Revolving Facility, to the extent not extended pursuant to Section 2.16, the fifth anniversary of the Closing Date (the “Original Revolving Facility Maturity Date”), (iii) with respect to any Class of Extended Term Loans or Extended Revolving Commitments, the final maturity date as specified in the applicable Extension Amendment, (iv) with respect to any Other Term Loans or Other Revolving Commitments, the final maturity date as specified in the applicable Refinancing Amendment, (v) with respect to any Class of Replacement Loans, the final maturity date as specified in the applicable amendment to this Agreement in respect of such Replacement Loans and (vi) with respect to any Incremental Loans or Incremental Revolving Commitments, the final maturity date as specified in the applicable Incremental Amendment; provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately succeeding such day.

“Maximum Rate” has the meaning specified in Section 10.11.

“McAfee Business” means the business conducted by Foundation Technology Worldwide LLC and its Subsidiaries.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Mortgage Policies” has the meaning specified in Section 6.11(2)(b)(ii).

“Mortgaged Properties” has the meaning specified in paragraph (5) of the definition of “Collateral and Guarantee Requirement.”

“Mortgages” means collectively, the deeds of trust, trust deeds, hypothecs, deeds to secure debt and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, including such modifications as may be required by local laws, pursuant to Section 6.13(2) and any other deeds of trust, trust deeds, hypothecs, deeds to secure debt or mortgages executed and delivered pursuant to Section 6.11.

“Multiemployer Plan” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means:

(1) with respect to any Asset Sale or any Casualty Event, the aggregate cash and Cash Equivalents received by the Borrower or any Restricted Subsidiary in respect of any Asset Sale or Casualty Event, including any cash and Cash Equivalents received upon the sale or other disposition of any Designated Non-Cash Consideration received in any Asset Sale, net of the costs relating to such Asset Sale or Casualty Event and the sale or disposition of such Designated Non-Cash Consideration, including legal, accounting and investment banking fees, payments made in order to obtain a necessary consent or required by applicable Law, brokerage and sales commissions, title insurance premiums, related search and recording charges, survey costs and mortgage recording tax paid in connection therewith, all dividends, distributions or other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of
any such Asset Sale or Casualty Event by a Restricted Subsidiary, the amount of any purchase price or similar adjustment claimed by any Person to be owed by the Borrower or any Restricted Subsidiary, until such time as such claim will have been settled or otherwise finally resolved, or paid or payable by the Borrower or any Restricted Subsidiary, in either case in respect of such Asset Sale or Casualty Event, any relocation expenses incurred as a result thereof, costs and expenses in connection with unwinding any Hedging Obligation in connection therewith, other fees and expenses, including title and recordation expenses, taxes paid or payable (including any additional Tax Distributions to be made as a result of the transactions giving rise to such cash and cash equivalents received) as a result thereof or any transactions occurring or deemed to occur to effectuate a payment under this Agreement, amounts required to be applied to the repayment of principal, premium, if any, and interest on Indebtedness (other than the First Lien Obligations and Indebtedness secured by Liens that are expressly subordinated to the Liens securing the Obligations) incurred by a Lien on such assets and required to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by the Borrower or any Restricted Subsidiary as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that (a) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed $25.0 million and (b) no such net cash proceeds shall constitute Net Proceeds under this clause (1) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed $50.0 million (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds under this clause (1)); and

(2) (a) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary, any Permitted Equity Issuance by the Borrower or any Parent Company or any contribution to the common equity capital of the Borrower, the excess, if any, of (i) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (ii) all taxes paid or reasonably estimated to be payable, and all fees (including investment banking fees, attorneys’ fees, accountants’ fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses incurred, in each case by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (b) with respect to any Permitted Equity Issuance by any Parent Company, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

“Net Proceeds Percentage” has the meaning specified in Section 2.05(b)(2)(b)

“Non-Consenting Lender” has the meaning specified in Section 3.07.

“Non-Converted Closing Date Euro Term Loans” means each Closing Date Euro Term Loan (or portion thereof) other than a Converted Closing Date Euro Term Loan.

“Non-Converted Closing Date Term Loans” means the Non-Converted Closing Date USD Term Loans and the Non-Converted Closing Date Euro Term Loans.

“Non-Converted Closing Date USD Term Loans” means each Closing Date USD Term Loan (or portion thereof) other than a Converted Closing Date USD Term Loan.

“Non-Defaulting Lender” means, at any time, a Lender that is not a Defaulting Lender.
“Non-Excluded Taxes” means all 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.

“Non-Extension Notice Date” has the meaning specified in Section 2.03(2)(c).

“Non-Recourse Indebtedness” means Indebtedness that is non-recourse to the Borrower and the Restricted Subsidiaries.

“Note” means a Term Note or Revolving Note, as the context may require.

“Notice of Intent to Cure” has the meaning specified in Section 8.04.

“Obligations” means all

1) 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 or Letter of Credit, 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, fees and other amounts that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts are allowed claims in such proceeding,

2) obligations (other than Excluded Swap Obligations) of any Loan Party or Restricted Subsidiary arising under any Secured Hedge Agreement and

3) Cash Management Obligations under each Secured Cash Management Agreement. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees (including Letter of Credit fees), Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document.

Notwithstanding the foregoing, (a) unless otherwise agreed to by the Borrower and any applicable Hedge Bank or Cash Management Bank, the obligations of Holdings, the Borrower or any Subsidiary under any Secured Hedge Agreement and under any Secured Cash Management Agreement shall be secured and guaranteed pursuant to the Collateral Documents and the Guaranty only to the extent that, and for so long as, the other Obligations are so secured and guaranteed and (b) any release of Collateral or Guarantors effected in the manner permitted by this Agreement and any other Loan Document shall not require the consent of the holders of Hedging Obligations under Secured Hedge Agreements or of the holders of Cash Management Obligations under Secured Cash Management Agreements.

“OFAC” has the meaning specified in Section 5.17.

“Offered Amount” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Offered Discount” has the meaning specified in Section 2.05(1)(e)(D)(1).
“Officer” means the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Borrower or any other Person, as the case may be.

“Officer’s Certificate” means a certificate signed on behalf of a Person by an Officer of such Person.

“OID” means original issue discount.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Administrative Agent. Counsel may be an employee of or counsel to the Borrower or the Administrative Agent.

“ordinary course of business” means activity conducted in the ordinary course of business of the Borrower and any Restricted Subsidiary.

“Organizational Documents” means

(1) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(2) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(3) 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 and 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 and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Revolving Facility Maturity Date” has the meaning specified in the definition of “Maturity Date.”

“Original Term Loan Maturity Date” has the meaning specified in the definition of “Maturity Date.”


“Other Applicable ECF” means Excess Cash Flow or a comparable measure as determined in accordance with the documentation governing Other Applicable Indebtedness.

“Other Applicable Indebtedness” means Permitted Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or any other Indebtedness secured on a pari passu basis with the Obligations, together with Refinancing Indebtedness in respect of any of the foregoing that is secured on a pari passu basis with the Obligations.
“Other Applicable Net Proceeds” means Net Proceeds or a comparable measure as determined in accordance with the documentation governing Other Applicable Indebtedness.

“Other Commitments” means Other Revolving Commitments and/or Other Term Loan Commitments.

“Other Loans” means one or more Classes of Other Revolving Loans and/or Other Term Loans that result from a Refinancing Amendment.

“Other Revolving Commitments” means one or more Classes of Revolving Commitments hereunder that result from a Refinancing Amendment.

“Other Revolving Loans” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“Other Taxes” means all present or future stamp or documentary Taxes, intangible, recording, filing, excise (that is not based on net income), property or similar Taxes arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed with respect to an assignment, grant of participation, designation of a new office for receiving payments by or on account of the Borrower or other transfer (other than an assignment, designation or other transfer at the request of the Borrower).

“Other Term Loan Commitments” means one or more Classes of Term Loan commitments hereunder that result from a Refinancing Amendment.

“Other Term Loans” means one or more Classes of Term Loans that result from a Refinancing Amendment.

“Outstanding Amount” means (a) with respect to the Term Loans and Revolving Loans on any date, the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans and Revolving Loans (including any refinancing of outstanding Unreimbursed Amounts under Letters of Credit or L/C Credit Extensions as a Revolving Borrowing), as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the outstanding principal amount thereof on such date after giving effect to any related L/C Credit Extension occurring on such date and any other changes thereto as of such date, including as a result of any reimbursements of outstanding Unreimbursed Amounts under related Letters of Credit (including any refinancing of outstanding Unreimbursed Amounts under related Letters of Credit or related L/C Credit Extensions as a Revolving Borrowing) or any reductions in the maximum amount available for drawing under related Letters of Credit taking effect on such date.

“Overnight Rate” means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent or an Issuing Bank, as applicable, in accordance with banking industry rules on interbank compensation.

“Parent Company” means any Person that is a direct or indirect parent (which may be organized as, among other things, a partnership) of Holdings and/or the Borrower (for the avoidance of doubt, in the case of the Borrower, including Holdings), as applicable.

“Pari Passu Lien Debt” has the meaning specified in clause (39) of the definition of “Permitted Liens.”
“Participant” has the meaning specified in Section 10.07(d).

“Participant Register” has the meaning specified in Section 10.07(e).

“Participating Lender” has the meaning specified in Section 2.05(1)(e)(C)(2).

“Partnership Audit Rules” means Chapter 63 of the Code, as amended by the Bipartisan Budget Act of 2015 (and any Treasury regulations or other guidance that may be promulgated in the future relating thereto) and, in each case, any analogous provisions of state, local, and non-U.S. law.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer plan described in Section 4064(a) of ERISA, has made contributions at any time in the preceding five plan years.

“Perfection Certificate” has the meaning specified in the Security Agreement.

“Permitted Acquisition” has the meaning specified in clause (3) of the definition of “Permitted Investments.”

“Permitted Asset Swap” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Borrower or any Restricted Subsidiary and another Person; provided that any cash or Cash Equivalents received in connection with a Permitted Asset Swap that constitutes an Asset Sale must be applied in accordance with Section 2.05(2)(b)(i).

“Permitted Bond Hedge Transaction” means any call or capped call option (or substantively equivalent derivative transaction) on the Borrower’s common equity purchased by the Borrower in connection with the issuance of any Convertible Indebtedness; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Borrower from the sale of such Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

“Permitted Convertible Indebtedness Call Transaction” means any Permitted Bond Hedge Transaction and any Permitted Warrant Transaction.

“Permitted Equal Priority Refinancing Debt” means any secured Indebtedness incurred by the Borrower and/or any Guarantor in the form of one or more series of senior secured notes, bonds or debentures or first lien secured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness is secured by Liens on all or a portion of the Collateral on a basis that is equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies) and is not secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos to the definition of “Credit Agreement Refinancing Indebtedness,” (iii) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors and (iv) the applicable Loan
Parties, the holders of such Indebtedness (or their Debt Representative) and the Administrative Agent and/or Collateral Agent shall be party to an Intercreditor Agreement providing that the Liens on the Collateral securing such obligations shall rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies).

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of the Borrower or any Parent Company.

“Permitted Holder” means (1) any of the Investors and Management Stockholders and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) of which any of the foregoing are members; provided that in the case of such group and without giving effect to the existence of such group or any other group, such Investors and Management Stockholders, collectively, have, directly or indirectly, beneficial ownership of more than 50.0% of the total voting power of the Voting Stock of the Borrower or any Permitted Parent held by such group and (2) any Person acting in the capacity of an underwriter (solely to the extent that and for so long as such Person is acting in such capacity) in connection with a public or private offering of Capital Stock of the Borrower or any Parent Company.

“Permitted Incremental Equivalent Debt” means Indebtedness issued, incurred or otherwise obtained by the Borrower and/or any Guarantor in respect of one or more series of senior unsecured notes, senior secured first lien or junior lien notes or subordinated notes (in each case whether issued in a public offering, Rule 144A or other private placement or bridge financing in lieu of the foregoing (and any Registered Equivalent Notes issued in exchange therefor) or otherwise), first lien or junior lien loans, unsecured or subordinated loans or secured or unsecured mezzanine Indebtedness that, in each case, if secured, will be secured by Liens on the Collateral on an equal priority (but without regard to the control of remedies) or junior priority basis with the Liens on Collateral securing the First Lien Obligations under this Agreement, and that are issued or made in lieu of Incremental Commitments; provided that:

(i) the terms of any such Indebtedness (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates), interest margins, rate floors, fees, funding discounts, original issue discounts and prepayment or redemption premiums and terms) shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith) or (B) if otherwise not consistent with the terms of the Closing Date Term B Loans, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of the Closing Date Term B Loans, except with respect to (1) covenants and other terms applicable to any period after the Latest Maturity Date of the Closing Date Term B Loans or (2) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary contained herein, if any such terms of such Indebtedness contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility;

(ii) the aggregate principal amount of all Permitted Incremental Equivalent Debt shall not exceed the Available Incremental Amount at the time of incurrence (it being understood that for purposes of this clause (ii), references in Section 2.14(4)(c)(B) and Section 2.14(4)(c)(D) (other than the first proviso thereto) to Incremental Loans or Incremental Revolving Commitments shall be deemed to be references to Permitted Incremental Equivalent Debt);
(iii) such Permitted Incremental Equivalent Debt shall not be subject to any Guarantee by any Person other than a Loan Party;

(iv) in the case of Permitted Incremental Equivalent Debt that is secured, the obligations in respect thereof shall not be secured by any Lien on any asset of the Borrower or any Restricted Subsidiary other than any asset constituting Collateral;

(v) if such Permitted Incremental Equivalent Debt is secured, such Permitted Incremental Equivalent Debt shall be subject to the applicable Intercreditor Agreement(s);

(vi) such Permitted Incremental Equivalent Debt (a) shall not mature earlier than the Original Term Loan Maturity Date and (b) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Closing Date Term B Loans on the date of incurrence of such Permitted Incremental Equivalent Debt;

(vii) any mandatory prepayments of (I) any Permitted Incremental Equivalent Debt that comprises junior lien or unsecured notes or loans may not be made except to the extent that prepayments of such debt are not prohibited hereunder and to the extent required hereunder or pursuant to the terms of any Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement, first made or offered to the holders of the Term Loans constituting First Lien Obligations and any such Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement, and (II) any Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement in respect of events described in Section 2.05(2)(a), (b) and (d)(i) may be made on a pro rata basis, less than a pro rata basis or greater than a pro rata basis (but not greater than a pro rata basis as compared to any Class of Term Loans constituting First Lien Obligations with an earlier maturity date) with the Term Loans constituting First Lien Obligations; and

(viii) in the case of Permitted Incremental Equivalent Debt consisting of syndicated Dollar-denominated (or Euro-denominated) term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, the All-In Yield of the Closing Date Term B USD Loans (in the case of any such Dollar-denominated Permitted Incremental Equivalent Debt) or Closing Date Term B Euro Loans (in the case of any such Euro-denominated Permitted Incremental Equivalent Debt) shall be subject to the adjustment in the manner set forth in the proviso to Section 2.14(5)(c) (to the extent then applicable), determined for purposes of this clause (viii) as if the Permitted Incremental Equivalent Debt were Incremental Term Loans;

provided, further, that “Permitted Incremental Equivalent Debt” may be incurred in the form of a bridge or other interim credit facility intended to be refinanced or replaced with long term indebtedness (so long as such credit facility includes customary “rollover provisions” that satisfy the requirements of clause (vi) above following such rollover), in which case, on or prior to the first anniversary of the incurrence of such “bridge” or other credit facility, clause (vi) of the first proviso in this definition shall not prohibit the inclusion of customary terms for “bridge” facilities, including customary mandatory prepayment, repurchase or redemption provisions.

“Permitted Indebtedness” means Indebtedness permitted to be incurred in accordance with Section 7.02.
“Permitted Investments” means:

(1) any Investment in the Borrower or any Restricted Subsidiary;

(2) any Investment(s) in Cash Equivalents or Investment Grade Securities and Investments that were Cash Equivalents or Investment Grade Securities when made;

(3) (a) any Investment by the Borrower or any Restricted Subsidiary in any Person that is engaged (directly or through entities that will be Restricted Subsidiaries) in a Similar Business if as a result of such Investment (i) such Person becomes a Restricted Subsidiary or (ii) such Person, in one transaction or a series of related transactions, is amalgamated, merged or consolidated with or into, or transfers or conveys substantially all of its assets or assets constituting a business unit, a line of business or a division of such Person, to, or is liquidated into, the Borrower or a Restricted Subsidiary (a “Permitted Acquisition”); provided that immediately after giving pro forma effect to any such Investment, no Event of Default under Section 8.01(1) or Section 8.01(6) shall have occurred and be continuing; and

(b) any Investment held by such Person described in the preceding clause (a); provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, transfer or conveyance;

(4) any Investment in securities or other assets not constituting Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made in accordance with Section 7.04 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the Closing Date or made pursuant to binding commitments in effect on the Closing Date, in each of the foregoing cases with respect to any such Investment or binding commitment in effect on the Closing Date in excess of $15.0 million, as set forth on Schedule 7.05, or an Investment consisting of any extension, modification, replacement, renewal or reinvestment of any Investment or binding commitment existing on the Closing Date; provided that the amount of any such Investment or binding commitment may be increased only (a) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (b) as otherwise permitted under this Agreement;

(6) any Investment acquired by the Borrower or any Restricted Subsidiary:

(a) in exchange for any other Investment, accounts receivable or indorsements for collection or deposit held by the Borrower or any Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of, or settlement of delinquent accounts and disputes with or judgments against, the issuer of such other Investment or accounts receivable (including any trade creditor or customer);

(b) in satisfaction of judgments against other Persons;

(c) as a result of a foreclosure by the Borrower or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default; or

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(d) as a result of the settlement, compromise or resolution of (i) litigation, arbitration or other disputes or (ii) obligations of trade creditors or customers that were incurred in the ordinary course of business or consistent with industry practice of the Borrower or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer;

(7) Hedging Obligations permitted under Section 7.02(b)(10);

(8) any Investment in a Similar Business taken together with all other Investments made pursuant to this clause (8) that are at that time outstanding not to exceed (as of the date such Investment is made) the greater of (a) $270.0 million and (b) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(9) Investments the payment for which consists of Equity Interests (other than Disqualified Stock) of the Borrower or any Parent Company; provided that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of Section 7.05(a);

(10) (a) guarantees of Indebtedness permitted under Section 7.02, performance guarantees and Contingent Obligations incurred in the ordinary course of business or consistent with industry practice, and (b) the creation of Liens on the assets of the Borrower or any Restricted Subsidiary in compliance with Section 7.01;

(11) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 7.07(b) (except transactions described in clauses (2), (5), (9), (15) or (22) of such Section);

(12) Investments consisting of purchases and acquisitions of inventory, supplies, material, services, equipment or similar assets or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(13) Investments, taken together with all other Investments made pursuant to this clause (13) that are at that time outstanding, not to exceed (as of the date such Investment is made) the greater of (i) $270.0 million and (ii) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(14) Investments in or relating to a Securitization Subsidiary that, in the good faith determination of the Borrower, are necessary or advisable to effect any Qualified Securitization Facility (including distributions or payments of Securitization Fees) or any repurchase obligation in connection therewith (including the contribution or lending of Cash Equivalents to Subsidiaries to finance the purchase of such assets from the Borrower or any Restricted Subsidiary or to otherwise fund required reserves);

(15) loans and advances to, or guarantees of Indebtedness of, officers, directors, employees, consultants, independent contractors and members of management not in excess of $25.0 million outstanding at any one time, in the aggregate;
(16) loans and advances to employees, directors, officers, members of management, independent contractors and consultants for business-related travel expenses, moving expenses, payroll advances and other similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or consistent with industry practice or to future, present and former employees, directors, officers, members of management, independent contractors and consultants (and their Controlled Investment Affiliates and Immediate Family Members) to fund such Person’s purchase of Equity Interests of the Borrower or any Parent Company;

(17) advances, loans or extensions of trade credit or prepayments to suppliers or loans or advances made to distributors, in each case, in the ordinary course of business or consistent with past practice or consistent with industry practice by the Borrower or any Restricted Subsidiary;

(18) any Investment in any Subsidiary or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business or consistent with industry practice;

(19) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with industry practice;

(20) Investments made in the ordinary course of business or consistent with industry practice in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors;

(21) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with industry practice;

(22) the purchase or other acquisition of any Indebtedness of the Borrower or any Restricted Subsidiary to the extent not otherwise prohibited hereunder;

(23) Investments in Unrestricted Subsidiaries or joint ventures, taken together with all other Investments made pursuant to this clause (23) that are at that time outstanding, without giving effect to the sale of an Unrestricted Subsidiary or joint venture to the extent the proceeds of such sale do not consist of, or have not been subsequently sold or transferred for, Cash Equivalents or marketable securities, not to exceed (as of the date such Investment is made) the greater of (i) $230.0 million and (ii) 30.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(24) Investments in the ordinary course of business or consistent with industry practice consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers;

(25) any Investment by any Captive Insurance Subsidiary in connection with its provision of insurance to the Borrower or any of its Subsidiaries, which Investment is made in the ordinary course of business or consistent with industry practice of such Captive Insurance Subsidiary, or by reason of applicable Law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;
(26) Investments made as part of, to effect or resulting from the Transactions;

(27) Investments of assets relating to non-qualified deferred payment plans in the ordinary course of business or consistent with industry practice;

(28) intercompany current liabilities owed to Unrestricted Subsidiaries or joint ventures incurred in the ordinary course of business or consistent with industry practice in connection with the cash management operations of the Borrower and its Subsidiaries;

(29) acquisitions of obligations of one or more directors, officers or other employees or consultants or independent contractors of any Parent Company, the Borrower, or any Subsidiary of the Borrower in connection with such director’s, officer’s, employee’s consultant’s or independent contractor’s acquisition of Equity Interests of the Borrower or any direct or indirect parent of the Borrower, to the extent no cash is actually advanced by the Borrower or any Restricted Subsidiary to such directors, officers, employees, consultants or independent contractors in connection with the acquisition of any such obligations;

(30) Investments constituting promissory notes or other non-cash proceeds of dispositions of assets to the extent permitted under Section 7.04;

(31) Investments resulting from pledges and deposits permitted pursuant to the definition of “Permitted Liens”;

(32) loans and advances to any direct or indirect parent of the Borrower in lieu of and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof) Restricted Payments to the extent permitted to be made in cash to such parent in accordance with Section 7.05 at such time, such Investment being treated for purposes of the applicable clause of Section 7.05, including any limitations, as if a Restricted Payment were made pursuant to such applicable clause;

(33) any Investments if on a pro forma basis after giving effect to such Investment, the Total Net Leverage Ratio would be equal to or less than 4.50 to 1.00 as of the last day of the Test Period most recently ended; and

(34) Permitted Bond Hedge Transactions.

“Permitted Junior Priority Refinancing Debt” means secured Indebtedness incurred by the Borrower and/or any Guarantor in the form of one or more series of junior lien secured notes, bonds or debentures or junior lien secured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness is secured by a Lien on all or a portion of the Collateral on a junior priority basis to the Liens on Collateral securing the First Lien Obligations under this Agreement and is not secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness,” (iii) the holders of such Indebtedness (or their Debt Representative) and the Administrative Agent and/or the Collateral Agent shall be party to an Intercreditor Agreement providing that the Liens on Collateral securing such obligations shall rank junior to the Liens on Collateral securing the First Lien Obligations under this Agreement, and (iv) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

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“Permitted Liens” means, with respect to any Person:

(1) Liens created pursuant to any Loan Document;

(2) Liens, pledges or deposits made in connection with:

   (a) workers’ compensation laws, unemployment insurance, health, disability or employee benefits or other social security laws or similar legislation or regulations,

   (b) insurance-related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) or indemnification obligations of (including obligations in respect of letters of credit, bank guarantees or similar documents or instruments for the benefit of) insurance carriers providing property, casualty or liability insurance or otherwise supporting the payment of items set forth in the foregoing clause (a) or

   (c) bids, tenders, contracts, statutory obligations, surety, indemnity, warranty, release, appeal or similar bonds, or with regard to other regulatory requirements, completion guarantees, stay, customs and appeal bonds, performance bonds, bankers’ acceptance facilities, and other obligations of like nature (including those to secure health, safety and environmental obligations) (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash, Cash Equivalents or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent, contested taxes or import duties and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, in each case incurred in the ordinary course of business or consistent with industry practice;

(3) Liens imposed by law, such as landlords’, carriers’, warehousemen’s, materialmen’s, repairmen’s, construction, mechanics’ or other similar Liens, or landlord Liens specifically created by contract (a) for sums not yet overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue, are unfiled and no other action has been taken to enforce such Liens or (b) being contested in good faith by appropriate actions or other Liens arising out of or securing judgments or awards against such Person with respect to which such Person will then be proceeding with an appeal or other proceedings for review if such Liens are adequately bonded or adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(4) Liens for taxes, assessments or other governmental charges not yet overdue or not yet payable or not subject to penalties for nonpayment or which are being contested in good faith by appropriate actions if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(5) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal or similar bonds, instruments or obligations or with respect to regulatory requirements or letters of credit or bankers acceptance issued, and completion guarantees provided, in each case, pursuant to the request of and for the account of such Person in the ordinary course of its business or consistent with past practice or industry practice;
(6) survey exceptions, encumbrances, ground leases, easements, restrictions, protrusions, encroachments or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties that were not incurred in connection with Indebtedness and that do not in the aggregate materially impair their use in the operation of the business of such Person and exceptions on Mortgage Policies insuring Liens granted on Mortgaged Properties;

(7) Liens securing obligations in respect of Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to clauses (A) or (B) of the definition of Permitted Ratio Debt, clause (4), (12)(b), (13), (14)(a)(A), (14)(a)(B), (15), (23) or (31) of Section 7.02(b) or, with respect to assumed or acquired Indebtedness not incurred in contemplation of the relevant acquisition, Disqualified Stock or Preferred Stock, clause (4) of Section 7.02(b); provided that:

(a) Liens securing obligations relating to any Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to such clause (13) relate only to obligations relating to Refinancing Indebtedness that is secured by Liens on the same assets as the assets securing the Refinanced Debt (as defined in the definition of Refinancing Indebtedness), plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property, or serves to refund, refinance, extend, replace, renew or defease Indebtedness, Disqualified Stock or Preferred Stock incurred under clause (4), (12) or (13) of Section 7.02(b);

(b) Liens securing obligations relating to Indebtedness or Disqualified Stock permitted to be incurred pursuant to such clause (23) or (31) extend only to the assets of Subsidiaries that are not Guarantors;

(c) Liens securing obligations in respect of Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to such clause (4) extend only to the assets so purchased, replaced, leased or improved and proceeds and products thereof; provided further that individual financings of assets provided by a counterparty may be cross-collateralized to other financings of assets provided by such counterparty;

(d) If any such Liens secure Indebtedness for borrowed money incurred pursuant to clauses (A) or (B) of the definition of Permitted Ratio Debt or such clauses (12)(b), (14)(a)(A) or (14)(a)(B), at the election of the Borrower, such Liens shall be subject to the applicable Intercreditor Agreement(s); and

(e) Liens securing obligations in respect of assumed or acquired Indebtedness, Disqualified Stock or Preferred Stock not incurred in contemplation of the relevant acquisition permitted to be assumed pursuant to such clause (14) are solely on acquired property or the assets of the acquired entity (other than after acquired property that is (A) affixed or incorporated into the property covered by such Lien, (B) after acquired property subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (C) the proceeds and products thereof).

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(8) Liens existing, or provided for under binding contracts existing, on the Closing Date (provided that any such Lien securing obligations in an aggregate amount on the Closing Date in excess of $15.0 million shall be set forth on Schedule 7.01);

(9) Liens on property or shares of stock or other assets of a Person at the time such Person becomes a Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary;

(10) Liens on property or other assets at the time the Borrower or a Restricted Subsidiary acquired the property or such other assets, including any acquisition by means of a merger, amalgamation or consolidation with or into the Borrower or any Restricted Subsidiary (provided that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, amalgamation, merger or consolidation) and any replacement, extension or renewal of any such Lien (to the extent the Indebtedness and other obligations secured by such replacement, extension or renewal Liens are permitted by this Agreement); provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;

(11) Liens securing obligations in respect of Indebtedness or other obligations of a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary permitted to be incurred in accordance with Section 7.02;

(12) Liens securing (x) Hedging Obligations and (y) obligations in respect of Cash Management Services;

(13) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person’s accounts payable or similar obligations in respect of bankers’ acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(14) leases, subleases, licenses or sublicenses (or other agreement under which the Borrower or any Restricted Subsidiary has granted rights to end users to access and use the Borrower’s or any Restricted Subsidiary’s products, technologies or services) (i) that do not either (a) materially interfere with the business of the Borrower and its Restricted Subsidiaries, taken as a whole, or (b) secure any Indebtedness and (ii) licenses or sublicenses granted by Holdings or any of its Restricted Subsidiaries to customers in the ordinary course of business;

(15) Liens arising from Uniform Commercial Code (or equivalent statutes) financing statement filings regarding operating leases, consignments or accounts entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business or consistent with industry practice or purported Liens evidenced by the filing of precautionary Uniform Commercial Code (or equivalent statutes) financing statements or similar public filings;

(16) Liens in favor of the Borrower or any Guarantor;

(17) Liens on equipment or vehicles of the Borrower or any Restricted Subsidiary granted in the ordinary course of business or consistent with industry practice;
(18) Liens on accounts receivable, Securitization Assets and related assets incurred in connection with a Qualified Securitization Facility and Liens on any receivables transferred in connection with a Receivables Financing Transaction, including Liens on such receivables resulting from precautionary UCC filings or from recharacterization or any such sale as a financing or a loan;

(19) Liens to secure any modification, refinancing, refunding, extension, renewal or replacement (or successive modification, refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness, Disqualified Stock or Preferred Stock secured by any Lien referred to in clauses (6), (7), (8), (9), (10) or this clause (19) of this definition; provided that: (a) such new Lien will be limited to all or part of the same property that was subject to the original Lien (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property) and (b) the Indebtedness, Disqualified Stock or Preferred Stock secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness, Disqualified Stock or Preferred Stock described under such clauses (6), (7), (8), (9), (10) or this clause (19) at the time the original Lien became a Permitted Lien hereunder, plus (ii) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased, plus (iii) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock;

(20) deposits made or other security provided to secure liability to insurance brokers, carriers, underwriters or self-insurance arrangements, including Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(21) Liens securing obligations in an aggregate outstanding amount not to exceed (as of the date any such Lien is incurred) the greater of (i) $270.0 million and (ii) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of incurrence of such Lien for the most recently ended Test Period (calculated on a pro forma basis), which, at the election of the Borrower, shall be subject to the applicable Intercreditor Agreement(s); it being agreed that the Basket set forth in this clause (21) shall be deemed to be utilized to secure any secured Indebtedness incurred pursuant to Section 2.14 in connection with the utilization of the General Debt Basket Reallocation Amount;

(22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(23) (a) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business or consistent with industry practice, (b) Liens arising out of conditional sale, title retention or similar arrangements for the sale of goods in the ordinary course of business or consistent with industry practice and (c) Liens arising by operation of law under Article 2 of the Uniform Commercial Code;
(24) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(7);

(25) Liens (a) of a collection bank arising under Section 4-208 or 4-210 of the Uniform Commercial Code on items in the course of collection, (b) attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business or consistent with industry practice and (c) in favor of banking or other institutions or other electronic payment service providers arising as a matter of law or under general terms and conditions encumbering deposits or margin deposits or other funds maintained with such institution (including the right of setoff) and that are within the general parameters customary in the banking industry;

(26) Liens deemed to exist in connection with Investments in repurchase agreements permitted under this Agreement; provided that such Liens do not extend to assets other than those that are subject to such repurchase agreements;

(27) Liens that are contractual rights of setoff (a) relating to the establishment of depository relations with banks or other deposit-taking financial institutions or other electronic payment service providers and not given in connection with the issuance of Indebtedness, (b) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business or consistent with industry practice of the Borrower or any Restricted Subsidiary or (c) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with industry practice;

(28) Liens on cash proceeds (as defined in Article 9 of the Uniform Commercial Code) of assets sold that were subject to a Lien permitted hereunder;

(29) any encumbrance or restriction (including put, call arrangements, tag, drag, right of first refusal and similar rights) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(30) Liens (a) on cash advances or cash earnest money deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment and (b) consisting of a letter of intent or an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 7.04;

(31) ground leases, subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(32) Liens in connection with any Sale-Leaseback Transaction(s);

(33) Liens on Capital Stock of any Unrestricted Subsidiary;

(34) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor’s, sublessor’s, licensor’s or sublicensor’s interest under leases or licenses entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business or consistent with industry practice;
(35) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries in the ordinary course of business or consistent with industry practice of the Borrower and such Subsidiary to secure the performance of the Borrower’s or such Subsidiary’s obligations under the terms of the lease for such premises;

(36) rights of set-off, banker’s liens, netting arrangements and other Liens arising by operation of law or by the terms of documents of banks or other financial institutions in relation to the maintenance or administration of deposit accounts, securities accounts, cash management arrangements or in connection with the issuance of letters of credit, bank guarantees or other similar instruments;

(37) Liens on cash and Cash Equivalents used to satisfy or discharge Indebtedness; provided that such satisfaction or discharge is permitted under this Agreement;

(38) receipt of progress payments and advances from customers in the ordinary course of business or consistent with industry practice to the extent the same creates a Lien on the related inventory and proceeds thereof and Liens on property or assets under construction arising from progress or partial payments by a third party relating to such property or assets;

(39) Liens on all or any portion of the Collateral (but no other assets) to secure obligations in respect of (a) Indebtedness permitted to be incurred pursuant to Section 7.02; provided that after giving pro forma effect to the incurrence of the then proposed Indebtedness (and without netting any cash received from the incurrence of such proposed Indebtedness), (i) if such Indebtedness is secured on a (x) pari passu basis with the Liens that secure the First Lien Obligations under this Agreement ("Pari Passu Lien Debt"), the First Lien Net Leverage Ratio would be no greater than 4.25 to 1.00 or (y) junior basis to the Liens that secure the First Lien Obligations ("Junior Lien Debt"), the Secured Net Leverage Ratio would be no greater than 5.25 to 1.00, (ii) such Liens are in each case subject the applicable Intercreditor Agreement(s) and (iii) if such Liens secure syndicated Dollar-denominated or Euro-denominated term loans that are Pari Pass Lien Debt, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14 and (b) any Refinancing Indebtedness in respect of Pari Pass Lien Debt or Junior Lien Debt (but subject to the foregoing clause (iii));

(40) agreements to subordinate any interest of the Borrower or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business or consistent with industry practice;

(41) Liens arising pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation and Liability Act or similar provision of any Environmental Law;

(42) Liens disclosed by any title insurance reports or policies delivered on or prior to the Closing Date and any replacement, extension or renewal of any such Lien; provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;

(43) rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;
restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business or consistent with industry practice;

zoning, building and other similar land use restrictions, including site plan agreements, development agreements and contract zoning agreements;

Liens securing obligations under Indebtedness outstanding pursuant to Section 7.02(b)(2) so long as such Liens are subject to the terms of the First Lien/Second Lien Intercreditor Agreement or other applicable Intercreditor Agreement;

Liens on all or any portion of the Collateral (but no other assets) securing (i) Permitted Incremental Equivalent Debt, (ii) Permitted Equal Priority Refinancing Debt or (iii) Permitted Junior Priority Refinancing Debt, and, in each case, Liens securing any Refinancing Indebtedness in respect thereof;

Liens on the assets of Restricted Subsidiaries that are not Loan Parties securing Indebtedness or other obligations of such Restricted Subsidiaries or any other Restricted Subsidiaries that are not Loan Parties that is permitted by Section 7.02 or otherwise not prohibited by this Agreement;

Liens on assets of Restricted Subsidiaries that are Foreign Subsidiaries (i) securing Indebtedness and other obligations of such Foreign Subsidiaries or (ii) to the extent arising mandatorily under applicable Law; and

Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, trustee, escrow agent or arrangers thereof) or on cash set aside at the time of the incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose.

For purposes of this definition, the term “Indebtedness” will be deemed to include interest and other obligations payable on or with respect to such Indebtedness.

“Permitted Parent” means any direct or indirect parent of the Borrower that at the time it became a parent of the Borrower was a Permitted Holder pursuant to clause (1) of the definition thereof.

“Permitted Ratio Debt” has the meaning specified in Section 7.02(a).

“Permitted Unsecured Refinancing Debt” means unsecured Indebtedness incurred by the Borrower and/or the Guarantors in the form of one or more series of senior unsecured notes, bonds or debentures or unsecured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness” and (ii) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.
“Permitted Warrant Transaction” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Borrower’s or a Parent Company’s common equity sold by the Borrower or a Parent Company substantially concurrently with a related Permitted Bond Hedge Transaction.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), other than a Foreign Plan, established or maintained by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

“Planned Expenditures” has the meaning specified in the definition of Excess Cash Flow.

“Platform” has the meaning specified in Section 6.02.

“Pledged Collateral” has the meaning specified in the Security Agreement.

“Preferred Stock” means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution or winding up.

“Previously Absent Financial Maintenance Covenant” means, at any time (x) any financial maintenance covenant that is not contained in this Agreement at such time and (y) any financial maintenance covenant, a corresponding version of which is already contained in this Agreement at such time but with covenant levels and component definitions (to the extent relating to such corresponding version) that are less restrictive on Borrower and the Restricted Subsidiaries than those with respect to such financial maintenance covenant.

“Private-Side Information” means any information with respect to Holdings and its Subsidiaries that is not Public-Side Information.

“Pro Forma Financial Statements” has the meaning specified in Section 5.05(1)(b).

“Pro Rata Share” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments (or, if the Revolving Commitments have terminated in full, Revolving Exposure) and, if applicable and without duplication, Term Loans of such Lender at such time and the denominator of which is the amount of the Aggregate Commitments (or, if the Revolving Commitments have terminated in full, Revolving Exposure) and, if applicable and without duplication, Term Loans at such time; provided that when used with respect to (i) Commitments, Loans, interest and fees under the Revolving Facility, “Pro Rata Share,” shall mean with respect to any Lender such Lender’s Applicable Percentage and (ii) Commitments, Loans and interest under any Term Facility, “Pro Rata Share,” shall mean, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Commitments and Term Loans of such Lender under such Term Facility at such time and the denominator of which is the amount of the aggregate Term Commitments and Term Loans under such Term Facility at such time.
“Public Company Costs” means the initial costs relating to establishing compliance with the Sarbanes-Oxley Act of 2002, as amended, and other expenses arising out of or incidental to the Borrower’s or its Restricted Subsidiaries’ initial establishment of compliance with the obligations of a reporting company, including costs, fees and expenses (including legal, accounting and other professional fees) relating to compliance with provisions of the Securities Act and the Exchange Act.

“Public Lender” has the meaning specified in Section 6.02.

“Public-Side Information” means (i) at any time prior to Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that is (a) of a type that would be required by applicable Law to be publicly disclosed in connection with an issuance by Holdings or any of its Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (b) not material to make an investment decision with respect to securities of Holdings or any of its Subsidiaries (for purposes of United States federal and state securities laws), and (ii) at any time on and after Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal and state securities laws) with respect to Holdings or any of its Subsidiaries or any of their respective securities.

“Purchase Money Obligations” means any Indebtedness incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (other than Capital Stock), and whether acquired through the direct acquisition of such property or assets, or otherwise.

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10.0 million at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other Person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Stock.

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

“Qualified Securitization Facility” means any Securitization Facility (1) constituting a securitization financing facility that meets the following conditions: (a) the Board of Directors will have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the applicable Restricted Subsidiary or Securitization Subsidiary and (b) all sales or contributions of Securitization Assets and related assets to the applicable Person or Securitization Subsidiary are made at fair market value (as determined in good faith by the Borrower) or (2) constituting a receivables financing facility.

“Qualifying IPO” means the issuance by the Borrower or any Parent Company of its common Equity Interests that are listed on a national exchange or publicly offered (other than a public offering pursuant to a registration statement on Form S-8) (including pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act (whether alone or in connection with a secondary public offering)).
“Qualifying Lender” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Quarterly Financial Statements” means the unaudited consolidated balance sheets and related consolidated combined statements of operations and cash flows of the Borrower and its Subsidiaries for the commencing April 3, 2017 and ended July 1, 2017.

“Rating Agencies” means Moody’s and S&P, or if Moody’s or S&P (or both) does not make a rating on the relevant obligations publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Borrower that will be substituted for Moody’s or S&P (or both), as the case may be.

“Receivables Financing Transaction” means any transaction or series of transactions entered into by Holdings, the Borrower or any Restricted Subsidiary pursuant to which such party consummates a “true sale” of its receivables to a non-related third party on market terms as determined in good faith by the Borrower; provided that such Receivables Financing Transaction is (i) non-recourse to Holdings, the Borrower and the Restricted Subsidiaries and their assets, other than any recourse solely attributable to a breach by Holdings, the Borrower or any Restricted Subsidiary of representations and warranties that are customarily made by a seller in connection with a “true sale” of receivables on a non-recourse basis and (ii) consummated pursuant to customary contracts, arrangements or agreements entered into with respect to the “true sale” of receivables on market terms for similar transactions.

“Reference Rate” means (x) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a Eurodollar Rate floor, an interest rate per annum equal to the rate per annum equal to LIBOR, as published on the applicable Bloomberg screen page (or such other commercially available source providing quotations of LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, on such day for Dollar deposits with a term of three months, or if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on such day with a term of three months would be offered by the Administrative Agent’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m., London time, on such date, (y) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a Base Rate floor, the interest 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 the Administrative Agent as its “prime rate” and (c) the Eurodollar Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day) and (z) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a EURIBOR Rate floor, an interest rate per annum equal to the rate per annum equal to EURIBOR, as published on the applicable Reuters screen page (or such other commercially available source providing quotations of EURIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, on such day for Euro deposits with a term of three months, or if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Euros for delivery on such day with a term of three months would be offered by the Administrative Agent’s central European Branch to major banks in the European interbank market at their request at approximately 11:00 a.m., Brussels time, on such date.

“Refinance” has the meaning assigned in the definition of “Refinancing Indebtedness” and “Refinancing” and “Refinanced” have meanings correlative to the foregoing.
“Refinanced Debt” has the meaning assigned to such term in the definition of “Refinancing Indebtedness.”

“Refinancing Amendment” means an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Other Loans or Other Commitments being incurred or provided pursuant thereto, in accordance with Section 2.15.

“Refinancing Indebtedness” means (x) Indebtedness incurred by the Borrower or any Restricted Subsidiary, (y) Disqualified Stock issued by the Borrower or any Restricted Subsidiary or (z) Preferred Stock issued by any Restricted Subsidiary which, in each case, serves to extend, replace, refund, refinance, renew or defease ("Refinance") any Indebtedness, Disqualified Stock or Preferred Stock, including any Refinancing Indebtedness, so long as:

1. the principal amount (or accreted value, if applicable) of such new Indebtedness, the amount of such new Preferred Stock or the liquidation preference of such new Disqualified Stock does not exceed (a) the principal amount of (or accreted value, if applicable) Indebtedness, the amount of Preferred Stock or the liquidation preference of Disqualified Stock being so extended, replaced, refunded, refinanced, renewed or defeased (such Indebtedness, Disqualified Stock or Preferred Stock, the “Refinanced Debt”), plus (b) any accrued and unpaid interest on, or any accrued and unpaid dividends on, such Refinanced Debt, plus (c) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Refinanced Debt and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or to Refinance such Refinanced Debt (such amounts in clause (b) and (c) the “Incremental Amounts”);

2. such Refinancing Indebtedness (other than in the case of the Refinancing of any Indebtedness assumed or acquired in connection with any Permitted Acquisition, Investment or similar transaction so long as not created in contemplation thereof), has a:

   a. Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the applicable Refinanced Debt; and

   b. final scheduled maturity date equal to or later than the final scheduled maturity date of the Refinanced Debt (or, if earlier, the date that is 91 days after the Latest Maturity Date of the Loans);

3. to the extent such Refinancing Indebtedness Refinances (a) Indebtedness that is contractually subordinated in right of payment to the Obligations (other than such Indebtedness assumed or acquired in an acquisition and not created in contemplation thereof), unless such Refinancing constitutes a Restricted Payment permitted by Section 7.05, such Refinancing Indebtedness is subordinated to the Loans or the Guaranty thereof at least to the same extent as the applicable Refinanced Debt, (b) Junior Lien Debt, such Refinancing Indebtedness is (i) unsecured or (ii) secured by Liens that are subordinated to the Liens that secure the Loans or the Guaranty thereof, in each case at least to the same extent as the applicable Refinanced Debt or pursuant to an Intercreditor Agreement, in each case, unless such Refinancing Indebtedness is secured by a Lien that is not so subordinated that is permitted by Section 7.01, or (c) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively;
(4) such Refinancing Indebtedness shall not be guaranteed or borrowed by any Person other than a Person that is so obligated in respect of the Refinanced Debt being Refinanced; and

(5) such Refinancing Indebtedness shall not be secured by any assets or property of Holdings, the Borrower or any Restricted Subsidiary that does not secure the Refinanced Debt being Refinanced (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property);

provided that Refinancing Indebtedness will not include:

(a) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness or Disqualified Stock of the Borrower;

(b) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor; or

(c) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refines Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

provided further that (x) clause (2) of this definition will not apply to any Refinancing of any Indebtedness other than Indebtedness incurred under clauses (2) and (30) of Section 7.02(b) (including any successive Refinancings thereof incurred under clause (13) of Section 7.02(b)) and any Junior Indebtedness (other than Junior Indebtedness assumed or acquired in an Investment, acquisition or similar transaction and not created in contemplation thereof), Disqualified Stock and Preferred Stock and (y) Refinancing Indebtedness may be incurred in the form of a bridge or other interim credit facility intended to be refinanced with long-term indebtedness (and such bridge or other interim credit facility shall be deemed to satisfy clause (2) of this definition so long as (x) such credit facility includes customary “rollover” provisions and (y) assuming such credit facility were to be extended pursuant to such “rollover” provisions, such extended credit facility would comply with clause (2) of this definition).

“Refunding Capital Stock” has the meaning specified in Section 7.05(b)(2).

“Register” has the meaning specified in Section 10.07(c).

“Registered Equivalent Notes” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“Rejection Notice” has the meaning specified in Section 2.05(2)(g).

“Related Business Assets” means assets (other than Cash Equivalents) used or useful in a Similar Business; provided that any assets received by the Borrower or a Restricted Subsidiary in exchange for assets transferred by the Borrower or a Restricted Subsidiary will not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person is or would become a Restricted Subsidiary.
“Related Indemnified Person” of an Indemnitee means (1) any controlling Person or controlled Affiliate of such Indemnitee, (2) the respective directors, officers, partners, employees, advisors or successors of such Indemnitee or any of its controlling Persons or controlled Affiliates and (3) the respective agents, trustees and other representatives of such Indemnitee or any of its controlling Persons or controlled Affiliates, in the case of this clause (3), acting at the instructions of such Indemnitee, controlling Person or such controlled Affiliate; provided that each reference to a controlled Affiliate or controlling Person in this definition pertains to a controlled Affiliate or controlling Person involved in the negotiation of this Agreement or the syndication of the Facilities. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Related Person” means, with respect to any Person, (a) any Affiliate of such Person, (b) the respective directors, officers, partners, employees, advisors, agents, trustees and other representatives of such Person or any of its Affiliates and (c) the successors and permitted assigns of such Person or any of its Affiliates.

“Release” means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into or migration through the Environment.

“Replaced Loans” has the meaning specified in Section 10.01.

“Replacement Loans” has the meaning specified in Section 10.01.

“Reportable Event” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived.

“Repricing Transaction” means (i) the prepayment, refinancing, substitution, replacement or conversion of all or a portion of any Closing Date Term B Loans with the incurrence by the Borrower or any other Subsidiary of any senior secured first lien term loans under any credit facilities which reduces the All-In Yield of such Indebtedness relative to the Closing Date Term B Loans so repaid, refinanced, substituted, replaced or converted (as determined in good faith by the Borrower) and (ii) any amendment, amendment and restatement or other modification to this Agreement which reduces the All-In Yield applicable to the Closing Date Term B Loans (as determined in good faith by the Borrower), excluding, in each case, any such reductions in connection with (a) a Change of Control or (b) a Qualifying IPO.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Loans, a Committed Loan Notice and (b) with respect to an L/C Credit Extension, a L/C Application.

“Required Facility Lenders” means, as of any date of determination, with respect to one or more Facilities, Lenders having more than 50% of the sum of (a) the Total Outstandings under such Facility or Facilities (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations under such Facility or Facilities being deemed “held” by such Lender for purposes of this definition) and (b) the aggregate unused Commitments under such Facility or Facilities;
provided that the unused Commitments of, and the portion of the Total Outstandings under such Facility or Facilities held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of the Required Facility Lenders; provided, further, that, to the same extent specified in Section 10.07(i) with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Facility Lenders unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on the other Lenders.

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Lender for purposes of this definition), (b) aggregate unused Term Commitments and (c) aggregate unused Revolving Commitments; provided that the unused Term Commitment and unused Revolving Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided, further, that the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Lenders unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on the other Lenders.

“Responsible Officer” means, with respect to a Person, the chief executive officer, chief operating officer, president, executive vice president, chief financial officer, treasurer or assistant treasurer or other similar officer or Person performing similar functions, of such Person 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. With respect to any document delivered by a Loan Party on the Closing Date, Responsible Officer includes any secretary or assistant secretary of such Loan Party. 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 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. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“Restricted Investment” means any Investment other than any Permitted Investment(s).

“Restricted Payment” has the meaning specified in Section 7.05.

“Restricted Subsidiary” means, at any time, any direct or indirect Subsidiary of the Borrower (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; provided that notwithstanding the foregoing, in no event will any Securitization Subsidiary be considered a Restricted Subsidiary for purposes of Section 8.01(5), (6) or (7); provided further that upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary will be included in the definition of “Restricted Subsidiary.” Wherever the term “Restricted Subsidiary” is used herein with respect to any Subsidiary of a referenced Person that is not the Borrower, then it will be construed to mean a Person that would be a Restricted Subsidiary of the Borrower on a pro forma basis following consummation of one or a series of related transactions involving such referenced Person and the Borrower (unless such transaction would include a designation of a Subsidiary of such Person as an Unrestricted Subsidiary on a pro forma basis in accordance with this Agreement).
“Revolving Borrowing” means a borrowing consisting of simultaneous Revolving Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, made by each of the Revolving Lenders pursuant to Section 2.01(2).

“Revolving Commitment” means, as to each Revolving Lender, its obligation to (1) make Revolving Loans to the Borrower pursuant to Section 2.01(2) and (2) purchase participations in L/C Obligations in respect of Letters of Credit in an aggregate principal amount at any one time outstanding not to exceed the amount specified opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Commitment” 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. The aggregate Revolving Commitments of all Revolving Lenders as of the Closing Date is $500.0 million, as such amount may be adjusted from time to time in accordance with the terms of this Agreement.

“Revolving Commitment Increase” has the meaning specified in Section 2.14(1).

“Revolving Exposure” means, as to each Revolving Lender, the sum of the amount of the Outstanding Amount of such Revolving Lender’s Revolving Loans and its Applicable Percentage of the amount of the L/C Obligations at such time.

“Revolving Extension Request” has the meaning provided in Section 2.16(2).

“Revolving Extension Series” has the meaning provided in Section 2.16(2).

“Revolving Facility” means, at any time, the aggregate amount of the Revolving Commitments at such time.

“Revolving Lender” means, at any time, any Lender that has a Revolving Commitment at such time or, if Revolving Commitments have terminated, Revolving Exposure.

“Revolving Loan” has the meaning specified in Section 2.01(2) and includes Revolving Loans under the Closing Date Revolving Facility, Incremental Revolving Loans, Other Revolving Loans and Loans made pursuant to Extended Revolving Commitments.

“Revolving Note” means a promissory note of the Borrower payable to any Revolving Lender or its registered assigns, in substantially the form of Exhibit B-3 hereto, evidencing the aggregate Indebtedness of the Borrower to such Revolving Lender resulting from the Revolving Loans made by such Revolving Lender.

“Rupees” means the lawful currency of the Republic of India.


“Sale-Leaseback Transaction” means any arrangement providing for the leasing by the Borrower or any Restricted Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Borrower or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“Same Day Funds” means disbursements and payments in immediately available funds.
“Sanctions” has the meaning specified in Section 5.17.

“SEC” means the U.S. Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Second Amendment” means that certain Amendment No. 2 to First Lien Credit Agreement, dated as of the Second Amendment Effective Date, among the Borrower, the Lenders party thereto, the Administrative Agent, the Additional Term B USD Lender party thereto and the Additional Term B Euro Lender party thereto.

“Second Amendment Consenting Lender” means each Term Lender that provided the Administrative Agent with a counterpart to the Second Amendment executed by such Lender prior to the Second Amendment Effective Date.

“Second Amendment Effective Date” means the date on which all of the conditions contained in Section 3 of the Second Amendment have been satisfied or waived, which date, for the avoidance of doubt, is November 1, 2018.

“Second Amendment Consenting Lender” means each Term Lender that provided the Administrative Agent with a counterpart to the Second Amendment executed by such Lender prior to the Second Amendment Effective Date.

“Second Amendment Effective Date” means the date on which all of the conditions contained in Section 3 of the Second Amendment have been satisfied or waived, which date, for the avoidance of doubt, is November 1, 2018.

“Second Lien Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent and collateral agent under the Second Lien Credit Documents, or any successor administrative agent and/or collateral agent (or other Debt Representative), as the case may be, under the Second Lien Credit Documents.

“Second Lien Credit Agreement” means that certain Second Lien Credit Agreement dated as of the Closing Date by and among Holdings, the Borrower, the lenders party thereto in their capacities as lenders thereunder, the Second Lien Administrative Agent, as agent and the other agents party thereto, as the same may be amended, restated, modified, supplemented, extended, renewed, refunded, replaced or refinanced from time to time in one or more indentures, credit agreements or other agreements (in each case with the same or new lenders, noteholders, institutional investors or agents), including any indentures or credit agreements that replace, refund, supplement, extend, renew, restate, amend, modify or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder or increasing the amount loaned or issued thereunder or altering the maturity thereof, in each case as and to the extent permitted by this Agreement and the First Lien/Second Lien Intercreditor Agreement. Unless otherwise expressly provided herein, references to provisions of the Second Lien Credit Agreement, including references to definitions of terms in (or meanings assigned to terms in) the Second Lien Credit Agreement and references to Sections of the Second Lien Credit Agreement, shall be deemed to refer to (x) such provisions of the Second Lien Credit Agreement as in effect on the Closing Date or (y) if the Second Lien Credit Agreement has been amended, restated, modified, supplemented, extended, renewed, refunded, replaced or refinanced, substantially similar or corresponding provisions of the Second Lien Credit Agreement as in effect from time to time.

“Second Lien Credit Documents” means the Second Lien Credit Agreement, the First Lien/Second Lien Intercreditor Agreement and the other Loan Documents (as defined in the Second Lien Credit Agreement) (or in each case, any comparable term).

“Second Lien Credit Facility” means the term loan facility outstanding under the Second Lien Credit Agreement.
“Second Lien Incremental Usage Amount” means, at any time, the sum of (x) the aggregate principal amount of “Incremental Loans” (as defined in the Second Lien Credit Agreement) outstanding pursuant to clause (A)(1) of Section 2.14(4)(c) of the Second Lien Credit Agreement and (y) the aggregate principal amount of “Permitted Incremental Equivalent Debt” (as defined in the Second Lien Credit Agreement) outstanding pursuant to clause (ii) of the definition of “Permitted Incremental Equivalent Debt” (as defined in the Second Lien Credit Agreement) in reliance on the “Available Incremental Amount” (as defined in the Second Lien Credit Agreement) available under clause (A)(1) of Section 2.14(4)(c) of the Second Lien Credit Agreement (any such Indebtedness described in clauses (x) and (y), the “Second Lien Incremental Usage Amount Debt”).

“Second Lien Initial Term Loans” has the meaning specified in the preliminary statements to this Agreement.

“Second Lien Term Loans” has the meaning assigned to the term “Loans” in the Second Lien Credit Agreement.

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between Holdings, the Borrower or any Restricted Subsidiary and a Cash Management Bank; and designated in writing by the Borrower to the Administrative Agent as a “Secured Cash Management Agreement.”

“Secured Hedge Agreement” means any Hedge Agreement with respect to Hedging Obligations permitted under Section 7.02 that is (a) entered into by and between any Loan Party or Restricted Subsidiary and any Hedge Bank and (b) designated in writing by the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”

“Secured Indebtedness” means any Indebtedness of the Borrower or any Restricted Subsidiary secured by a Lien.

“Secured Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each Issuing Bank, each Hedge Bank, each Cash Management Bank, each Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(2) or 9.07.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Securitization Assets” means (a) the accounts receivable, royalty or other revenue streams and other rights to payment and other assets related thereto subject to a Qualified Securitization Facility and the proceeds thereof and (b) contract rights, lockbox accounts and records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in a securitization financing.

“Securitization Facility” means any transaction or series of securitization financings that may be entered into by the Borrower or any Restricted Subsidiary pursuant to which the Borrower or any such Restricted Subsidiary may sell, convey or otherwise transfer, or may grant a security interest in, Securitization Assets to either (a) a Person that is not the Borrower or a Restricted Subsidiary or (b) a Securitization Subsidiary that in turn sells such Securitization Assets to a Person that is not the Borrower or a Restricted Subsidiary, or may grant a security interest in, any Securitization Assets of the Borrower or any of its Subsidiaries.
“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees and expenses (including reasonable fees and expenses of legal counsel) paid to a Person that is not a Securitization Subsidiary in connection with, any Qualified Securitization Facility.

“Securitization Subsidiary” means any Subsidiary formed for the purpose of, and that solely engages only in one or more Qualified Securitization Facilities and other activities reasonably related thereto.

“Security Agreement” means, collectively, the Pledge and Security Agreement executed by the Loan Parties and the Collateral Agent, substantially in the form of Exhibit F, together with supplements or joinders thereto executed and delivered pursuant to Section 6.11.

“Shekels” means the lawful currency of the State of Israel.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X of the SEC, as such regulation is in effect on the Closing Date.

“Similar Business” means (1) any business conducted or proposed to be conducted by the Borrower or any Restricted Subsidiary on the Closing Date or (2) any business or other activities that are reasonably similar, ancillary, incidental, complementary or related to (including non-core incidental businesses acquired in connection with any Permitted Investment), or a reasonable extension, development or expansion of, the businesses that the Borrower and its Restricted Subsidiaries conduct or propose to conduct on the Closing Date.

“Solicited Discount Proration” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Solicited Discounted Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Solicited Discounted Prepayment Notice” means a written notice of the Borrower of Solicited Discounted Prepayment Offers made pursuant to Section 2.05(1)(e)(D) substantially in the form of Exhibit L.

“Solicited Discounted Prepayment Offer” means the written offer by each Lender, substantially in the form of Exhibit O, submitted following the Administrative Agent’s receipt of a Solicited Discounted Prepayment Notice.

“Solicited Discounted Prepayment Response Date” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date: (1) the fair value of the assets of such Person exceeds its debts and liabilities, subordinated, contingent or otherwise,
(2) the present fair saleable value of the property of such Person is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured,

(3) such Person is able to pay its debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured and

(4) such Person is not engaged in, and is not about to engage in, business for which it has unreasonably small capital.

The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“SPC” has the meaning specified in Section 10.07(g).

“Specified Discount” has the meaning specified in Section 2.05(1)(e)(B)(1).

“Specified Discount Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(B)(1).

“Specified Discount Prepayment Notice” means a written notice of the Borrower’s Offer of Specified Discount Prepayment made pursuant to Section 2.05(1)(e)(B) substantially in the form of Exhibit N.

“Specified Discount Prepayment Response” means the written response by each Lender, substantially in the form of Exhibit P, to a Specified Discount Prepayment Notice.

“Specified Discount Prepayment Response Date” has the meaning specified in Section 2.05(1)(e)(B)(1).

“Specified Discount Proration” has the meaning specified in Section 2.05(1)(e)(B)(3).

“Specified Representations” means those representations and warranties made in Sections 5.01(1) (with respect to the organizational existence of the Loan Parties only), 5.01(2)(b), 5.02(1), 5.02(2)(a), 5.04, 5.13, 5.16, the last sentence of Section 5.17 (as it relates only to the use of proceeds of the Facilities not violating the USA PATRIOT Act or OFAC), and Section 5.18.

“Specified Transaction” means:

(1) solely for the purposes of determining the applicable cash balance, any contribution of capital, including as a result of an Equity Offering, to the Borrower, in each case, in connection with an acquisition or investment,

(2) any designation of operations or assets of the Borrower or a Restricted Subsidiary as discontinued operations (as defined under GAAP) (but if such operations are designated as discontinued due to the fact that they are being held for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the extent such operations are actually disposed of),
(3) any Permitted Acquisition or any Investment that results in a Person becoming a Restricted Subsidiary,
(4) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary in compliance with this Agreement,
(5) any purchase or other acquisition of a business of any Person, of assets constituting a business unit, line of business or division of any Person,
(6) any Asset Sale (without regard to any de minimis thresholds set forth therein) (a) that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower or (b) of a business, business unit, line of business or division of the Borrower or a Restricted Subsidiary, in each case whether by merger, amalgamation, consolidation or otherwise,
(7) any operational changes identified by the Borrower that have been made by the Borrower or any Restricted Subsidiary during the Test Period,
(8) any borrowing of Incremental Loans or Permitted Incremental Equivalent Debt (or establishment of Incremental Commitments), or
(9) any Restricted Payment or other transaction that by the terms of this Agreement requires a financial ratio to be calculated on a pro forma basis;

provided that any of the foregoing shall not constitute a Specified Transaction so long as the fair market value or impact, as applicable, thereof shall not exceed $50.0 million.

“Spot Rate” means, on any day, for purposes of determining the Dollar equivalent, Euro equivalent or Available LC Currency equivalent of any other currency, the rate at which such other currency may be exchanged into Dollars, Euros, or the Available LC Currency, as applicable, at the time of determination on such day on the Reuters WRLD Page for such currency. In the event that such rate does not appear on any Reuters WRLD Page, the Spot Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such an agreement, such Spot Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about such time as the Administrative Agent shall elect after determining that such rates shall be the basis for determining the Spot Rate, on such date for the purchase of Dollars, Euros, or Available LC Currency, as applicable, for delivery two Business Days later, provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Sterling” means the lawful currency of the United Kingdom.

“Submitted Amount” has the meaning specified in Section 2.05(1)(e)(C)(1).

“Submitted Discount” has the meaning specified in Section 2.05(1)(e)(C)(1).
“Subsidiary” means, with respect to any Person:

(1) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50.0% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, members of management or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and

(2) any partnership, joint venture, limited liability company or similar entity of which:

   (a) more than 50.0% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise; and

   (b) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Subsidiary Guarantor” means any Guarantor other than Holdings.

“Successor Borrower” has the meaning specified in Section 7.03(4).

“Successor Holdings” has the meaning specified in Section 7.03(5).

“Supplemental Administrative Agent” and “Supplemental Administrative Agents” have the meanings specified in Section 9.15(1).

“Swap Obligation” has the meaning specified in the definition of “Excluded Swap Obligation.”

“Tax” means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding (including backup withholding) of any nature and whatever called, imposed by any Governmental Authority, including any interest, additions to tax and penalties applicable thereto.

“Tax Distributions” has the meaning specified in Section 7.05(b)(14)(c).

“Tax Group” has the meaning specified in Section 7.05(b)(14)(b).

“Tax Indemnitee” has the meaning specified in Section 3.01(5).

“Term B Euro Incremental Commitment” means, as to each Term B Euro Incremental Lender, its obligation to make a Term B Euro Incremental Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Term B Euro Incremental Lender’s name on Schedule 2.01(a) under the caption Term B Euro Incremental Loan Commitment.
“Term B Euro Incremental Lender” means, at any time, any Lender that has a Term B Euro Incremental Loan Commitment or a Term B Euro Incremental Loan at such time.

“Term B Euro Incremental Loan” means the Term B Euro Loans made by each Term B Euro Incremental Lender on the Second Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(a). From and after the Second Amendment Effective Date, the Term B Euro Incremental Loans shall constitute Term B Euro Loans for all purposes under this Agreement and the other Loan Documents.

“Term B Euro Loan” or “Term B Euro Loans” has the meaning specified in Section 2.01(1)(f).

“Term B Loan” means any Term B USD Loan and any Term B Euro Loan.

“Term B USD Loan” or “Term B USD Loans” has the meaning specified in Section 2.01(1)(e).

“Term Borrowing” means a Borrowing of any Term Loans.

“Term Commitment” means, as to each Term Lender, its obligation to make a Term Loan to the Borrower hereunder, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Term Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to this Agreement and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to an Assignment and Assumption, (ii) an Incremental Amendment, (iii) a Refinancing Amendment, (iv) an Extension Amendment or (v) an amendment in respect of Replacement Loans. The initial amount of the Additional Term B USD Lender’s Additional Term B USD Commitment and the amount of the Additional Term B Euro Lender’s Additional Term B Euro Commitment as of the Second Amendment Effective Date are specified in the definition of “Additional Term B USD Commitment” and “Additional Term B Euro Commitment” respectively; and the amount of each Term Lender’s other Term Commitment is specified on Schedule 2.01 under the caption “Closing Date USD Term Loan Commitment” or “Closing Date Euro Term Loan Commitment”, as applicable, or otherwise shall be specified in the Assignment and Assumption (or Affiliated Lender Assignment and Assumption), Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment in respect of Replacement Loans pursuant to which such Lender shall have assumed its Commitment, as the case may be.

“Term Facility” means any Facility consisting of Term Loans of a single Class and/or Term Commitments with respect to such Class of Term Loans.

“Term Lender” means, at any time, any Lender that has a Term Commitment or a Term Loan at such time.

“Term Loan” means any Closing Date Term Loan, Incremental Term Loan, Other Term Loan, Extended Term Loan or Replacement Loan, as the context may require.

“Term Loan Extension Request” has the meaning provided in Section 2.16(1).

“Term Loan Extension Series” has the meaning provided in Section 2.16(1).

“Term Loan Increase” has the meaning specified in Section 2.14(1).
“Term Note” means a promissory note of the Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B-1 or Exhibit B-2 hereto, evidencing the aggregate Indebtedness of the Borrower to such Term Lender resulting from the Term Loans made by such Term Lender.

“Termination Conditions” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations not then due and (ii) Obligations under Secured Hedge Agreements and Secured Cash Management Agreements) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless the Outstanding Amount of the L/C Obligations related thereto has been Cash Collateralized on terms reasonably acceptable to the applicable Issuing Bank, backstopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank or deemed reissued under another agreement reasonably acceptable to the applicable Issuing Bank).

“Test Period” in effect at any time means (x) for purposes of (a) the definition of “Applicable Rate,” (b) Section 2.05(2)(a) and (c) the Financial Covenant (other than for the purpose of determining pro forma compliance with the Financial Covenant), the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which, subject to Section 1.07(1), financial statements for each quarter or fiscal year in such period have been or are required to be delivered pursuant to Section 6.01(1) or (2), as applicable and (y) for all other purposes in this Agreement, the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each such quarter or fiscal year in such period are internally available (as determined in good faith by the Borrower) (it being understood that for purposes of determining pro forma compliance with the Financial Covenant, if no Test Period with an applicable level cited in the Financial Covenant has passed, the applicable level shall be the level for the first Test Period cited in the Financial Covenant with an indicated level); provided that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 6.01(1) or (2), the Test Period in effect shall be the period of four consecutive full fiscal quarters of the Borrower ended prior to the Closing Date for which financial statements would have been required to be delivered hereunder had the Closing Date occurred prior to the end of such period.

“Threshold Amount” means $100.0 million.

“Total Assets” means, at any time, the total assets of the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the then most recent balance sheet of the Borrower or such other Person as may be available (as determined in good faith by the Borrower) (and, in the case of any determination relating to any Specified Transaction, on a pro forma basis including any property or assets being acquired in connection therewith).

“Total Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and L/C Obligations.

“Traded Securities” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.
“Transaction Document” means each of (a) that certain Transition Services Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation (as amended by the First Amendment to the Transition Services Agreement, dated as of August 31, 2017) (the “TSA”), (b) that certain letter agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (c) that certain Intellectual Property Matters Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (d) that certain Security Innovation Alliance Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (e) that certain Software License Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (f) that certain Commercial Services Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (g) that certain Embedded Software Distribution and Services Agreement, dated as of October 1, 2012, among the Borrower, McAfee Ireland Limited (successor in interest to McAfee Security S.a.r.l.), McAfee Co. Ltd., and Intel Corporation (as amended by the First amendment thereto dated May 12, 2013, the Second Amendment thereto dated June 24, 2013, the Third Amendment thereto dated June 24, 2013, the Fourth Amendment thereto dated June 24, 2013, the Fifth Amendment thereto dated January 28, 2016, the Sixth Amendment thereto dated March 15, 2016, and the Seventh Amendment thereto dated April 3, 2017, (h) that certain Master Purchase Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (i) that certain Intellectual Property Assignment, dated as of April 3, 2017 between Foundation Technology Worldwide LLC and Intel Corporation, (j) that certain Corporate Non-Disclosure Agreement for Restricted Secret Information, dated as of April 3, 2017 between Foundation Technology Worldwide LLC and its Affiliates on the one hand and Intel Corporation and its Affiliates on the other hand, (k) that certain Non-Disclosure Agreement for Restricted Secret Information, dated as of April 3, 2017 between Borrower and Intel Corporation, and (l) that certain Subscription Agreement, dated as of September 6, 2016, by and among Foundation Technology Worldwide LLC, TPG VII Manta Holdings, L.P. and Intel Corporation, as amended by that certain First Amendment to Subscription Agreement, dated as of April 2, 2017, and that certain Second Amendment to Subscription Agreement, dated as of May 8, 2017, and (m) that certain Side Letter to the Subscription Agreement, dated as of April 2, 2017 among Foundation Technology Worldwide LLC, Manta Holdings, L.P. and Intel Corporation.

“Transaction Expenses” means any fees, expenses, costs or charges incurred or paid by the Investors, any Parent Company, Holdings, the Borrower or any Restricted Subsidiary in connection with the Transactions, including any expenses in connection with hedging transactions, payments to officers, employees and directors as change of control payments, severance payments, special or retention bonuses and charges for repurchase or rollover of, or modifications to, stock options or restricted stock.

“Transactions” means, collectively, (a) dividends and distributions to be applied to the repayment, redemption or repurchase of (i) the Promissory Note, dated as of April 3, 2017, among Foundation Technology Worldwide LLC and Intel Overseas Funding Corporation and (ii) the Redemption Units (as defined in the Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC, a Delaware limited liability company) issued to Manta Holdings, L.P., (b) the repayment, redemption or repurchase of the Revolving Credit Note, dated as of April 3, 2017, among McAfee, LLC and Intel Overseas Funding Corporation (the repayment, redemption or repurchase transactions contemplated by clause (a) and this clause (b), the “Refinancing”), (c) the payment of Transaction Expenses, (d) to the extent of proceeds remaining after the transactions as contemplated by clauses (a), (b) and (c) of this definition, additional dividends and distributions paid to Foundation Technology Worldwide LLC and further to its direct and indirect members (the “Parent Distribution”) and (e) transactions related or incidental to, or in connection with, such transactions.

“Treasury Capital Stock” has the meaning assigned to such term in Section 7.05(b)(2)(a).
“TSA” has the meaning assigned to such term in the definition of “Transaction Document”.

“Type” means, with respect to a Loan, its character as a Base Rate Loan, a Eurodollar Rate Loan or a EURIBOR Rate Loan.

“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 time of issuance).

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to the perfection or priority of any Lien or otherwise with regard to any item or items of Collateral.

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

“United States Tax Compliance Certificate” has the meaning specified in Section 3.01(3)(b)(iii).

“Unreimbursed Amount” has the meaning specified in Section 2.03(3)(a).

“Unreimbursed Cash Amount” means, on any date of determination, the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries that (x) would not appear as “restricted” on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries or (y) are restricted in favor of the Facilities (which may also secure other Indebtedness secured by a pari passu or junior Lien basis with the Facilities).

“Unreimbursed Subsidiary” means:

1. any Subsidiary of the Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the Borrower, as provided below); and
2. any Subsidiary of an Unrestricted Subsidiary.

The Borrower may designate:

(a) any Subsidiary of the Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Borrower or any Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); provided that:

(i) such designation shall be deemed an Investment;
(ii) each of (i) the Subsidiary to be so designated and (ii) its Subsidiaries has not, at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Borrower or any Restricted Subsidiary (other than Equity Interests in an Unrestricted Subsidiary); and
(iii) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and

(b) any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that:

(i) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and

(ii) the Borrower is in compliance with the Financial Covenant (whether or not then in effect) calculated on a pro forma basis as of the last day of the most recently ended Test Period.

Any such designation by the Borrower will be notified by the Borrower to the Administrative Agent by promptly filing with the Administrative Agent an Officer’s Certificate certifying that such designation complied with the foregoing provisions. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time.

“U.S. Lender” means any Lender that is not a Foreign Lender.

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“USD Amortization Percentage” means the percentage equal to the product of (x) 0.25% multiplied by (y) the result of $2,555,000,000.00 divided by $2,548,612,500.00.

“USD Term Lender” means a Term Lender with a Closing Date USD Term Loan Commitment or an outstanding USD Term Loan.

“USD Term Loan” means each Term Loan denominated in Dollars.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years (calculated to the nearest one-twenty-fifth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, multiplied by the amount of such payment, by

(2) the sum of all such payments;

provided that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness (the “Applicable Indebtedness”), the effects of any amortization or prepayments made on such Applicable Indebtedness prior to the date of such determination will be disregarded.
“wholly owned” means, with respect to any Subsidiary of any Person, a Subsidiary of such Person one hundred percent (100%) of the outstanding Equity Interests of which (other than (x) directors’ qualifying shares and (y) shares of Capital Stock of Foreign Subsidiaries issued to foreign nationals as required by applicable Law) is at the time owned by such Person or by one or more wholly owned Subsidiaries of such Person.

“Withdrawal Liability” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding U.S. Branch” means a U.S. branch of a non-U.S. bank treated as a U.S. person for purposes of Treasury Regulations Section 1.1441-1 and described in Treasury Regulations Section 1.1441-1(b)(2)(iv) that agrees, on IRS Form W-8IMY or such other form prescribed by the Treasury or the IRS, to accept responsibility for all U.S. federal income tax withholding and information reporting with respect to payments made to the Administrative Agent for the account of Lenders by or on behalf of any Loan Party under the Loan Documents.

“Write-Down and Conversion Powers” means, 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.

“Yen” means the lawful currency of Japan.

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(1) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(2) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(3) References in this Agreement to an Exhibit, Schedule, Article, Section, Annex, clause or subclause refer (a) to the appropriate Exhibit or Schedule to, or Article, Section, clause or subclause in this Agreement or (b) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears, in each case as such Exhibit, Schedule, Article, Section, Annex, clause or subclause may be amended or supplemented from time to time.

(4) The term “including” is by way of example and not limitation.

(5) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

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

The word “or” is not intended to be exclusive unless expressly indicated otherwise.

With respect to any Default or Event of Default, the words “exists,” “is continuing” or similar expressions with respect thereto shall mean that the Default or Event of Default has occurred and has not yet been cured or waived. If any Default or Event of Default occurs due to (i) the failure by any Loan Party to take any action by a specified time, such Default or Event of Default shall be deemed to have been cured at the time, if any, that the applicable Loan Party takes such action or (ii) the taking of any action by any Loan Party that is not then permitted by the terms of this Agreement or any other Loan Document, such Default or Event of Default shall be deemed to be cured on the earlier to occur of (x) the date on which such action would be permitted at such time to be taken under this Agreement and the other Loan Documents and (y) the date on which such action is unwound or otherwise modified to the extent necessary for such revised action to be permitted at such time by this Agreement and the other Loan Documents. If any Default or Event of Default occurs that is subsequently cured (a “Cured Default”), any other Default or Event of Default resulting from the making or deemed making of any representation or warranty by any Loan Party or the taking of any action by any Loan Party or any Subsidiary of any Loan Party, in each case which subsequent Default or Event of Default would not have arisen had the Cured Default not occurred, shall be deemed to be cured automatically upon, and simultaneous with, the cure of the Cured Default.

Notwithstanding anything to the contrary in this Section 1.02(9), an Event of Default (the “Initial Default”) may not be cured pursuant to this Section 1.02(9):

(a) if the taking of any action by any Loan Party or Subsidiary of a Loan Party that is not permitted during, and as a result of, the continuance of such Initial Default (including, without limitation, a Credit Extension hereunder at a time when the conditions thereto have not been met and the application of proceeds thereof) directly results in the cure of such Initial Default and the applicable Loan Party or Subsidiary had actual knowledge at the time of taking any such action that the Initial Default had occurred and was continuing,

(b) in the case of an Event of Default under Section 8.01(9) [Invalidity of Loan Documents] or (10) [Collateral Documents (Loss of Lien)] that directly results in material impairment of the rights and remedies of the Lenders, Collateral Agent and Administrative Agent under the Loan Documents and that is incapable of being cured, or

(c) in the case of an Event of Default under Section 8.01(3) [Affirmative Covenant Event of Default] arising due to the failure to perform or observe Section 6.07 [Maintenance of Insurance] that directly results in a material adverse effect on the ability of the Borrower and the other Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which the Borrower or any of the other Loan Parties is a party; or

(d) in the case of an Initial Default for which (i) the Borrower failed to give notice to the Agent and the Lenders of such Initial Default in accordance with Section 6.03(1) of this Agreement and (ii) the Borrower had actual knowledge of such failure to give such notice.

For purposes hereof, unless otherwise specifically indicated, the term “consolidated” with respect to any Person refers to such Person consolidated with its Restricted Subsidiaries and excludes from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person.
SECTION 1.03 Accounting Terms. 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, except as otherwise specifically prescribed herein. Notwithstanding any other provision contained herein, (i) 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, the Borrower or any of its Subsidiaries at “fair value,” as defined therein and (ii) unless the Borrower has requested an amendment pursuant to the second paragraph of the definition of “GAAP” with respect to the treatment of operating leases and Capitalized Lease Obligations under GAAP (or IFRS) and until such amendment has become effective, all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the “ASU”) shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purpose of this Agreement (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as Capitalized Lease Obligations in the financial statements to be delivered pursuant to Section 6.01.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under 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).

SECTION 1.05 References to Agreements, Laws, etc. Unless otherwise expressly provided herein, (1) references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (2) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day and Timing of Payment and Performance. Unless otherwise specified, (1) all references herein to times of day shall be references to New York time (daylight or standard, as applicable) and (2) when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period”) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.07 Pro Forma and Other Calculations.

(1) Notwithstanding anything to the contrary herein, financial ratios and tests, including the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated in the manner prescribed by this Section 1.07; provided that notwithstanding anything to the contrary in clauses (2), (3), (4) or (5) of this Section 1.07, when calculating the First Lien Net Leverage Ratio for purposes of (a) the definition of “Applicable
Rate,” (b) Section 2.05(2)(a) and (c) the Financial Covenant (other than for the purpose of determining pro forma compliance with the Financial Covenant), the events described in this Section 1.07 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect; provided however that voluntary prepayments made pursuant to Section 2.05(1) during any fiscal year (without duplication of any prepayments in such fiscal year that reduced the amount of Excess Cash Flow required to be repaid pursuant to Section 2.05(2)(a) for any prior fiscal year) shall be given pro forma effect after such fiscal year-end and prior to the time any mandatory prepayment pursuant to Section 2.05(2)(a) is due for purposes of calculating the First Lien Net Leverage Ratio for purposes of determining the ECF Percentage for such mandatory prepayment, if any.

(2) For purposes of calculating any financial ratio or test (or Consolidated EBITDA or Total Assets), Specified Transactions (and, subject to clause (4) below, the incurrence or repayment of any Indebtedness in connection therewith) that have been made (a) during the applicable Test Period or (b) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period (or, in the case of Total Assets, on the last day of the applicable Test Period). If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any Restricted Subsidiary since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.07, then such financial ratio or test (or Consolidated EBITDA or Total Assets) shall be calculated to give pro forma effect thereto in accordance with this Section 1.07; provided that with respect to any pro forma calculations to be made in connection with any acquisition or investment in respect of which financial statements for the relevant target are not available for the same Test Period for which internal financial statements of the Borrower are available, the Borrower shall determine such pro forma calculations on the basis of the available financial statements (even if for differing periods) or such other basis as determined on a commercially reasonable basis by the Borrower.

(3) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Financial Officer of the Borrower and may include, for the avoidance of doubt, the amount of “run-rate” cost savings, operating expense reductions and synergies projected by the Borrower in good faith to result from or relating to any Specified Transaction (including the Original Transactions and, for the avoidance of doubt, acquisitions occurring prior to the Closing Date) which is being given pro forma effect that have been realized or are expected to be realized and for which the actions necessary to realize such cost savings, operating expense reductions and synergies are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entire period of such period and “run-rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (including any savings expected to result from the elimination of a public target’s compliance costs with public company requirements), whether prior to or following the Closing Date, net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included in the initial pro forma calculations of such financial ratios or tests and during any subsequent Test Period in which the effects thereof are expected to be realized) relating to such Specified Transaction; provided that (a) such amounts are reasonably identifiable and factually supportable in the good faith judgment of the Borrower, (b) such actions are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken no later than
eighteen (18) months after the date of such Specified Transaction (or actions undertaken or implemented prior to the consummation of such Specified Transaction) and (c) no amounts shall be added to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA (or any other components thereof), whether through a pro forma adjustment or otherwise, with respect to such period; provided, that the aggregate amount of any such “run rate” adjustments added back pursuant to this Section 1.07 and clause (l) of the definition of “Consolidated EBITDA” shall not exceed in the aggregate 25% of Consolidated EBITDA for such period (as calculated before giving effect to any such “run rate” adjustments).

(4) In the event that (a) the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees), issues or repays (including by redemption, repurchase, repayment, retirement, discharge, defeasance or extinguishment) any Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit unless such Indebtedness has been permanently repaid and not replaced and, for the avoidance of doubt, in the event an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on a ratio Basket based on the Interest Coverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio, such ratio(s) shall be calculated without regard to the incurrence of any Indebtedness under any revolving facility in connection therewith), (b) the Borrower or any Restricted Subsidiary issues, repurchases or redeems Disqualified Stock, (c) any Restricted Subsidiary issues, repurchases or redeems Preferred Stock or (d) the Borrower or any Restricted Subsidiary establishes or eliminates any Designated Revolving Commitments, in each case included in the calculations of any financial ratio or test, (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving pro forma effect to such incurrence, issuance, repayment or redemption of Indebtedness, issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, or establishment or elimination of any Designated Revolving Commitments, in each case to the extent required, as if the same had occurred on the last day of the applicable Test Period (except in the case of the Interest Coverage Ratio (or similar ratio), in which case such incurrence, issuance, repayment or redemption of Indebtedness, issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, or establishment or elimination of any Designated Revolving Commitments, in each case will be given effect, as if the same had occurred on the first day of the applicable Test Period) and, in the case of Indebtedness for all purposes as if such Indebtedness in the full amount of any undrawn Designated Revolving Commitments had been incurred thereunder throughout such period.

(5) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Interest Coverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Financial Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or applicable Restricted Subsidiary may designate.

(6) Notwithstanding anything to the contrary in this Section 1.07 or in any classification under GAAP of any Person, business, assets or operations in respect of which a definitive agreement for the disposition thereof has been entered into, at the election of the Borrower, no pro forma effect shall be given to any discontinued operations (and the Consolidated EBITDA attributable to any such Person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition shall have been consummated.
Any determination of Total Assets shall be made by reference to the last day of the Test Period most recently ended for which internal financial statements of the Borrower are available (as determined in good faith by the Borrower) on or prior to the relevant date of determination.

Notwithstanding anything to the contrary contained herein, in the event any item of Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any of the foregoing in a single transaction or a series of substantially concurrent related transactions) meets the criteria of one or more than one of the categories of Baskets under this Agreement (including within any defined terms), including any financial ratio based Baskets (including the Interest Coverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio), (i) unless otherwise expressly provided in this Agreement, the Borrower may, in its sole discretion, divide and classify and later re-divide and reclassify on or more occasions (based on circumstances existing on the date of any such re-division and reclassification) any such item of Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action, in whole or in part, among one or more than one categories of Baskets under this Agreement, and (ii) availability and utilization of any category of financial ratio based Baskets (i.e., incurrence-based Baskets) with respect to any covenant (and including clause (D) of the Available Incremental Amount for purposes hereof) shall first be calculated without giving effect to the amount or portion of any item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action to be utilized under any other category of Baskets under such covenant (or the Available Incremental Amount, as applicable) at such time of determination (including at the time of any initial division and classification and any later re-divisions and recategorizations) and thereafter, availability and utilization of any category of Baskets that are not financial ratio based (including all Baskets based on fixed Dollar amounts or a percentage of Consolidated EBITDA or total assets under such covenant (including, as applicable, under clause (A)(1) of the Available Incremental Amount)) shall be calculated; provided that all Indebtedness (x) incurred hereunder on the Closing Date and (y) represented by the Indebtedness pursuant to the Second Lien Credit Documents and related Guarantees on the Closing Date will, at all times, be treated as incurred on the Closing Date under Section 7.02(b)(1) and (2), respectively, and may not be reclassified. Each item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action will be deemed to have been incurred, issued, made or taken first, to the extent available, pursuant to any available categories of financial ratio based Baskets (including the Interest Coverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio) as set forth above prior to any other category of Baskets. If any item of Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any portion of the foregoing) previously divided and classified (or re-divided and reclassified) as set forth above under any category of non-financial ratio based Baskets could subsequently be re-divided and reclassified under a category of financial ratio based Baskets (including the Interest Coverage Ratio, Senior Secured Net Leverage Ratio or Total Net Leverage Ratio (including clause (D) of the Available Incremental Amount)), such re-division and reclassification shall be deemed to occur automatically and item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any portion of the foregoing) shall cease to be deemed made or outstanding for purposes of any category of Baskets that are not financial ratio based.
If any item of Indebtedness, Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (any of the foregoing in a single transaction or a series of substantially concurrent related transactions) is incurred, issued, taken or consummated in reliance on categories of Baskets measured by reference to a percentage of Consolidated EBITDA, and any Indebtedness, Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (including in connection with refinancing thereof) would subsequently exceed the applicable percentage of Consolidated EBITDA if calculated based on the Consolidated EBITDA on a later date (including the date of any refinancing), such percentage of Consolidated EBITDA will not be deemed to be exceeded (and in the case of refinancing any Indebtedness, Disqualified Stock or Preferred Stock, to the extent the principal amount or the liquidation preference of such newly incurred or issued Indebtedness, Disqualified Stock or Preferred Stock does not exceed the maximum principal amount, liquidation preference or amount of Refinancing Indebtedness in respect of the Indebtedness, Disqualified Stock or Preferred Stock being refinanced, extended, replaced, refunded, renewed or defeased).

Notwithstanding anything in this Agreement or any Loan Document to the contrary, when (a) calculating the availability under any Basket or ratio in this Agreement (including the Available Incremental Amount) or compliance with any provision of in this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness (including pursuant to Section 2.14), Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments), in each case, at the option of the Borrower (the Borrower’s election to exercise such option, an “LCT Election”), the date of determination for availability under any such Basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any (or any type of) continuing Default or Event of Default and satisfaction of any representations and warranties)) in this Agreement shall be deemed to be the date (the “LCT Test Date”) the definitive agreements for such Limited Condition Transaction are entered into (or, if applicable, the date of delivery of an irrevocable notice, declaration of a Restricted Payment or similar event), and if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness (including pursuant to Section 2.14), Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments) and any related pro forma adjustments, the Borrower or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued or incurred at the LCT Test Date or at any time thereafter); provided, that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Borrower may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date for purposes of such ratios, tests or baskets, and (b) except as contemplated in the foregoing clause (a), compliance with such ratios, tests or baskets (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued or incurred at the LCT Test Date or at any time thereafter).
For the avoidance of doubt, if the Borrower has made an LCT Election, (1) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in EBITDA or total assets of the Borrower or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations; (2) if any related requirements and conditions (including as to the absence of any (or any type of) continuing Default or Event of Default and satisfaction of any representations and warranties) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of any Default or Event of Default or failure to satisfy any representations and warranties), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing and such representations and warranties shall be deemed to have been satisfied); and (3) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, purchase or repayment specified in an irrevocable notice or declaration for such Limited Condition Transaction is terminated, expires or passes, as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested giving pro forma effect to such Limited Condition Transaction.

SECTION 1.08 Available Amount Transaction. If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount specified in clause (3) of Section 7.05(a) immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently and in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under clause (3) of Section 7.05(a) as so calculated.

SECTION 1.09 Guaranties of Hedging Obligations. Notwithstanding anything else to the contrary in any Loan Document, no non-Qualified ECP Guarantor shall be required to guarantee or provide security for Excluded Swap Obligations, and any reference in any Loan Document with respect to such non-Qualified ECP Guarantor guaranteeing or providing security for the Obligations shall be deemed to be all Obligations other than the Excluded Swap Obligations.

SECTION 1.10 Currency Generally.

(1) The Borrower shall determine in good faith the Dollar equivalent amount of any utilization or other measurement denominated in a currency other than Dollars for purposes of compliance with any Basket. For purposes of determining compliance with any Basket under Article VII or VIII with respect to any amount expressed in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Basket utilization occurs or other Basket measurement is made (so long as such Basket utilization or other measurement, at the time incurred, made or acquired, was permitted hereunder). Except with respect to any ratio calculated under any Basket, any subsequent change in rates of currency exchange with respect to any prior utilization or other measurement of a Basket previously made in reliance on such Basket (as the same may have been reallocated in accordance with this Agreement) shall be disregarded for purposes of determining any unutilized portion under such Basket.

(2) For purposes of determining the First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio, the amount of Indebtedness and cash and Cash Equivalents shall reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

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(3) Notwithstanding anything herein to the contrary, at the election of the Borrower (subject to the consents required under the definition of “Acceptable Non-USD Currency”), any Class of Revolving Loans or Revolving Commitments incurred or established under this Agreement may be denominated in (and any existing Class of Revolving Loans or Revolving Commitments may be modified to add the ability to borrow in) any Acceptable Non-USD Currency. If any Class of Revolving Loans or Revolving Commitments denominated in an Acceptable Non-USD Currency is incurred or established (or any existing Class of Revolving Loans or Revolving Commitments is modified to add the ability to borrow in any Acceptable Non-USD Currency), then the Borrower and the Administrative Agent may, without the consent of any other Loan Party, Agent, Lender, Issuing Bank or other party, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to give effect to such denomination in an Acceptable Non-USD Currency.

(4) Notwithstanding anything to the contrary herein, for purposes of determining the relative outstanding principal amounts of any Loans denominated in any currency other than Dollars (including any Euro Term Loans) in connection with (i) determining whether the Required Lenders or Required Facility Lenders shall have consented to any amendment, waiver, modification or supplement hereunder or (ii) the application of any mandatory prepayments of Loans hereunder, such determination shall be based on the Dollar-equivalent principal amounts of such Loans based on the Spot Rate as of the applicable date of determination.

SECTION 1.11 Letters of Credit. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Amount of the stated amount of such Letter of Credit in effect at such time after giving effect to any automatic reductions to such stated amount pursuant to the terms of the applicable Letter of Credit after the occurrence of any applicable condition (including the expiration of any applicable period); provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuing Bank 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 Dollar Amount of 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.

Article II

The Commitments and Borrowings

SECTION 2.01 The Loans.

(1) Term Borrowings.

(a) Subject to the terms and conditions set forth in Section 4.01 hereof, each USD Term Lender severally agrees to make to the Borrower on the Closing Date one or more Closing Date USD Term Loans denominated in Dollars in an aggregate principal amount equal to such USD Term Lender’s Closing Date USD Term Loan Commitment on the Closing Date. Amounts borrowed under this Section 2.01(1)(a) and repaid or prepaid may not be reborrowed. The Closing Date USD Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(b) Subject to the terms and conditions set forth in Section 4.01 hereof, each Euro Term Lender severally agrees to make to the Borrower on the Closing Date one or more Closing Date Euro Term Loans denominated in Euros in an aggregate principal amount equal to such Euro Term Lender’s Closing Date Euro Term Loan Commitment on the Closing Date. Amounts borrowed under this Section 2.01(1)(b) and repaid or prepaid may not be reborrowed. The Closing Date Euro Term Loans shall be EURIBOR Rate Loans.
(c) Subject to the terms and conditions set forth in the First Amendment, each Initial Incremental USD Term Lender severally agrees to make the Borrower on the First Amendment Effective Date one or more Initial Incremental Term Loans denominated in Dollars in an aggregate principal amount equal to such Initial Incremental USD Term Lender’s Initial Incremental Term Loan Commitment. Amounts borrowed under this Section 2.01(c) and repaid or prepaid may not be reborrowed. The Initial Incremental USD Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein. For the avoidance of doubt, from and after the First Amendment Effective Date, the Initial Incremental USD Term Loans shall constitute Closing Date USD Term Loans and be of the same Class as the Closing Date USD Term Loans.

(d) Subject to the terms and conditions set forth in the First Amendment, each Initial Incremental Euro Term Lender severally agrees to make the Borrower on the First Amendment Effective Date one or more Initial Incremental Term Loans denominated in Euros in an aggregate principal amount equal to such Initial Incremental Term Lender’s Initial Incremental Term Loan Commitment. Amounts borrowed under this Section 2.01(1)(d) and repaid or prepaid may not be reborrowed. The Initial Incremental Euro Term Loans shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the First Amendment Effective Date, the Initial Incremental Euro Term Loans shall constitute Closing Date Euro Term Loans and be of the same Class as the Closing Date Euro Term Loans.

(e) (i) The Additional Term B USD Lender agrees to make a term loan to the Borrower in Dollars (a “Term B USD Loan” (which term shall include the term loans established pursuant to clause (ii) below)) on the Second Amendment Effective Date in a principal amount equal to its Additional Term B USD Commitment and (ii) each Converted Closing Date USD Term Loan held by each Second Amendment Consenting Lender shall be converted into a Term B USD Loan of such Lender effective as of the Second Amendment Effective Date in a principal amount equal to the principal amount of such Lender’s Converted Closing Date USD Term Loan immediately prior to such conversion. The Term B USD Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein. Notwithstanding anything to the contrary contained herein, the Term B USD Loans will initially be Eurodollar Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Closing Date USD Term Loans immediately prior to the Second Amendment Effective Date and with a Eurodollar Rate equal to the rate per annum for such Interest Period applicable to the Closing Date USD Term Loans immediately prior to the Second Amendment Effective Date.

(f) (i) The Additional Term B Euro Lender agrees to make a term loan to the Borrower in Euros (a “Term B Euro Loan” (which term shall include the term loans established pursuant to clause (ii) below and any Term B Euro Incremental Loans incurred pursuant to clause (g) below)) on the Second Amendment Effective Date in a principal amount equal to its Additional Term B Euro Commitment and (ii) each Converted Closing Date Euro Term Loan held by each Second Amendment Consenting Lender shall be converted into a Term B Euro Loan of such Lender effective as of the Second Amendment Effective Date in a principal amount equal to the principal amount of such Lender’s Converted Closing Date Euro Term Loan immediately prior to such conversion. The Term B Euro Loans may be EURIBOR Rate Loans, as further provided herein. Notwithstanding anything to the contrary contained herein, the Term B Euro Loans will initially be EURIBOR Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Closing Date Euro Term Loans immediately prior to the Second Amendment Effective Date and with a EURIBOR Rate equal to the rate per annum for such Interest Period applicable to the Closing Date Euro Term Loans immediately prior to the Second Amendment Effective Date.
(g) Immediately following the incurrence of the Term B Euro Loans incurred pursuant to clause (f) above, subject to the terms and conditions set forth in the Second Amendment, each Term B Euro Incremental Lender severally agrees to make to the Borrower on the Second Amendment Effective Date one or more Term B Euro Incremental Loans denominated in Euros in an aggregate principal amount equal to such Term B Euro Incremental Lender’s Term B Euro Incremental Commitment. Amounts borrowed under this Section 2.01(1)(g) and repaid or prepaid may not be reborrowed. The Term B Euro Incremental Loan shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the Second Amendment Effective Date, the Term B Euro Incremental Loans shall constitute Term B Euro Loans and be of the same Class as the Term B Euro Loans.

(2) Revolving Borrowings. Subject to the terms and conditions set forth herein, each Revolving Lender severally agrees to make loans denominated in Dollars from its applicable Lending Office (each such loan, a “Revolving Loan”) to the Borrower from time to time, on any Business Day during the period from the Closing Date until the Maturity Date, in an aggregate principal amount not to exceed at any time outstanding the amount of such Lender’s Revolving Commitment; provided that after giving effect to any Revolving Borrowing, the aggregate Outstanding Amount of the Revolving Loans of any Lender plus such Lender’s Applicable Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Lender’s Revolving Commitment. Within the limits of each Lender’s Revolving Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(2), prepay under Section 2.05 and reborrow under this Section 2.01(2). Revolving Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

SECTION 2.02 Borrowings, Conversions and Continuations of Loans.

(1) Each Term Borrowing, each Revolving Borrowing, each conversion of Term Loans or Revolving Loans from one Type to the other, and each continuation of Eurodollar Rate Loans or EURIBOR Rate Loans shall be made upon the Borrower’s irrevocable notice, on behalf of the Borrower, to the Administrative Agent (provided that the notice in respect of the initial Credit Extension, or in connection with any Permitted Acquisition or other transaction, as applicable), which may be given by: (A) telephone or (B) a Committed Loan Notice; provided that any telephonic notice by the Borrower must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such notice must be received by the Administrative Agent not later than (a) 1:00 p.m., New York time, three (3) Business Days prior to the requested date of any Borrowing or continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or any conversion of Base Rate Loans to Eurodollar Rate Loans and (b) 1:00 p.m., New York time, on the requested date of any Borrowing of Base Rate Loans or any conversion of Eurodollar Rate Loans to Base Rate Loans; provided that the notice referred to in subclause (a) above may be delivered not later than 1:00 p.m., New York time, one (1) Business Day prior to the Closing Date in the case of the Closing Date Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(1) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Except as provided in Sections 2.14, 2.15 and 2.16, each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $1.0 million or a whole multiple amount of $250,000 in excess thereof. Except as provided in Sections 2.14, 2.15 and 2.16, each Borrowing of, conversion to or continuation of EURIBOR Rate Loans shall be in a principal amount of €1.0 million or a whole multiple amount of €250,000 in excess thereof. Except as provided in Sections 2.03(3), 2.14, 2.15 and 2.16, each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple amount of $100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify
(i) whether the Borrower is requesting a Term Borrowing, a Revolving Borrowing, a conversion of Term Loans or Revolving Loans from one Type to the other or a continuation of Eurodollar Rate 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 Loans to be borrowed, converted or continued,

(iv) the Class and Type of Loans to be borrowed or to which existing Term Loans or Revolving Loans are to be converted,

(v) if applicable, the duration of the Interest Period with respect thereto and

(vi) wire instructions of the account(s) to which funds are to be disbursed.

If the Borrower fails to specify a Type of Loan to be made in a Committed Loan Notice, then the applicable Loans shall be made as Eurodollar Rate Loans with an Interest Period of one (1) month (or, in the case of any Euro Term Loans, EURIBOR Rate Loans with an Interest Period of one (1) month). If the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as the same Type of Loan, which if a Eurodollar Rate Loan or EURIBOR Rate Loan, shall have a one-month Interest Period. Any such automatic continuation of Eurodollar Rate Loans or EURIBOR Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans or EURIBOR Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans or EURIBOR Rate 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 (1) month.

(2) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share or other applicable share provided for under this Agreement of the applicable Class of 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 continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or continuation of Loans described in Section 2.02(1). In the case of each Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent (or, with respect to Borrowings of Incremental Loans, to such Incremental Lender as the Administrative Agent may reasonably agree for such purpose) in Same Day Funds at the Administrative Agent’s Office, or to such other account as the Administrative Agent may specify, not later than, in the case of Borrowing on the Closing Date, 10:00 a.m., New York time, and otherwise 3:00 p.m., New York time, on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4 for any Borrowing, the Administrative Agent (or, with respect to Incremental Loans, such applicable Incremental Lender) shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent (or, with respect to Incremental Loans, such applicable Incremental Lender) either by (a) crediting the account(s) of the Borrower on the books of the Administrative Agent with the amount of such funds or (b) wire transfer of such funds, in each case in accordance with instructions provided by the Borrower to (and reasonably acceptable to) the Administrative Agent (and in the case of clause (b), such Incremental Lender, if applicable); provided that if on the date the Committed Loan Notice with respect to a Borrowing under a Revolving Facility is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowing and second, to the Borrower as provided above.
Except as otherwise provided herein, a Eurodollar Rate Loan or EURIBOR Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan or EURIBOR Rate Loan, as applicable, unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent at the direction of the Required Facility Lenders under the applicable Facility may require by notice to the Borrower that no Loans under such Facility may be converted to or continued as Eurodollar Rate Loans.

The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans or EURIBOR Rate Loans upon determination of such interest rate. The determination of the Eurodollar Rate and EURIBOR Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the Administrative Agent’s prime rate used in determining the Base Rate promptly following the announcement of such change.

The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans or EURIBOR Rate Loans upon determination of such interest rate. The determination of the Eurodollar Rate and EURIBOR Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the Administrative Agent’s prime rate used in determining the Base Rate promptly following the announcement of such change.

After giving effect to all Term Borrowings, all Revolving Borrowings, all conversions of Term Loans or Revolving Loans from one Type to the other, and all continuations of Term Loans or Revolving Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; provided that after the establishment of any new Class of Loans pursuant to an Incremental Amendment, a Refinancing Amendment, an Extension Amendment or an amendment in respect of Replacement Loans, the number of Interest Periods otherwise permitted by this Section 2.02(5) shall increase by three (3) Interest Periods for each applicable Class so established.

The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing, or, in the case of any Borrowing of Base Rate Loans, prior to 1:30 p.m., New York time, on the date of such Borrowing, that such Lender will not make available to the Administrative Agent such Lender’s Pro Rata Share or other applicable share provided for under this Agreement of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share and such other applicable share available to the Administrative Agent on the date of such Borrowing in accordance with paragraph (2) above, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate plus any administrative, processing or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent
submitted to any Lender with respect to any amounts owing under this Section 2.02(7) shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall both pay all or any portion of the principal amount in respect of such Borrowing or 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 Borrowing or interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender’s Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.03 Letters of Credit.

(1) The Letter of Credit Commitments.

(a) Subject to the terms and conditions set forth herein, (i) each Issuing Bank agrees, in reliance upon the agreements of the other Revolving Lenders set forth in this Section 2.03, (A) from time to time on any Business Day during the period from the Closing Date until the L/C Expiration Date, to issue Letters of Credit denominated in an Available LC Currency for the account of the Borrower, Holdings or a Restricted Subsidiary (provided that any such Letter of Credit may be for the benefit of Holdings or any Subsidiary of the Borrower) and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.03(2), and (B) to honor drawings under the Letters of Credit and (ii) the Revolving Lenders severally agree to participate in Letters of Credit issued pursuant to this Section 2.03; provided that no Issuing Bank shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit if as of the date of such L/C Credit Extension, (x) the Revolving Exposure of any Revolving Lender would exceed such Lender’s Revolving Commitment, (y) the Outstanding Amount of the L/C Obligations would exceed the L/C Sublimit or (z) the Outstanding Amount of the L/C Obligations issued by such Issuing Bank would exceed its L/C Commitment. 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.

(b) An Issuing Bank shall be under no obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or direct that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date (for which such Issuing Bank is not otherwise compensated hereunder);

(ii) subject to Section 2.03(2)(c), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless (A) each Appropriate Lender has approved of such expiration date or (B) the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank;
(iii) the expiry date of such requested Letter of Credit would occur after the L/C Expiration Date, unless (A) each Appropriate Lender has approved of such expiration date or (B) the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank;

(iv) the issuance of such Letter of Credit would violate any policies of such Issuing Bank applicable to letters of credit generally; provided that (i) Morgan Stanley Senior Funding, Inc. and its Affiliates shall only be required to issue standby letters of credit and shall not be required to issue (x) any bank guarantees or (y) any letter of credit denominated in any Available LC Currency other than Dollars without its prior consent and (ii) Bank of America, N.A. and JPMorgan Chase Bank, N.A. and their respective Affiliates shall not be required to issue any bank guarantees; or

(v) any Revolving Lender is at that time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Bank’s actual or potential Fronting Exposure (after giving effect to Section 2.17(1)(d)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(c) An Issuing Bank shall be under no obligation to amend any Letter of Credit if (i) such Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof or (ii) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(2) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit

(a) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to an Issuing Bank (with a copy to the Administrative Agent) in the form of a L/C Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such L/C Application must be received by the relevant Issuing Bank and the Administrative Agent not later than 1:00 p.m., New York time, at least two (2) Business Days prior to the proposed issuance date or date of amendment, as the case may be, or, in each case, such later date and time as the relevant Issuing Bank may agree in a particular instance in its sole discretion. In the case of a request for an initial issuance of a Letter of Credit, such L/C Application shall specify in form and detail reasonably satisfactory to the relevant Issuing Bank:

(i) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day);

(ii) the amount thereof;

(iii) the expiry date thereof;
(iv) the name and address of the beneficiary thereof;
(v) the documents to be presented by such beneficiary in case of any drawing thereunder;
(vi) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder;
(vii) the Available LC Currency in which the requested Letter of Credit is to be issued will be denominated; and
(viii) such other matters as the relevant Issuing Bank may reasonably request.

In the case of a request for an amendment of any outstanding Letter of Credit, such L/C Application shall specify in form and detail reasonably satisfactory to the relevant Issuing Bank:

(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 relevant Issuing Bank may reasonably request.

(b) Promptly after receipt of any L/C Application, the relevant Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such L/C Application from the Borrower and, if not, such Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the relevant Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or, if applicable, for the benefit of Holdings or Subsidiary of the Borrower) or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the relevant Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender’s Applicable Percentage of the amount of such Letter of Credit.

(c) If the Borrower so requests in any applicable L/C Application, the relevant Issuing Bank shall 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 relevant Issuing Bank 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 by the relevant Issuing Bank and the Borrower at the time such Letter of Credit is issued. Unless otherwise agreed in such Letter of Credit, the Borrower shall not be required to make a specific request to the relevant Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the applicable Lenders shall be deemed to have authorized (but may not require) the relevant Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the applicable L/C Expiration Date, unless the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably
satisfactory to the applicable Issuing Bank; provided that the relevant Issuing Bank shall not permit any such extension if (i) the relevant Issuing Bank has determined that it would have no obligation at such time to issue such Letter of Credit in its extended form under the terms hereof (by reason of the provisions of Section 2.03(1)(b) or otherwise) or (ii) it has received notice (which may be by telephone or in writing) on or before the day that is seven (7) Business Days before the Non-Extension Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 will not be satisfied on the applicable date of the Credit Extension.

(d) Promptly after issuance of any Letter of Credit or any amendment to a Letter of Credit, the relevant Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(3) Drawings and Reimbursements; Funding of Participations

(a) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the relevant Issuing Bank shall promptly notify the Borrower and the Administrative Agent thereof (including the date on which such payment is to be made). Not later than 12:00 p.m. on the first Business Day immediately following any payment by an Issuing Bank under a Letter of Credit with notice to the Borrower (each such date, an “Honor Date”), the Borrower shall reimburse, or cause to be reimbursed, such Issuing Bank, in each case, through the Administrative Agent in an amount equal to the amount of such drawing (it being understood that in the case of a Letter of Credit denominated in an Available Currency other than Dollars, the amount of such Letter of Credit shall be determined by taking the Dollar Amount of such Letter of Credit); provided that, if such reimbursement is not made on the date of drawing, the Borrower shall pay interest to the relevant Issuing Bank on such amount at the rate applicable to Base Rate Loans (without duplication of interest payable on L/C Borrowings). The relevant Issuing Bank shall notify the Borrower of the amount of the drawing promptly following the determination thereof. If the Borrower fails to so reimburse, or cause to be reimbursed, such Issuing Bank by such time, the Administrative Agent shall promptly notify each Appropriate Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of each Appropriate Lender’s Applicable Percentage thereof. In such event, in the case of an Unreimbursed Amount under a Letter of Credit, the Borrower shall be deemed to have requested a Revolving 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 requirements for the amount of the unutilized portion of the Revolving Commitments under the applicable Revolving Facility of the Appropriate Lenders and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an Issuing Bank or the Administrative Agent pursuant to this Section 2.03(3)(a) 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.

(b) Each Appropriate Lender (including any Lender acting as an Issuing Bank) shall upon any notice pursuant to Section 2.03(3)(a) make funds available to the Administrative Agent for the account of the relevant Issuing Bank in Dollars (it being understood that in the case of a Letter of Credit denominated in an Available LC Currency other than Dollars, the amount of such Letter of Credit shall be determined by taking the Dollar Amount of such Letter of Credit) at the Administrative Agent’s Office for payments 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(3)(c), each Appropriate Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Borrower in such amount and, for the avoidance of doubt, the making of such Base Rate Loans in an aggregate amount equal to such Unreimbursed Amount shall satisfy the Borrower’s reimbursement obligations with respect thereof. The Administrative Agent shall remit the funds so received to the relevant Issuing Bank.

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(c) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving 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 relevant Issuing Bank 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 Appropriate Lender’s payment to the Administrative Agent for the account of the relevant Issuing Bank pursuant to Section 2.03(3)(b) 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.

(d) Until each Appropriate Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(3) to reimburse the relevant Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Applicable Percentage of such amount shall be solely for the account of the relevant Issuing Bank.

(e) Each Revolving Lender’s obligation to make Revolving Loans or L/C Advances to reimburse an Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(3), shall be absolute and unconditional and shall not be affected by any circumstance, including

(i) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the relevant Issuing Bank, the Borrower or any other Person for any reason whatsoever;

(ii) the occurrence or continuance of a Default; or

(iii) any other occurrence, event or condition, whether or not similar to any of the foregoing;

provided that each Revolving Lender’s obligation to make Revolving Loans pursuant to this Section 2.03(3) 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 relevant Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

(f) If any Revolving Lender fails to make available to the Administrative Agent for the account of the relevant Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(3) by the time specified in Section 2.03(3)(b), such Issuing Bank 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 such Issuing Bank at a rate per annum equal to the Overnight Rate from time to time in effect. A certificate of the relevant Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(3)(f) shall be conclusive absent manifest error.
(4) Repayment of Participations.

(a) If, at any time after an Issuing Bank has made a payment under any Letter of Credit and has received from any Revolving Lender such Lender’s L/C Advance in respect of such payment in accordance with Section 2.03(3), the Administrative Agent receives for the account of such Issuing Bank 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 (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender’s L/C Advance was outstanding) in the amount received by the Administrative Agent.

(b) If any payment received by the Administrative Agent for the account of an Issuing Bank pursuant to Section 2.03(3)(a) or Section 2.03(3)(b) is required to be returned under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Appropriate Lender shall pay to the Administrative Agent for the account of such Issuing Bank 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 by such Lender, at a rate per annum equal to the Overnight Rate from time to time in effect. The Obligations of the Revolving Lenders under this Section 2.03(4)(b) shall survive the payment in full of the Obligations and the termination of this Agreement.

(5) Obligations Absolute. The obligation of the Borrower to reimburse the relevant Issuing Bank for each drawing under each Letter of Credit issued by it 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:

(a) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(b) the existence of any claim, counterclaim, setoff, defense or other right that any Loan Party 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 relevant Issuing Bank 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;

(c) 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;

(d) any payment by the relevant Issuing Bank 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 relevant Issuing Bank 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;
(e) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of any Loan Party in respect of such Letter of Credit; or

(f) 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, any Loan Party;

provided that the foregoing shall not excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are waived by the Borrower to the extent permitted by applicable Law) suffered by the Borrower that are caused by acts or omissions by such Issuing Bank constituting gross negligence, bad faith or willful misconduct on the part of such Issuing Bank as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(6) Role of Issuing Banks. Each Issuing Bank shall be entitled to rely upon, and shall be fully protected in relying upon, any note, writing, resolution, notice, statement, certificate or facsimile message, order or other document or telephone message signed, sent or made by any Person that such Issuing Bank reasonably believed to be genuine and correct and to have been signed, sent or made by the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan Document and its duties hereunder and thereunder, upon advice of counsel selected by such Issuing Bank (which may include, at the Issuing Bank’s option, counsel of the Administrative Agent or the Borrower). Each Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, the relevant Issuing Bank 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 Issuing Banks, any Related Person of such Issuing Banks, nor any of the respective correspondents, participants or assignees of any Issuing Bank shall be liable to any Lender for

(a) any action taken or omitted in connection herewith at the request or with the approval of the Lenders, the Required Lenders or the Required Facility Lenders in respect of the Revolving Commitments, as applicable;

(b) any action taken or omitted in the absence of gross negligence, bad faith or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction; or

(c) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Application.

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 from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Banks, any Related Persons of such Issuing Banks, nor any of the respective correspondents, participants or assignees of any Issuing Bank, shall be liable or responsible for any of the matters described in clauses (a) through (f) of Section 2.03(5); provided that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an Issuing Bank, and each Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank’s willful misconduct, bad faith or gross negligence or such Issuing Bank’s willful or grossly negligent, or bad faith, 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 each case as determined in a final and non-appealable judgment by a court of competent jurisdiction. In furtherance and not in limitation of the foregoing, each Issuing Bank 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 no Issuing Bank shall 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.

Each Revolving Lender shall, ratably in accordance with its Applicable Percentage, indemnify each Issuing Bank, its Related Persons and their respective directors, officers, agents and employees (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such indemnitees’ willful misconduct, bad faith or gross negligence or such Issuing Bank’s willful or grossly negligent, or bad faith, 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 each case as determined in a final and non-appealable judgment by a court of competent jurisdiction) that such indemnitees may suffer or incur in connection with this Section 2.03 or any action taken or omitted to be taken by such indemnitees hereunder.

(7) **Cash Collateral.** Subject to Section 2.17(1)(d), if,

(a) as of any L/C Expiration Date, any applicable Letter of Credit may for any reason remain outstanding and partially or wholly undrawn,

(b) any Event of Default occurs and is continuing and the Administrative Agent, upon the direction of the Required Facility Lenders in respect of the Revolving Facility, requires the Borrower to Cash Collateralize the L/C Obligations pursuant to Section 8.02 or

(c) an Event of Default set forth under Section 8.01(6) occurs and is continuing,

the Borrower will Cash Collateralize, or cause to be Cash Collateralized, the then Outstanding Amount of all relevant L/C Obligations (in an amount equal to such Outstanding Amount determined as of the date of such Event of Default or the applicable L/C Expiration Date, as the case may be), and shall do so not later than 2:00 p.m. on (i) in the case of the immediately preceding clauses (a) or (b), (x) the Business Day that the Borrower receives notice thereof, if such notice is received on such day prior to 12:00 p.m. or (y) if clause (x) above does not apply, the Business Day immediately following the day that the Borrower receives such notice and (ii) in the case of the immediately preceding clause (c), the Business Day on which an Event of Default set forth under Section 8.01(6) occurs or, if such day is not a Business Day, the Business Day immediately succeeding such day. At any time that there shall exist a Defaulting Lender, immediately upon the request of the Administrative Agent or the applicable Issuing Bank, the Borrower will Cash Collateralize all Fronting Exposure (after giving effect to Section 2.17(1)(d) and any Cash Collateral provided by the Defaulting Lender). The Borrower hereby grants to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, a security interest in all such Cash Collateral. Cash Collateral shall be maintained in blocked accounts at the Administrative Agent and may be invested in readily available Cash Equivalents selected by the Administrative Agent in its sole discretion. If at any time the Administrative Agent determines that any funds held as Cash Collateral are expressly subject to any right or claim of any Person other than the Loan Parties or the Administrative Agent (in its capacity as the depository bank and on behalf of the Secured Parties) or that the total amount of such funds is less than the aggregate Outstanding Amount of all relevant L/C Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay, or cause to be paid, to the
Administrative Agent, as additional funds to be deposited and held in the deposit accounts at the Administrative Agent as aforesaid, an amount equal to 
the excess of (A) such aggregate Outstanding Amount over (B) the total amount of funds, if any, then held as Cash Collateral that the Administrative 
Agent reasonably determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit 
as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Law, to reimburse the relevant Issuing Bank. To the extent the 
amount of any Cash Collateral exceeds the then Outstanding Amount of such relevant L/C Obligations and so long as no Event of Default has occurred 
and is continuing, the excess shall promptly be refunded to the Borrower. To the extent any Event of Default giving rise to the requirement to Cash 
Collateralize any Letter of Credit pursuant to this Section 2.03(7) is cured or otherwise waived, then so long as no other Event of Default has occurred 
and is continuing, the amount of any Cash Collateral pledged to Cash Collateralize such Letter of Credit shall promptly be refunded to the Borrower.

(8) **Existing Letters of Credit.** The parties hereto agree that the Existing Letters of Credit shall be deemed Letters of Credit for all purposes 
under this Agreement, without any further action by the Borrower.

(9) **Letter of Credit Fees.** The Borrower shall pay to the Administrative Agent, for the account of each Revolving Lender for the applicable 
Revolving Facility in accordance with its Applicable Percentage, a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal 
to the Applicable Rate set forth in the “Eurodollar Rate and Letter of Credit Fees” column of the chart in the definition of “Applicable Rate” times the 
daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter 
of Credit if such maximum amount decreases or increases periodically pursuant to the terms of such Letter of Credit); provided, however, that any Letter 
of Credit fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not 
provided Cash Collateral satisfactory to the applicable Issuing Bank pursuant to this Section 2.03 shall be payable, to the maximum extent permitted by 
applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of 
Credit pursuant to Section 2.17(1)(d), with the balance of such fee, if any, payable to the applicable Issuing Bank for its own account. Such Letter of 
Credit fees shall be computed on a quarterly basis in arrears on the basis of a 360-day year and actual days elapsed. Such Letter of Credit fees shall be 
due and payable on the last Business Day 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 L/C Expiration Date and thereafter on demand. If there is any change in the Applicable Rate set forth in the 
“Eurodollar Rate and Letter of Credit Fees” column of the chart in the definition of “Applicable Rate” during any quarter, the daily maximum amount of 
each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate 
was in effect.

(10) **Fronting Fee and Documentary and Processing Charges Payable to Issuing Banks.** The Borrower shall pay directly to each Issuing 
Bank for its own account a fronting fee with respect to each Letter of Credit issued by such Issuing Bank equal to 0.125% per annum (or such other 
lower amount as may be mutually agreed by the Borrower and the applicable Issuing Bank) of the maximum amount then available to be drawn under 
such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases or 
decreases periodically pursuant to the terms of such Letter of Credit) or such lesser fee as may be agreed with such Issuing Bank. Such fronting fees 
shall be computed on a quarterly basis in arrears on the basis of a 360-day year and actual days elapsed. Such fronting fees shall be due and payable on 
the last Business Day 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 L/C Expiration Date and thereafter on demand. In addition, the Borrower shall pay, or cause to be paid, directly to each Issuing Bank for 
its own account with respect to each Letter of Credit issued by such Issuing Bank the customary issuance, presentation, amendment and other processing 
fees, and other standard costs and charges, of such Issuing Bank relating to letters of credit as from time to time in effect. Such customary fees and 
standard costs and charges are due and payable within ten (10) Business Days of demand and are nonrefundable.

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(11) **Conflict with L/C Application.** Notwithstanding anything else to the contrary in this Agreement or any L/C Application, in the event of any conflict between the terms hereof and the terms of any L/C Application, the terms hereof shall control.

(12) **Addition of an Issuing Bank.** There may be one or more Issuing Banks under this Agreement from time to time. After the Closing Date, a Revolving Lender reasonably acceptable to the Borrower and the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement among the Borrower, the Administrative Agent and such Revolving Lender. The Administrative Agent shall notify the Revolving Lenders of any such additional Issuing Bank.

(13) **Provisions Related to Extended Revolving Commitments.** If the L/C Expiration Date in respect of any Class of Revolving Commitments occurs prior to the expiry date of any Letter of Credit, then (a) if consented to by the Issuing Bank which issued such Letter of Credit, if one or more other Classes of Revolving Commitments in respect of which the L/C Expiration Date shall not have so occurred are then in effect, such Letters of Credit for which consent has been obtained shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Lenders to purchase participations therein and to make Revolving Loans and payments in respect thereof pursuant to Sections 2.03(3) and (4)) under (and ratably participated in by Revolving Lenders pursuant to) the Revolving Commitments in respect of such non-terminating Classes up to an aggregate amount not to exceed the aggregate principal amount of the unutilized Revolving Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and (b) to the extent not reallocated pursuant to immediately preceding clause (a) and unless provisions reasonably satisfactory to the applicable Issuing Bank for the treatment of such Letter of Credit as a letter of credit under a successor credit facility have been agreed upon, the Borrower shall, on or prior to the applicable Maturity Date, cause all such Letters of Credit to be replaced and returned to the applicable Issuing Bank undrawn and marked “cancelled” or to the extent that the Borrower is unable to so replace and return any Letter(s) of Credit, such Letter(s) of Credit shall be backstopped by a “back to back” letter of credit reasonably satisfactory to the applicable Issuing Bank or the Borrower shall Cash Collateralize any such Letter of Credit in accordance with Section 2.03(7).

(14) **Letter of Credit Reports.** For so long as any Letter of Credit issued by an Issuing Bank that is not the Administrative Agent is outstanding, such Issuing Bank shall deliver to the Administrative Agent on the last Business Day of each calendar month, and on each date that an L/C Credit Extension occurs with respect to any such Letter of Credit, a report in the form of Exhibit R, appropriately completed with the information for every outstanding Letter of Credit issued by such Issuing Bank.

(15) **Letters of Credit Issued for Holdings and Subsidiaries.** Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, Holdings or a Subsidiary of the Borrower, the Borrower shall be obligated to reimburse, or cause to be reimbursed, the applicable Issuing Bank 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 Holdings or any Subsidiary inures to the benefit of the Borrower, and that the Borrower’s businesses derives substantial benefits from the businesses of Holdings and each Subsidiary.
Applicability of ISP and UCP. Unless otherwise expressly agreed by the relevant Issuing Bank and the Borrower 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.

SECTION 2.04 [Reserved].

SECTION 2.05 Prepayments.

(1) Optional.

(a) The Borrower may, upon notice to the Administrative Agent by the Borrower, at any time or from time to time voluntarily prepay any Class or Classes of Term Loans and any Class or Classes of Revolving Loans in whole or in part without premium (except as set forth in Section 2.18) or penalty; provided that

(i) such notice must be received by the Administrative Agent not later than (A) 1:00 p.m., New York time, three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans or EURIBOR Rate Loans and (B) 12:00 p.m., New York time, on the date of prepayment of Base Rate Loans;

(ii) any prepayment of (x) Eurodollar Rate Loans shall be in a principal amount of $1.0 million or a whole multiple of $250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding and (y) EURIBOR Rate Loans shall be in a principal amount of €1.0 million or a whole multiple of €250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding; and

(iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding.

Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender’s Pro Rata Share 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 a Eurodollar Rate Loan or EURIBOR Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. In the case of each prepayment of the Loans pursuant to this Section 2.05(1), the Borrower may in its sole discretion select the Borrowing or Borrowings (and the order of maturity of principal payments) to be repaid, and such payment shall be paid to the Appropriate Lenders in accordance with their respective Pro Rata Shares.

(b) [Reserved]

(c) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind (or delay the date of prepayment identified in) any notice of prepayment under Section 2.05(1)(a) by written notice to the Administrative Agent not later than 12:00 p.m., New York time, on such prepayment date if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed.
(d) Voluntary prepayments of any Class of Term Loans permitted hereunder shall be applied to the remaining scheduled installments of principal thereof in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity). Each prepayment in respect of any Term Loans pursuant to this Section 2.05 may be applied to any Class of Term Loans as directed by the Borrower. For the avoidance of doubt, the Borrower may (i) prepay Term Loans of an Existing Term Loan Class pursuant to this Section 2.05 without any requirement to prepay Extended Term Loans that were converted or exchanged from such Existing Term Loan Class and (ii) prepay Extended Term Loans pursuant to this Section 2.05 without any requirement to prepay Term Loans of an Existing Term Loan Class that were converted or exchanged for such Extended Term Loans. In the event that the Borrower does not specify the order in which to apply prepayments to reduce scheduled installments of principal or as between Classes of Term Loans, the Borrower shall be deemed to have elected that such proceeds be applied to reduce the scheduled installments of principal in direct order of maturity on a pro rata basis among Term Loan Classes.

(e) Notwithstanding anything in any Loan Document to the contrary, so long as (x) no Event of Default has occurred and is continuing and (y) no proceeds of Revolving Loans are used for this purpose, any Borrower Party may (i) purchase outstanding Term Loans on a non-pro rata basis through open market purchases or (ii) prepay the outstanding Term Loans (which Term Loans shall, for the avoidance of doubt, be automatically and permanently canceled immediately upon such purchase or prepayment), which in the case of clause (ii) only shall be prepaid without premium or penalty on the following basis:

(A) Any Borrower Party shall have the right to make a voluntary prepayment of Loans at a discount to par pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offers or Borrower Solicitation of Discounted Prepayment Offers (any such prepayment, the “Discounted Term Loan Prepayment”), in each case made in accordance with this Section 2.05(1)(e) and without premium or penalty.

(B) (1) Any Borrower Party may from time to time offer to make a Discounted Term Loan Prepayment by providing the Auction Agent with five (5) Business Days’ notice (or such shorter period as agreed by the Auction Agent) in the form of a Specified Discount Prepayment Notice; provided that (I) any such offer shall be made available, at the sole discretion of the applicable Borrower Party, to (x) each Term Lender or (y) each Term Lender with respect to any Class of Term Loans on an individual Class basis, (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the “Specified Discount Prepayment Amount”) with respect to each applicable Class, the Class or Classes of Term Loans subject to such offer and the specific percentage discount to par (the “Specified Discount”) of such Term Loans to be prepaid (it being understood that different Specified Discounts or Specified Discount Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(1)(e)(B)), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than $5.0 million and whole increments of $1.0 million in excess thereof and (IV) each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Specified Discount Prepayment Response Date”).

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(2) Each Term Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its applicable then outstanding Term Loans at the Specified Discount and, if so (such accepting Lender, a “Discount Prepayment Accepting Lender”), the amount and the Classes of such Lender’s Term Loans to be prepaid at such offered discount. Each acceptance of a Discounted Term Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Term Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the applicable Borrower Offer of Specified Discount Prepayment.

(3) If there is at least one Discount Prepayment Accepting Lender, the relevant Borrower Party will make a prepayment of outstanding Term Loans pursuant to this paragraph (B) to each Discount Prepayment Accepting Lender in accordance with the respective outstanding amount and Classes of Term Loans specified in such Lender’s Specified Discount Prepayment Response given pursuant to subsection (2) above; provided that if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made pro rata among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the “Specified Discount Proration”). The Auction Agent shall promptly, and in any case within three (3) Business Days following the Specified Discount Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Term Lenders’ responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, and the aggregate principal amount and the Classes of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, Class and Type of Term Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the applicable Borrower Party and such Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the applicable Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).

(C) (1) Any Borrower Party may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice (or such shorter period as agreed by the Auction Agent) in the form of a Discount Range Prepayment Notice; provided that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Term Lender or (y) each Term Lender with respect to any Class of Term Loans on an individual Class basis, (II) any such notice shall specify the maximum aggregate principal amount of the relevant Term Loans (the “Discount Range Prepayment Amount”), the Class or Classes of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the “Discount Range”) of the principal amount of such Term Loans with respect to each relevant Class of Term Loans willing to be prepaid by such Borrower Party (it being understood that different Discount Ranges or Discount Range Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(1)(e)(C)), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than $5.0
million and whole increments of $1.0 million in excess thereof and (IV) unless rescinded, each such solicitation by the applicable Borrower Party shall remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Discount Range Prepayment Response Date”). Each Term Lender’s Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the “Submitted Discount”) at which such Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable Class or Classes and the maximum aggregate principal amount and Classes of such Lender’s Term Loans (the “Submitted Amount”) such Term Lender is willing to have prepaid at the Submitted Discount. Any Term Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Term Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(2) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this subsection (C). The relevant Borrower Party agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by the Auction Agent by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the “Applicable Discount”) which yields a Discounted Term Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Term Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following subsection (3)) at the Applicable Discount (each such Term Lender, a “Participating Lender”).

(3) If there is at least one Participating Lender, the relevant Borrower Party will prepay the respective outstanding Term Loans of each Participating Lender in the aggregate principal amount and of the Classes specified in such Lender’s Discount Range Prepayment Offer at the Applicable Discount; provided that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the “Identified Participating Lenders”) shall be made pro rata among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Discount Range Proration”). The Auction Agent shall promptly, and in any case within five (5) Business Days following the Discount Range Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Term Lenders’ responses.
to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Applicable Discount and the aggregate principal amount and Classes of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and Classes of such Term Lender to be prepaid at the Applicable Discount on such date and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the relevant Borrower Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the applicable Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).

(D) (1) Any Borrower Party may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice in the form of a Solicited Discounted Prepayment Notice (or such later notice specified therein); provided that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Term Lender or (y) each Lender with respect to any Class of Term Loans on an individual Class basis, (II) any such notice shall specify the maximum aggregate amount of the Term Loans (the “Solicited Discounted Prepayment Amount”) and the Class or Classes of Term Loans the applicable Borrower Party is willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(e)(D)), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than $5.0 million and whole increments of $1.0 million in excess thereof and (IV) unless rescinded, each such solicitation by the applicable Borrower Party shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Solicited Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Term Lenders (the “Solicited Discounted Prepayment Response Date”). Each Term Lender’s Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date and (z) specify both a discount to par (the “Offered Discount”) at which such Term Lender is willing to allow prepayment of its then outstanding Term Loan and the maximum aggregate principal amount and Classes of such Term Loans (the “Offered Amount”) such Term Lender is willing to have prepaid at the Offered Discount. Any Term Lender whose Solicited Discounted Prepayment Offer is not received by the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount.

(2) The Auction Agent shall promptly provide the relevant Borrower Party with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. Such Borrower Party shall review all such Solicited Discounted Prepayment Offers and select the smallest of the Offered Discounts specified by the relevant responding Term Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the applicable Borrower Party (the “Acceptable Discount”), if any. If the applicable Borrower Party elects to accept any Offered Discount as the Acceptable Discount, then as soon as
practicable after the determination of the Acceptable Discount, but in no event later than by the third Business Day after the date of receipt by such Borrower Party from the Auction Agent a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this subsection (2) (the “Acceptance Date”), the applicable Borrower Party shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent shall fail to receive an Acceptance and Prepayment Notice from the applicable Borrower Party by the Acceptance Date, such Borrower Party shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(3) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by the Auction Agent by the Solicited Discounted Prepayment Response Date, within three (3) Business Days after receipt of an Acceptance and Prepayment Notice (the “Discounted Prepayment Determination Date”), the Auction Agent will determine (with the consent of such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the Classes of Term Loans (the “Acceptable Prepayment Amount”) to be prepaid by the relevant Borrower Party at the Acceptable Discount in accordance with this Section 2.05(1)(e)(D). If the applicable Borrower Party elects to accept any Acceptable Discount, then such Borrower Party agrees to accept all Solicited Discounted Prepayment Offers received by the Auction Agent by the Solicited Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Term Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro-rata reduction pursuant to the following sentence) at the Acceptable Discount (each such Lender, a “Qualifying Lender”). The applicable Borrower Party will prepay outstanding Term Loans pursuant to this subsection (D) to each Qualifying Lender in the aggregate principal amount and of the Classes specified in such Lender’s Solicited Discounted Prepayment Offer at the Acceptable Discount; provided that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount (the “Identified Qualifying Lenders”) shall be made pro rata among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Solicited Discount Proration”). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the relevant Borrower Party of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the Classes to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the Classes of such Term Lender to be prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to such Borrower Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to such Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).
(E) In connection with any Discounted Term Loan Prepayment, the Borrower Parties and the Term Lenders acknowledge and agree that the Auction Agent may require, as a condition to the applicable Discounted Term Loan Prepayment, the payment of customary fees and expenses from a Borrower Party to such Auction Agent for its own account in connection therewith.

(F) If any Term Loan is prepaid in accordance with subsections (B) through (D) above, a Borrower Party shall prepay such Term Loans on the Discounted Prepayment Effective Date. The relevant Borrower Party shall make such prepayment to the Administrative Agent, for the account of the Discounted Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent’s Office in immediately available funds not later than 12:00 p.m., New York time, on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the relevant Class(es) of Term Loans and Lenders as specified by the applicable Borrower Party in the applicable offer. The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(1)(e) shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, and shall be applied to the relevant Term Loans of such Lenders in accordance with their respective applicable share as calculated by the Auction Agent in accordance with this Section 2.05(1)(e) and, if the Administrative Agent is not the Auction Agent, the Administrative Agent shall be fully protected in relying on such calculations of the Auction Agent. The aggregate principal amount of the Classes and installments of the relevant Term Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the Classes of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Term Loan Prepayment.

(G) To the extent not expressly provided for herein, each Discounted Term Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this Section 2.05(1)(e), established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the applicable Borrower Party.

(H) Notwithstanding anything in any Loan Document to the contrary, for purposes of this Section 2.05(1)(e), each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon Auction Agent’s (or its delegate’s) actual receipt during normal business hours of such notice or communication; provided that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next succeeding Business Day.

(I) Each of the Borrower Parties and the Term Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this Section 2.05(1)(e) by itself or through any Affiliate of the Auction Agent and expressly consents to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any Discounted Term Loan Prepayment provided for in this Section 2.05(1)(e) as well as activities of the Auction Agent.
(J) Each Borrower Party shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a Discounted Term Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the applicable Specified Discount Prepayment Response Date, Discount Range Prepayment Response Date or Solicited Discounted Prepayment Response Date (and if such offer is revoked pursuant to the preceding clauses, any failure by such Borrower Party to make any prepayment to a Lender, as applicable, pursuant to this Section 2.05(1)(e) shall not constitute a Default or Event of Default under Section 8.01 or otherwise).

(2) Mandatory.

(a) Within five (5) Business Days after financial statements have been delivered pursuant to Section 6.01(1) and the related Compliance Certificate has been delivered pursuant to Section 6.02(1), commencing with the delivery of financial statements for the fiscal year ended on or about December 29, 2018, the Borrower shall, subject to clauses (g) and (h) of this Section 2.05(2), prepay, or cause to be prepaid, an aggregate principal amount of Term Loans (the “ECF Payment Amount”) equal to 50% (such percentage as it may be reduced as described below, the “ECF Percentage”) of Excess Cash Flow, if any, for the fiscal year covered by such financial statements minus the sum of all voluntary prepayments, repurchase or redemptions of

(i) Term Loans made pursuant to Sections 2.05(1)(a) and 2.05(1)(e) (in an amount, in the case of prepayments pursuant to Section 2.05(1)(e), equal to the discounted amount actually paid in respect of the principal amount of such Term Loans and only to the extent that such Loans have been cancelled), provided that this clause (i) shall not apply to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans,

(ii) Credit Agreement Refinancing Indebtedness, Permitted Incremental Equivalent Debt, and any other Indebtedness in the form of notes or term loans, in each case to the extent secured by the Collateral in whole or in part on a pari passu basis with the First Lien Obligations under this Agreement (but without regard to the control of remedies),

(iii) Revolving Loans and loans under any other revolving facility that is secured, in whole or in part, on a pari passu basis by the Collateral with the First Lien Obligations under this Agreement (but without regard to the control of remedies) (in each case of this clause (iii) (and with respect to any revolving facility under clause (ii) above), to the extent accompanied by a permanent reduction in the corresponding Revolving Commitments or other revolving commitments), and

(iv) Second Lien Term Loans and Permitted Incremental Equivalent Debt (as defined in the Second Lien Credit Agreement) secured by the Collateral, in whole or in part, on a pari passu basis with the Second Lien Term Loans,

in the case of each of the immediately preceding clauses (i), (ii), (iii) and (iv), made during such fiscal year (without duplication of any prepayments in such fiscal year that reduced the amount of Excess Cash Flow required to be repaid pursuant to this Section 2.05(2)(a) for any prior fiscal year) or after the fiscal year-end but prior to the date a prepayment pursuant to this Section 2.05(2)(a) is required to be made in respect of such fiscal year and in each case to the extent such prepayments are not funded with the proceeds of Funded Debt (other than any Indebtedness under a Revolving Facility or any other revolving credit facilities); provided that (w) a prepayment of Term Loans pursuant to this 2.05(2)(a) in respect of
any fiscal year shall only be required in the amount (if any) by which the ECF Payment Amount for such fiscal year exceeds $35.0 million, (x) the ECF Percentage shall be 25% if the First Lien Net Leverage Ratio as of the end of the fiscal year covered by such financial statements was less than or equal to 3.25 to 1.00 and greater than 2.50 to 1.00 (calculated after giving effect to such prepayment at a rate of 50%) and (y) the ECF Percentage shall be 0% if the First Lien Net Leverage Ratio as of the end of the fiscal year covered by such financial statements was less than or equal to 2.50 to 1.00 (calculated after giving effect to such prepayment at a rate of 25%); provided further that:

(A) if at the time that any such prepayment would be required, the Borrower (or any Restricted Subsidiary) is required to Discharge Other Applicable Indebtedness with Other Applicable ECF pursuant to the terms of the documentation governing such Indebtedness, then the Borrower (or any Restricted Subsidiary) may apply such portion of Excess Cash Flow otherwise required to repay the Term Loans pursuant to this Section 2.05(2)(a) on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness requiring such Discharge at such time) to the prepayment of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(2)(a) shall be reduced accordingly (provided that the portion of such Excess Cash Flow allocated to the Other Applicable Indebtedness shall not exceed the amount of such Other Applicable ECF required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof and the remaining amount, if any, of such portion of Excess Cash Flow shall be allocated to the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(a)); and

(B) to the extent the lenders or holders of Other Applicable Indebtedness decline to have such Indebtedness repurchased or prepaid with such portion of Excess Cash Flow, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(a).

(b) (i) If (x) the Borrower or any Restricted Subsidiary makes an Asset Sale or (y) any Casualty Event occurs, which results in the realization or receipt by the Borrower or such Restricted Subsidiary of Net Proceeds, the Borrower shall prepay, or cause to be prepaid, on or prior to the date which is ten (10) Business Days after the date of the realization or receipt by the Borrower or such Restricted Subsidiary of such Net Proceeds, subject to clause (ii) of this Section 2.05(2)(b) and clauses (2)(g) and (h) of this Section 2.05, an aggregate principal amount of Term Loans equal to 100% (such percentage as it may be reduced as described below, the “Net Proceeds Percentage”) of all Net Proceeds realized or received; provided that no prepayment shall be required pursuant to this Section 2.05(2)(b)(i) with respect to such portion of such Net Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest (or entered into a binding commitment or a binding letter of intent to reinvest) in accordance with Section 2.05(2)(b)(ii); provided further that (x) the Net Proceeds Percentage shall be 50% if the First Lien Net Leverage Ratio for the Test Period most recently ended prior to the date of such required prepayment is less than or equal to 3.25 to 1.00 and greater than 2.50 to 1.00 and (y) the Net Proceeds Percentage shall be 0% if the First Lien Net Leverage Ratio for the Test Period most recently ended prior to the date of such required prepayment is less than or equal to 2.50 to 1.00; provided further that
(A) if at the time that any such prepayment would be required, the Borrower (or any Restricted Subsidiary) is required to Discharge any Other Applicable Indebtedness with Other Applicable Net Proceeds pursuant to the terms of the documentation governing such Indebtedness, then the Borrower (or any Restricted Subsidiary) may apply such Net Proceeds otherwise required to repay the Term Loans pursuant to this Section 2.05(2)(b)(i) on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness requiring such Discharge at such time), to the prepayment of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(2)(b)(i) shall be reduced accordingly (provided that the portion of such Net Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such Other Applicable Net Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof and the remaining amount, if any, of such portion of Net Proceeds shall be allocated to the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(b)(i));

(B) to the extent the holders of Other Applicable Indebtedness decline to have such Indebtedness repurchased or prepaid with such portion of such Net Proceeds, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(b)(i).

(ii) With respect to any Net Proceeds realized or received with respect to any Asset Sale or any Casualty Event, the Borrower or any Restricted Subsidiary, at its option, may reinvest all or any portion of such Net Proceeds in assets useful for their business within (x) eighteen (18) months following receipt of such Net Proceeds or (y) if the Borrower or any Restricted Subsidiary enters into a legally binding commitment or a legally binding letter of intent to reinvest such Net Proceeds within eighteen (18) months following receipt thereof, within the later of (A) eighteen (18) months following receipt thereof and (B) one hundred eighty (180) days of the date of such legally binding commitment or legally binding letter of intent; provided that the Borrower may elect to deem expenditures that otherwise would be permissible reinvestments that occur prior to receipt of such Net Proceeds to have been reinvested in accordance with the provisions of this Section 2.05(2)(b)(ii) (it being understood that such deemed expenditures shall have been made no earlier than the earliest of notice to the Administrative Agent, execution of a definitive agreement for such Asset Sale and consummation of such Asset Sale or Casualty Event); provided further that if any Net Proceeds are no longer intended to be or cannot be so reinvested at any time after such reinvestment election, and subject to clauses (g) and (h) of this Section 2.05(2), an amount equal to any such Net Proceeds shall be applied within five (5) Business Days after the Borrower reasonably determines that such Net Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Term Loans as set forth in this Section 2.05.

(c) [Reserved].

(d) If the Borrower or any Restricted Subsidiary incurs or issues any Indebtedness (i) not expressly permitted to be incurred or issued pursuant to Section 7.02 or (ii) that constitutes Other Loans or Credit Agreement Refinancing Indebtedness, in each case, incurred or issued to refinance any Class (or Classes) of Term Loans resulting in Net Proceeds (as opposed to such Credit Agreement Refinancing Indebtedness or Other Loans arising out of an exchange of existing Term Loans for such Credit Agreement Refinancing Indebtedness or Other Loans), the Borrower shall prepay, or cause to be prepaid, an aggregate principal amount of Term Loans of any Class or Classes (in each case, as directed by the Borrower) equal to 100% of all Net Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt by the Borrower or such Restricted Subsidiary of such Net Proceeds.
(e) (i) Except as otherwise set forth in any Refinancing Amendment, Extension Amendment or Incremental Amendment, each prepayment of Term Loans required by Sections 2.05(2)(a), (b) and (d)(i) shall be allocated to any Class of Term Loans outstanding as directed by the Borrower (provided that, notwithstanding the foregoing, any prepayments pursuant to Section 2.05(2)(a), (b) and (d)(i) of the Closing Date Term B USD Term Loans and Closing Date Term B Euro Term Loans shall be applied on a pro rata basis (as determined in accordance with Section 1.10(4)) (for the avoidance of doubt, which prepayments shall be made in Dollars in the case of the Closing Date Term B USD Term Loans and Euros in the case of the Closing Date Term B Euro Term Loans), shall be applied pro rata to Term Lenders within such Class of Term Loans, based upon the outstanding principal amounts owing to each such Term Lender under such Class of Term Loans and shall be applied to reduce such remaining scheduled installments of principal within such Class of Term Loans in direct order of maturity; provided that

(x) such prepayments may not be directed to a later maturing Class of Term Loans without at least a pro rata repayment of any earlier maturing Classes of Term Loans (except that any Class of Incremental Term Loans, Other Term Loans, Extended Term Loans or Replacement Loans may specify that one or more other Classes of later maturing Term Loans may be prepaid prior to such Class of earlier maturing Term Loans), and

(y) in the event that there are two or more outstanding Classes of Term Loans with the same Maturity Date, such prepayments may not be directed to any such Class of Term Loans without at least a pro rata repayment of any Classes of Term Loans maturing on the same date (except that any Class of Incremental Term Loans, Other Term Loans, Extended Term Loans or Replacement Loans may specify that one or more other Classes of Term Loans with the same Maturity Date may be prepaid prior to such Class of Term Loans maturing on the same date), and

(ii) each prepayment of Term Loans required by Section 2.05(2)(d)(ii) shall be allocated to any Class or Classes of Term Loans being refinanced as directed by the Borrower and shall be applied pro rata to Term Lenders within each such Class, based upon the outstanding principal amounts owing to each such Term Lender under each such Class of Term Loans.

(f) If for any reason the aggregate Outstanding Amount of Revolving Loans and L/C Obligations at any time exceeds the aggregate Revolving Commitments then in effect, the Borrower shall promptly prepay Revolving Loans 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(2) (f) unless after the prepayment in full of the Revolving Loans such aggregate Outstanding Amount of L/C Obligations exceeds the aggregate Revolving Commitments then in effect.

(g) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to clauses (a) through (d) of this Section 2.05(2) at least three (3) Business Days prior to the date of such prepayment (provided that, in the case of clause (b) or (d) of this Section 2.05(2), the Borrower may rescind (or delay the date of prepayment identified in) such notice if such prepayment would have resulted from a refinancing of all or any portion of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed). Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the aggregate amount of such prepayment to be made by the Borrower. The Administrative Agent will promptly notify each Appropriate Lender of the contents of the Borrower’s prepayment notice and of such Appropriate Lender’s Pro Rata Share of the prepayment. Each Appropriate Lender may reject all or a portion of its Pro Rata Share of any mandatory prepayment (such declined amounts, the “Declined Proceeds”) of Term Loans required to be made pursuant to clauses (a),

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(b) and (d)(i) of this Section 2.05(2) by providing written notice (each, a “Rejection Notice”) to the Administrative Agent and the Borrower no later than 5:00 p.m., New York time, one (1) Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory repayment of Term Loans to be rejected by such Lender. If a Term Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Term Loans. Subject to the terms of the Second Lien Credit Agreement, any Declined Proceeds remaining must be offered to prepay the Second Lien Term Loans to the extent otherwise required pursuant to the Second Lien Credit Agreement; provided, that any such prepayment amount declined by the Second Lien Lenders shall be retained by the Borrower (or the applicable Restricted Subsidiary) and may be applied by the Borrower or such Restricted Subsidiary in any manner not prohibited by this Agreement.

(h) Notwithstanding any other provisions of this Section 2.05(2), (A) to the extent that any or all of the Net Proceeds of any Asset Sale by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.05(2)(b) (a “Foreign Asset Sale”), the Net Proceeds of any Casualty Event from a Foreign Subsidiary (a “Foreign Casualty Event”) or all or a portion of Excess Cash Flow are prohibited or delayed by applicable local law from being repatriated to the United States, an amount equal to the portion of such Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(2) so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Proceeds or Excess Cash Flow is permitted under the applicable local law, an amount equal to such Net Proceeds or Excess Cash Flow permitted to be repatriated will be promptly (and in any event not later than two (2) Business Days after any such repatriation) applied (net of additional taxes that are or would be payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.05(2) to the extent otherwise provided herein and (B) to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Proceeds of any Foreign Asset Sale or Foreign Casualty Event or Excess Cash Flow would have a material adverse tax consequence (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Proceeds or Excess Cash Flow, an amount equal to the Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(2).

(i) All prepayments under this Section 2.05 (other than prepayments of Base Rate Revolving Loans that are not made in connection with the termination or permanent reduction of Revolving Commitments) shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a Eurodollar Rate Loan or EURIBOR Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such Eurodollar Rate Loan or EURIBOR Rate Loan pursuant to Section 3.05.

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurodollar Rate Loans or EURIBOR Rate Loans is required to be made under this Section 2.05 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05 in respect of any such Eurodollar Rate Loan or EURIBOR Rate Loan prior to the last day of the Interest Period therefor, the Borrower may, in its discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to
apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.05. Such deposit shall be deemed to be a prepayment of such Loans by the Borrower for all purposes under this Agreement.

Additionally, notwithstanding anything else in this Agreement to the contrary, in the event that any Term Loan of any Lender would otherwise be repaid or prepaid from the proceeds of other Term Loans being funded on the date of such repayment or prepayment, if agreed to by the Borrower and such Lender and notified to the Administrative Agent prior to the date of the applicable repayment or prepayment, all or any portion of such Lender’s Term Loan that would have otherwise been repaid or prepaid in connection therewith may be converted on a “cashless roll” basis into a new Term Loan.

SECTION 2.06 Termination or Reduction of Commitments

(1) Optional. The Borrower may, upon written notice by the Borrower to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; provided that
(a) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction,
(b) any such partial reduction shall be in an aggregate amount of $5.0 million or any whole multiple of $1.0 million in excess thereof or, if less, the entire amount thereof and
(c) if, after giving effect to any reduction of the Commitments, the L/C Sublimit exceeds the amount of the Revolving Facility, the L/C Sublimit shall be automatically reduced by the amount of such excess.

Except as provided above, the amount of any such Revolving Commitment reduction shall not be applied to the L/C Sublimit unless otherwise specified by the Borrower. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of any Commitments if such termination would have resulted from a refinancing of all of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed.

(2) Mandatory. The Closing Date Additional Term B USD Term Loan Commitment of each USD Additional Term B USD Lender on the Closing Date Second Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s Closing Date Term B USD Term Loans to the Borrower pursuant to Section 2.01(1)(c). The Closing Date Additional Term B Euro Term Loan Commitment of each Euro Additional Term B Euro Lender on the Closing Date Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Closing Date Term B Euro Term Loans to the Borrower pursuant to Section 2.01(1)(c). The Term B Euro Incremental Commitment of the Term B Euro Incremental Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Term B Euro Incremental Loans to the Borrower pursuant to Section 2.01(1)(g). The Revolving Commitment of each Revolving Lender shall automatically and permanently terminate on the Maturity Date for the applicable Revolving Facility.
Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Appropriate Lenders of any termination or reduction of unused portions of the L/C Sublimit or the unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced on a pro rata basis (determined on the basis of the aggregate Commitments under such Class) (other than the termination of the Commitment of any Lender as provided in Section 3.07). Any commitment fees accrued until the effective date of any termination of the Revolving Commitments shall be paid on the effective date of such termination.

SECTION 2.07 Repayment of Loans.

(1) Term B Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (a) on the last Business Day of each March, June, September and December, commencing with December 31, 2017, an aggregate principal amount (x) in Dollars equal to .025% of the aggregate principal amount of all Closing Date Term B USD Term Loans outstanding on the Closing Second Amendment Effective Date and (y) in Euros equal to 0.25% of the aggregate principal amount of all Closing Date Term B Euro Term Loans outstanding on the Closing Second Amendment Effective Date (in each case, which payments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05) and (b) on the Maturity Date for the Closing Date Term B Loans, the aggregate principal amount of all Closing Date Term B Loans outstanding on such date. In connection with any Incremental Term Loans that constitute part of the same Class as the Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable, the Borrower and the Administrative Agent shall be permitted to adjust the rate of prepayment in respect of such Class such that the Term Lenders holding Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable, comprising part of such Class continue to receive a payment that is not less than the same Dollar amount that such Term Lenders would have received absent the incurrence of such Incremental Term Loans; provided, that if such Incremental Term Loans are to be “fungible” with the Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable, notwithstanding any other conditions specified in this Section 2.07(1), the amortization schedule for such “fungible” Incremental Term Loan may provide for amortization in such other percentage(s) to be agreed by the Borrower and the Administrative Agent to ensure that the Incremental Term Loans will be “fungible” with the Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable.

(2) Revolving Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for the applicable Revolving Facility the aggregate principal amount of all Revolving Loans under such Facility outstanding on such date.

(3) Non-Converted Closing Date Term Loans. The Borrower shall repay to the Administrative Agent for the ratable account of each Term Lender with Non-Converted Closing Date Term Loans, the full amount of Non-Converted Closing Date Term Loans on the Second Amendment Effective Date.

SECTION 2.08 Interest.

Subject to the provisions of Section 2.08(2), (a) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period, plus the Applicable Rate, (b) each 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 and (c) each EURIBOR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the EURIBOR Rate for such Interest Period, plus the Applicable Rate.
(2) During the continuance of a Default under Section 8.01(1), the Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws; provided that no interest at the Default Rate shall accrue or be payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(3) 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.

SECTION 2.09 Fees

(1) **Commitment Fee.** The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender under each Revolving Facility in accordance with its Applicable Percentage, a commitment fee equal to the applicable Commitment Fee Rate times the actual daily amount by which the aggregate Revolving Commitments exceed the sum of (a) the Outstanding Amount of Revolving Loans and (b) the Outstanding Amount of L/C Obligations; provided that any commitment fee accrued with respect to any of the Commitments of a Defaulting Lender under such Revolving Facility during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrower so long as such Lender shall be a Defaulting Lender except to the extent that such commitment fee shall otherwise have been due and payable by the Borrower prior to such time, and provided further that no commitment fee shall accrue on any of the Commitments under any Revolving Facility of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. The commitment fee on each Revolving Commitment shall accrue at all times from the Closing Date (or date of initial effectiveness, as applicable) (and for the avoidance of doubt, the commitment fee on the Revolving Commitment under the Closing Date Revolving Facility shall accrue from the Closing Date) until the Maturity Date for the applicable Revolving Commitment, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each of March, June, September and December, commencing with December 29, 2017, and on the Maturity Date for such Revolving Facility. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Commitment Fee Rate during any quarter, the actual daily amount shall be computed and multiplied by the Commitment Fee Rate separately for each period during such quarter that such Commitment Fee Rate was in effect.

(2) **Other Fees.** The Borrower shall pay to the Agents 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 (except as expressly agreed between the Borrower and the applicable Agent).

SECTION 2.10 Computation of Interest and Fees. All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 days 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. 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(1), 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.
SECTION 2.11 Evidence of Indebtedness.

(1) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence 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 accounts and records of the Administrative Agent, as set forth in the Register, in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. 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. 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 payable to such Lender, 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.

(2) In addition to the accounts and records referred to in Section 2.11(1), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records and, in the case of the Administrative Agent, entries in the Register, evidencing the purchases and sales by such Lender of participations in Letters of Credit. 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.

(3) Entries made in good faith by the Administrative Agent in the Register pursuant to Sections 2.11(1) and (2), and by each Lender in its account or accounts pursuant to Sections 2.11(1) and (2), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.12 Payments Generally.

(1) All payments with respect to any Class of Loans to be made by the Borrower hereunder shall be made in the currency in which the Loans thereunder are denominated 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 applicable Administrative Agent’s Office for payment and in Same Day Funds not later than 2:00 p.m., New York time, on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender’s Lending Office. Any payments under this Agreement that are made later than 2:00 p.m., New York time, shall be deemed to have been made on the next succeeding Business Day (but the Administrative Agent may extend such deadline for purposes of computing interest and fees (but not beyond the end of such day) in its sole discretion whether or not such payments are in process).
(2) Except as otherwise expressly provided herein, 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.

(3) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date, or in the case of any Borrowing of Base Rate Loans, prior to 1:00 p.m., New York time, on the date of such Borrowing, any payment is required to be made by it to the Administrative Agent hereunder (in the case of the Borrower, for the account of any Lender or an Issuing Bank hereunder or, in the case of the Lenders, for the account of any Issuing Bank or the Borrower hereunder), that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then:

(a) if the Borrower failed to make such payment, each Lender or Issuing Bank shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or Issuing Bank in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or Issuing Bank to the date such amount is repaid to the Administrative Agent in Same Day Funds at the Overnight Rate from time to time in effect; and

(b) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent together with all accrued interest thereon, at a rate per annum equal to the Overnight Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender’s Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent’s demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount, or cause such amount to be paid, to the Administrative Agent, together with interest therefor for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(3) shall be conclusive, absent manifest error.

(c) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in 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 Section 4.02 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.
(d) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The failure of any Lender to make any Loan or fund any participation 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 Loan or purchase its participation.

(e) 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.

(f) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.03 (or otherwise expressly set forth herein). If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender’s Pro Rata Share of the sum of (i) the Outstanding Amount of all Loans outstanding at such time and (ii) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

SECTION 2.13 Sharing of Payments. Other than as expressly provided elsewhere herein, if any Lender of any Class should obtain payment in respect of any principal of or interest on account of the Loans of such Class made by it or the participations in L/C Obligations held by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (1) notify the Administrative Agent of such fact, and (2) purchase from the other Lenders such participations in the Loans of such Class made by them or such sub participations in the participations in L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of any principal of or interest on such Loans of such Class or such participations, as the case may be, pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender’s ratable share (according to the proportion of (a) the amount of such paying Lender’s required repayment to (b) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. For the avoidance of doubt, the provisions of this Section 2.13 shall not be construed to apply to (i) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including the application of funds arising from the existence of a Defaulting Lender) or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.13 may, to the fullest extent permitted by applicable Law, exercise all its rights.
of payment (including the right of setoff, but subject to Section 10.10) with respect to such participation as fully as if such Lender were the direct
creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the
absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or
repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices,
requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same
extent as though the purchasing Lender were the original owner of the Obligations purchased. For purposes of clause (3) of the definition of Excluded
Taxes, any participation acquired by a Lender pursuant to this Section 2.13 shall be treated as having been acquired on the earlier date(s) on which the
applicable interest(s) in the Commitment(s) or Loan(s) to which such participation relates were acquired by such Lender.

SECTION 2.14 Incremental Facilities.

(1) Incremental Loan Request. The Borrower may at any time and from time to time after the Closing Date, by notice to the
Administrative Agent (an “Incremental Loan Request”), request (A) one or more new commitments which may be of the same Class as any
outstanding Term Loans (a “Term Loan Increase”) or a new Class of term loans (collectively with any Term Loan Increase, the “Incremental Term
Commitments”) and/or (B) one or more increases in the amount of the Revolving Commitments (a “Revolving Commitment Increase”) or the
establishment of one or more new revolving credit commitments (each an “Incremental Revolving Facility”); and, collectively with any Revolving
Commitment Increases, the “Incremental Revolving Commitments” and any Incremental Revolving Commitments, collectively with any Incremental
Term Commitments, the “Incremental Commitments”), whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders.
Each Incremental Loan Request from the Borrower pursuant to this Section 2.14 shall set forth the requested amount and proposed terms of the relevant
Incremental Term Commitments or Incremental Revolving Commitments.

(2) Incremental Loans. Any Incremental Term Loans or Incremental Revolving Commitments effected through the establishment of one or
more new term loans or new revolving credit commitments, as applicable, made on an Incremental Facility Closing Date (other than a Loan Increase)
shall be designated a separate Class of Incremental Term Loans or Incremental Revolving Commitments, as applicable, for all purposes of this
Agreement. On any Incremental Facility Closing Date on which any Incremental Term Commitments of any Class are effected (including through any
Term Loan Increase), subject to the satisfaction of the terms and conditions in this Section 2.14, (i) each Incremental Term Lender of such Class shall
make a Loan to the Borrower (an “Incremental Term Loan”) in an amount equal to its Incremental Term Commitment of such Class and (ii) each
Incremental Term Lender of such Class shall become a Lender hereunder with respect to the Incremental Term Commitment of such Class and the
Incremental Term Loans of such Class made pursuant thereto. On any Incremental Facility Closing Date on which any Incremental Revolving
Commitments of any Class are effected through the establishment of one or more new revolving credit commitments (including through any Revolving
Commitment Increase), subject to the satisfaction of the terms and conditions in this Section 2.14, (i) each Incremental Revolving Lender of such Class
shall make its Commitment available to the Borrower (when borrowed, an “Incremental Revolving Loan” and collectively with any Incremental Term
Loan, an “Incremental Loan”) in an amount equal to its Incremental Revolving Commitment of such Class and (ii) each Incremental Revolving Lender
of such Class shall become a Lender hereunder with respect to the Incremental Revolving Commitment of such Class and the Incremental Revolving
Loans of such Class made pursuant thereto.
(3) **Incremental Lenders.** Incremental Term Loans may be made, and Incremental Revolving Commitments may be provided, by any existing Lender as approved by the Borrower (but no existing Lender will have an obligation to make any Incremental Commitment (or Incremental Loan), nor will the Borrower have any obligation to approach any existing Lenders to provide any Incremental Commitment (or Incremental Loan)) or by any Additional Lender (each such existing Lender or Additional Lender providing such Loan or Commitment, an “Incremental Term Lender” or “Incremental Revolving Lender,” as applicable, and, collectively, the “Incremental Lenders”); provided that (i) the Administrative Agent or, in the case of any Incremental Revolving Commitments only, each Issuing Bank, shall have consented (in each case, not to be unreasonably withheld or delayed) to such Additional Lender’s making such Incremental Term Loans or providing such Incremental Revolving Commitments to the extent such consent, if any, would be required under Section 10.07(b) for an assignment of Loans or Revolving Commitments, as applicable, to such Additional Lender, (ii) with respect to Incremental Term Commitments, any Affiliated Lender providing an Incremental Term Commitment shall be subject to the same restrictions set forth in Section 10.07(b) as they would otherwise be subject to with respect to any purchase by or assignment to such Affiliated Lender of Term Loans and (iii) Affiliated Lenders may not provide Incremental Revolving Commitments.

(4) **Effectiveness of Incremental Amendment.** The effectiveness of any Incremental Amendment and the availability of any initial credit extensions thereunder shall be subject to the satisfaction on the date thereof (the “Incremental Facility Closing Date”) of each of the following conditions (subject to Section 1.07(10)):

(a) (x) no Event of Default shall exist after giving effect to such Incremental Commitments; provided that, with respect to any Incremental Amendment the primary purpose of which is to finance an acquisition or other Investment permitted by this Agreement, the requirement pursuant to this clause (4)(a)(x) shall be that no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) shall exist after giving effect to such Incremental Commitments, and (y) the representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Incremental Amendment (provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates); provided that, in connection with an acquisition or other Investment permitted hereunder, the conditions in clause (x) and in clause (y) shall only be required to the extent requested by the Persons providing more than 50% of the applicable Incremental Term Loans and Incremental Term Commitments or Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be (provided, further, that, in the case of an acquisition or other Investment with a purchase price in excess of $100.0 million, the conditions contained in the proviso to clause (x) with respect to no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) and in clause (y) with respect to Specified Representations, in each case, shall be required whether or not requested by such Persons, unless waived in accordance with Section 10.01);

(b) each Incremental Term Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of this Section 2.14(4)) and each Incremental Revolving Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of Section 2.14(4));
(c) the aggregate principal amount of Incremental Term Loans and Incremental Revolving Commitments shall not, together with the aggregate principal amount of Permitted Incremental Equivalent Debt, exceed the sum of:

(A) (1) $500.0 million plus any General Debt Basket Reallocated Amount less the Second Lien Incremental Usage Amount plus
(2) the aggregate amount of (w) voluntary prepayments, redemptions or repurchases of Incremental Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) (including purchases of Incremental Term Loans or Permitted Incremental Equivalent Debt by Holdings, the Borrower or any of its Subsidiaries at or below par, in which case the amount of voluntary prepayments of such Incremental Term Loans or Permitted Incremental Equivalent Debt shall be deemed not to exceed the actual purchase price of such Loans or Permitted Incremental Equivalent Debt below par), in each case, only to the extent such Incremental Term Loans or Permitted Incremental Equivalent Debt was incurred in reliance on clause (A)(1) above,
(x) voluntary permanent commitment reductions in respect of Incremental Revolving Commitments or Permitted Incremental Equivalent Debt consisting of revolving credit commitments, in each case, to the extent such Incremental Revolving Commitments or Permitted Incremental Equivalent Debt was incurred in reliance on clause (A)(1) above, (y) voluntary prepayments, redemption or repurchase of Second Lien Incremental Usage Amount Debt (including purchases of Second Lien Incremental Usage Amount Debt by Holdings, the Borrower or any of its Subsidiaries) and (z) voluntary prepayments, redemptions or repurchases of any Credit Agreement Refinancing Indebtedness, Other Loans, Refinancing Indebtedness or other Indebtedness, in each case, previously applied to the prepayment, redemption or repurchase of any Incremental Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) incurred in reliance on clause (A)(1) above or any Second Lien Incremental Usage Amount Debt, in the case of this clause (w), (x) and (z), from proceeds of long-term Indebtedness (other than revolving credit facilities); provided, that for the avoidance of doubt, this clause (A) shall not give credit to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans, plus

(B) (x) in the case of any Incremental Loans or Incremental Commitments that effectively extend the Maturity Date of, or refinance, any Facility, an amount equal to the portion of the Facility to be replaced with (or refinanced by) such Incremental Loans or Incremental Commitments and (y) in the case of any Incremental Loans or Incremental Commitments that effectively replace any Commitment or Loan that is terminated or cancelled in accordance with Section 3.07, an amount equal to the portion of the relevant terminated or cancelled Commitment or Loan, plus

(C) solely to the extent not in duplication of prepayments, redemptions, repurchases or permanent commitment reductions described in Section 2.14(4)(c)(A)(2), the aggregate amount of (x) voluntary prepayments, redemptions or repurchases of Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) (including purchases of Term Loans or Permitted Incremental Equivalent Debt by Holdings, the Borrower or any of its
Subsidiaries), (y) voluntary permanent commitment reductions in respect of Revolving Commitments or Permitted Incremental Equivalent Debt consisting of revolving credit commitments and (z) voluntary prepayments, redemptions or repurchases of any Credit Agreement Refinancing Indebtedness, Other Loans, Refinancing Indebtedness or other Indebtedness, in each case, previously applied to the prepayment, redemption or repurchase of any Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility), in the case of this clause (z), so long as such prepayment, redemption or repurchase was not previously included in clause (x) above; other than, in each case under clauses (x) and (z), from proceeds of long-term Indebtedness (other than revolving credit facilities) provided, that for the avoidance of doubt, this clause (C) shall not give credit to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans, plus

(D) an unlimited amount, so long as in the case of this clause (D) only,

(x) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), either (I) the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed 4.25 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the First Lien Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred),

(y) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement, either (I) the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed 5.25 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Secured Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred) and

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(z) in the case of Incremental Loans or Incremental Revolving Commitments that are unsecured, (i) the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed 5.50 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (ii) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other Investment permitted under this Agreement, the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Total Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred);

(5) Required Terms. The terms, provisions and documentation of the Incremental Term Loans and Incremental Term Commitments or the Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be, of any Class and any Loan Increase shall be as agreed between the Borrower and the applicable Incremental Lenders providing such Incremental Commitments, and except as otherwise set forth herein, to the extent not identical to the Closing Date Term B Loans or Closing Date Revolving Facility, as applicable, existing on the Incremental Facility Closing Date, shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith), (B) be not materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of the Closing Date Term B Loans or Closing Date Revolving Facility, as applicable, except with respect to (x) covenants and other terms applicable to any period after the Latest Maturity Date in effect immediately prior to the incurrence of the Incremental Term Loans and Incremental Term Commitments or the Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be, or (y) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary herein, if any such terms of any Incremental Revolving Loans and Incremental Revolving Commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest
Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility or (C) if neither clause (A) or (B) are satisfied, such terms, provisions and documentation shall be reasonably satisfactory to the Administrative Agent (it being understood that, at Borrower’s election, to the extent any term or provision is added for the benefit of (x) the Lenders of Incremental Term Loans, no consent shall be required from the Administrative Agent to the extent that such term or provision is also added (or the features of such term are provided) for the benefit of the Lenders of the Closing Date Term B Loans or (y) the Lenders under Incremental Revolving Commitments, no consent shall be required from the Administrative Agent to the extent that such term or provision is also added (or the features of such term are provided) for the benefit of the Lenders of the Closing Date Revolving Facility); provided, further, that in the case of a Term Loan Increase or a Revolving Commitment Increase, the terms, provisions and documentation of such Term Loan Increase or a Revolving Commitment Increase shall be identical (other than with respect to upfront fees, OID or similar fees, it being understood that, if required to consummate such Loan Increase transaction, the interest rate margins and rate floors may be increased, any call protection provision may be made more favorable to the applicable existing Lenders and additional upfront or similar fees may be payable to the lenders providing the Loan Increase) to the applicable Term Loans or Revolving Commitments being increased, in each case, as existing on the Incremental Facility Closing Date (provided that if such Incremental Term Loans are to be “fungible” with the Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable, notwithstanding any other conditions specified in this Section 2.14(5), the amortization schedule for such “fungible” Incremental Term Loan may provide for amortization in such other percentage(s) to be agreed by Borrower and the Administrative Agent to ensure that the Incremental Term Loans will be “fungible” with the Closing Date Term B USD Term Loans or Closing Date Term B Euro Term Loans, as applicable). In any event:

(a) the Incremental Term Loans:

(i) (x) shall rank equal in priority in right of payment with the First Lien Obligations under this Agreement and (y) shall either

(1) rank equal (but without regard to the control of remedies) or junior in priority of right of security with the First Lien Obligations under this Agreement (subject to the applicable Intercreditor Agreement) or (2) be unsecured, in each case as applicable pursuant to clause (4) (c) above,

(ii) shall not mature earlier than the Original Term Loan Maturity Date,

(iii) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Closing Date Term B Loans on the date of incurrence of such Incremental Term Loans,

(iv) subject to clause (5)(a)(iii) above and clause (5)(c) below, respectively, shall have amortization and an Applicable Rate determined by the Borrower and the applicable Incremental Term Lenders,

(v) may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement, such Incremental Term Loans may not participate on a greater than a pro rata basis as compared to any earlier maturing Class of Term Loans constituting First Lien Obligations in any mandatory prepayments under Section 2.05(2)(a), (b) and (d)(i)), as specified in the applicable Incremental Amendment,
(vi) shall be denominated in Dollars, Euros or, subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned), another currency as determined by the Borrower and the applicable Incremental Term Lenders, and

(vii) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

(b) the Incremental Revolving Commitments and Incremental Revolving Loans:

(i) (x) shall rank equal in priority in right of payment with the First Lien Obligations under this Agreement and (y) shall either (1) rank equal (but without regard to the control of remedies) or junior in priority of right of security with the First Lien Obligations under this Agreement or (2) be unsecured, in each case as applicable pursuant to clause (4)(c) above,

(ii) shall not mature earlier than the Original Revolving Facility Maturity Date, and shall not be subject to amortization,

(iii) shall provide that the borrowing and repayment (except for (1) payments of interest and fees at different rates on Incremental Revolving Commitments (and related outstanding Incremental Revolving Loans), (2) repayments required upon the Maturity Date of any Revolving Commitments, (3) repayments made in connection with any refinancing of Revolving Commitments and (4) repayment made in connection with a permanent repayment and termination of Commitments) of Revolving Loans with respect to Incremental Revolving Commitments after the associated Incremental Facility Closing Date shall be made on a pro rata basis with all other outstanding Revolving Commitments existing on such Incremental Facility Closing Date,

(iv) subject to the provisions of Section 2.03(13) in connection with Letters of Credit which mature or expire after a Maturity Date at any time Incremental Revolving Commitments with a later Maturity Date are outstanding, shall provide that all Letters of Credit shall be participated on a pro rata basis by each Lender with a Revolving Commitment in accordance with its percentage of the Revolving Commitments existing on the Incremental Facility Closing Date (and except as provided in Section 2.03(13), without giving effect to changes thereto on an earlier Maturity Date with respect to Letters of Credit theretofore incurred or issued),

(v) shall provide that the permanent repayment of Revolving Loans with respect to, and termination of, Incremental Revolving Commitments after the associated Incremental Facility Closing Date may be made on a pro rata basis or less than a pro rata basis or greater than a pro rata basis, in each case, with all other Revolving Commitments existing on such Incremental Facility Closing Date,

(vi) shall provide that assignments and participations of Incremental Revolving Commitments and Incremental Revolving Loans shall be governed by the same assignment and participation provisions applicable to Revolving Commitments and Revolving Loans existing on the Incremental Facility Closing Date,
(vii) shall provide that any Incremental Revolving Commitments may constitute a separate Class or Classes, as the case may be, of Commitments from the Classes constituting the applicable Revolving Commitments prior to the Incremental Facility Closing Date; provided at no time shall there be Revolving Commitments hereunder (including Incremental Revolving Commitments and any original Revolving Commitments) which have more than four (4) different Maturity Dates unless otherwise agreed to by the Administrative Agent,

(viii) shall have an Applicable Rate determined by the Borrower and the applicable Incremental Revolving Lenders,

(ix) shall be denominated in Dollars or, subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned), another currency as determined by the Borrower and the applicable Incremental Revolving Lenders and

(x) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

(c) the amortization schedule applicable to any Incremental Term Loans and the All-In Yield applicable to the Incremental Term Loans of each Class shall be determined by the Borrower and the applicable Incremental Term Lenders and shall be set forth in each applicable Incremental Amendment; provided, however, that (i) with respect to any syndicated Dollar-denominated Class of Incremental Term Loans that rank equal in priority of right of security with the First Lien Obligations under this Agreement (but without regard to the control of remedies), the All-In Yield applicable to such Incremental Term Loans shall not be greater than the applicable All-In Yield payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to Closing Date Term B USD Term Loans, plus 50 basis points per annum unless the Applicable Rate (together with, as provided in the proviso below, the Eurodollar Rate or Base Rate floor) with respect to the Closing Date Term B USD Term Loans is increased so as to cause the then applicable All-In Yield under this Agreement on the Closing Date Term B USD Term Loans to equal the All-In Yield then applicable to the Incremental Term Loans, minus 50 basis points per annum; provided that any increase in All-In Yield on the Closing Date Term B USD Term Loans due to the application of a Eurodollar Rate or Base Rate floor on any Incremental Term Loan shall be effected solely through an increase in (or implementation of, as applicable) the Eurodollar Rate or Base Rate floor applicable to such Closing Date Term B USD Term Loans and (ii) with respect to any syndicated Euro-denominated Class of Incremental Term Loans that rank equal in priority of right of security with the First Lien Obligations under this Agreement (but without regard to the control of remedies), the All-In Yield applicable to such Incremental Term Loans shall not be greater than the applicable All-In Yield payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to Closing Date Term B Euro Term Loans, plus 50 basis points per annum unless the Applicable Rate (together with, as provided in the proviso below, the EURIBOR Rate floor) with respect to the Closing Date Term B Euro Term Loans is increased so as to cause the then applicable All-In Yield under this Agreement on the Closing Date Term B Euro Term Loans to equal the All-In Yield then applicable to the Incremental Term Loans, minus 50 basis points per annum; provided that any increase in All-In Yield on the Closing Date Term B Euro Term Loans due to the application of a EURIBOR Rate floor on any Incremental Term Loan shall be effected solely through an increase in (or implementation of, as applicable) the EURIBOR Rate floor applicable to such Closing Date Term B Euro Term Loans.
Incremental Amendment. Commitments in respect of Incremental Term Loans and Incremental Revolving Commitments shall become Commitments (or in the case of an Incremental Revolving Commitment to be provided by an existing Revolving Lender, an increase in such Lender’s applicable Revolving Commitment), under this Agreement pursuant to an amendment (an “Incremental Amendment”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower, each Incremental Lender providing such Incremental Commitments and the Administrative Agent. The Incremental Amendment may, without the consent of any other Loan Party, Agent or Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.14. In connection with any Incremental Amendment, the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Incremental Loans are provided with the benefit of the applicable Loan Documents. The Borrower will use the proceeds (if any) of the Incremental Loans for any purpose not prohibited by this Agreement. No Lender shall be obligated to provide any Incremental Commitments or Incremental Loans unless it so agrees.

Notwithstanding anything to the contrary in Section 10.01, the Administrative Agent is expressly permitted, without the consent of any Lenders or any Issuing Bank, to amend the Loan Documents (including Section 2.07) to the extent necessary or appropriate in the reasonable discretion of the Administrative Agent to give effect to any Incremental Commitment pursuant to this Section 2.14 (which may be in the form of an amendment and restatement), including to provide to the Lenders of any Class of Loans or Commitments hereunder the benefit of any term or provision that is added under any Incremental Amendment for the benefit of the Lenders of a Class of Incremental Commitments (including to the extent necessary or advisable to allow any Class of Incremental Commitments to be an Incremental Increase).

Reallocation of Revolving Exposure. Upon any Incremental Facility Closing Date on which Incremental Revolving Commitments are effected through an increase in the Revolving Commitments with respect to any existing Revolving Facility pursuant to this Section 2.14, (a) each of the Revolving Lenders under such Facility shall assign to each of the Incremental Revolving Lenders, and each of the Incremental Revolving Lenders shall purchase from each of the Revolving Lenders, at the principal amount thereof, such interests in the Revolving Loans outstanding on such Incremental Facility Closing Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans will be held by existing Revolving Lenders and Incremental Revolving Lenders ratably in accordance with their Revolving Commitments after giving effect to the addition of such Incremental Revolving Commitments to the Revolving Commitments, (b) each Incremental Revolving Commitment shall be deemed for all purposes a Revolving Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Loan and (c) each Incremental Revolving Lender shall become a Lender with respect to the Incremental Revolving Commitments and all matters relating thereto. The Administrative Agent and the Lenders hereby agree that the minimum borrowing and prepayment requirements in Section 2.02 and 2.05(1) of this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

This Section 2.14 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.14 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).
SECTION 2.15 Refinancing Amendments.

(1) At any time after the Closing Date, the Borrower may obtain, from any Lender or any Additional Lender (it being understood that (i) no Lender shall be required to provide any Other Loan without its consent, (ii) Affiliated Lenders may not provide Other Revolving Commitments and (iii) Other Term Loans provided by Affiliated Lenders shall be subject to the limitations set forth in Section 10.07(h)), Other Loans to refinance all or any portion of the applicable Class or Classes of Loans then outstanding under this Agreement which will be made pursuant to Other Term Loan Commitments, in the case of Other Term Loans, and pursuant to Other Revolving Commitments, in the case of Other Revolving Loans, in each case pursuant to a Refinancing Amendment; provided that such Other Loans and Other Revolving Commitments (i) shall rank equal in priority in right of payment with the other Loans and Commitments hereunder, (ii) shall be unsecured or rank pari passu (without regard to the control of remedies) or junior in right of security with any First Lien Obligations under this Agreement and, if secured on a junior basis, shall be subject to an applicable Intercreditor Agreement(s), (iii) if secured, shall not be secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (iv) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors, (v)(A) shall have interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment terms and premiums as may be agreed by the Borrower and the Lenders thereof and/or (B) may provide for additional fees and/or premiums payable to the Lenders providing such Other Loans in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Refinancing Amendment, (vi) may have optional prepayment terms (including call protection and prepayment terms and premiums) as may be agreed between the Borrower and the Lenders thereof, (vii) will have a final maturity date no earlier than, and, in the case of Other Term Loans, will have a Weighted Average Life to Maturity equal to or greater than, the Term Loans or Revolving Commitments being refinanced and (viii) will have such other terms and conditions (other than as provided in foregoing clauses (ii) through (vii)) that either, at the option of the Borrower, (1) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Other Loans or Other Revolving Commitments (as determined by the Borrower in good faith) or (2) if otherwise not consistent with the terms of such Class of Loans or Commitments being refinanced, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Class of Loans or Commitments being refinanced, except with respect to (x) covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such refinancing or (y) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary contained herein, if any such terms of the Other Revolving Commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of each Class of Revolving Commitments. Any Other Term Loans may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement or unless the Class of Term Loans being refinanced was so entitled to participate on a greater than a pro rata basis in such mandatory prepayments, such Other Term Loans may not participate on a greater than a pro rata basis as compared to any earlier maturing Class of Term Loans constituting First Lien Obligations in any mandatory prepayments under Section 2.05(2)(a), (b) and (d)(i)), as specified in the applicable Refinancing Amendment. All Other Revolving Commitments shall provide that all borrowings under the applicable Revolving Commitments and repayments thereunder shall be made on a pro rata basis (except for (1) payments of interest and fees at different rates on Other Revolving Commitments (and related outstanding Other Revolving Loans), (2) repayments required upon the Maturity Date of the Revolving Commitments, (3) repayments made in connection with any refinancing of Revolving Commitments and (4) repayment made in connection with a permanent repayment and termination of Commitments). In connection with any Refinancing Amendment, the
Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Other Loans or Other Revolving Commitments are provided with the benefit of the applicable Loan Documents.

(2) Each Class of Other Commitments and Other Loans incurred under this Section 2.15 shall be in an aggregate principal amount that is not less than $5.0 million. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Other Commitments and Other Loans incurred pursuant thereto (including any amendments necessary to treat the Other Loans and/or Other Commitments as Loans and Commitments). Any Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.15.

(3) This Section 2.15 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.15 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).

SECTION 2.16 Extensions of Loans.

(1) Extension of Term Loans. The Borrower may at any time and from time to time request that all or a portion of the Term Loans of any Class (each, an "Existing Term Loan Class") be converted or exchanged to extend the scheduled Maturity Date(s) of any payment of principal with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so extended, "Extended Term Loans") and to provide for other terms consistent with this Section 2.16. Prior to entering into any Extension Amendment with respect to any Extended Term Loans, the Borrower shall provide written notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Class, with such request offered equally to all such Lenders of such Existing Term Loan Class) (each, a "Term Loan Extension Request") setting forth the proposed terms of the Extended Term Loans to be established, which terms shall be identical in all material respects to the Term Loans of the Existing Term Loan Class from which they are to be extended except that (i) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments, if any, of all or a portion of any principal amount of such Extended Term Loans may be delayed to later dates than the scheduled amortization, if any, of principal of the Term Loans of such Existing Term Loan Class (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in the Extension Amendment, the Incremental Amendment, the Refinancing Amendment or any other amendment, as the case may be, with respect to the Existing Term Loan Class from which such Extended Term Loans were extended), (ii)(A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and voluntary prepayment terms and premiums with respect to the Extended Term Loans may be different than those for the Term Loans of such Existing Term Loan Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Term Loans in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, (iii) the Extended Term Loans may have optional prepayment terms (including call protection and prepayment terms and premiums) as may be agreed between the Borrower and the Lenders thereof, (iv) any Extended Term Loans may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement, such Extended Loans shall be treated as Term Loans hereunder), (v) the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Other Loans or Other Revolving Commitments are provided with the benefit of the applicable Loan Documents.

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Term Loans may not participate on a greater than pro rata basis as compared to any earlier maturing Class of Term Loans in any mandatory prepayments under Section 2.05(2)(a), (b) and (d)(i), in each case as specified in the respective Term Loan Extension Request and (v) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity Date in respect of Term Loans that is in effect immediately prior to the establishment of such Extended Term Loans. No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Class converted into Extended Term Loans pursuant to any Term Loan Extension Request. Any Extended Term Loans extended pursuant to any Term Loan Extension Request shall be designated a series (each, a “Term Loan Extension Series”) of Extended Term Loans for all purposes of this Agreement and shall constitute a separate Class of Loans from the Existing Term Loan Class from which they were extended; provided that any Extended Term Loans amended from an Existing Term Loan Class may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Term Loan Extension Series with respect to such Existing Term Loan Class.

(2) Extension of Revolving Commitments. The Borrower may at any time and from time to time request that all or a portion of the Revolving Commitments of any Class (each, an “Existing Revolving Class”) be converted or exchanged to extend the scheduled Maturity Date(s) of any payment of principal with respect to all or a portion of any principal amount of such Revolving Commitments (any such Revolving Commitments which have been so extended, “Extended Revolving Commitments”) and to provide for other terms consistent with this Section 2.16. Prior to entering into any Extension Amendment with respect to any Extended Revolving Commitments, the Borrower shall provide written notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Revolving Class, with such request offered equally to all such Lenders of such Existing Revolving Class) (each, a “Revolving Extension Request”) setting forth the proposed terms of the Extended Revolving Commitments to be established, which terms shall be identical in all material respects to the Revolving Commitments of the Existing Revolving Class from which they are to be extended except that (i) the scheduled final maturity date shall be extended to a later date than the scheduled final maturity date of the Revolving Commitments of suchExisting Revolving Class; provided, however, that at no time shall there be Classes of Revolving Commitments hereunder (including Extended Revolving Commitments) which have more than four (4) different Maturity Dates (unless otherwise consented to by the Administrative Agent), (ii)(A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and voluntary prepayment terms and premiums with respect to the Extended Revolving Commitments may be different than those for the Revolving Commitments of such Existing Revolving Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Revolving Commitments in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, (iii) all borrowings under the applicable Revolving Commitments (i.e., the Existing Revolving Class and the Extended Revolving Commitments of the applicable Revolving Extension Series) and repayments thereunder shall be made on a pro rata basis (except for (I) payments of interest and fees at different rates on Extended Revolving Commitments (and related outstanding Extended Revolving Loans), (II) repayments required upon the Maturity Date of the non-extending Revolving Commitments, (III) repayments made in connection with any refinancing of Revolving Commitments and (IV) repayments made in connection with a permanent repayment and termination of Commitments), and (iv) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity Date in respect of Revolving Commitments that is in effect immediately prior to the establishment of such Extended Revolving Commitments. No Lender shall have any obligation to agree to have any of its Revolving Commitments of any Existing Revolving Class converted into Extended Revolving Commitments pursuant to any Revolving Extension Request. Any Extended Revolving Commitments extended pursuant to any Revolving Extension Request shall be designated a series (each, a “Revolving Extension Series”) of Extended Revolving Commitments for all purposes of this Agreement and shall constitute a separate Class of Revolving Commitments from the
Existing Revolving Class from which they were extended; provided that any Extended Revolving Commitments amended from an Existing Revolving Class may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Revolving Extension Series with respect to such Existing Revolving Class.

(3) **Extension Request.** The Borrower shall provide the applicable Extension Request to the Administrative Agent at least five (5) Business Days (or such shorter period as the Administrative Agent may determine in its sole discretion) prior to the date on which Lenders under the applicable Existing Term Loan Class or Existing Revolving Class, as applicable, are requested to respond. Any Lender holding a Term Loan under an Existing Term Loan Class (each, an "Extending Term Lender") wishing to have all or a portion of its Term Loans of an Existing Term Loan Class or Existing Term Loan Classes, as applicable, subject to such Extension Request converted or exchanged into Extended Term Loans, and any Revolving Lender with a Revolving Commitment under an Existing Revolving Class (each, an "Extending Revolving Lender") wishing to have all or a portion of its Revolving Commitments of an Existing Revolving Class or Existing Revolving Classes, as applicable, subject to such Extension Request converted or exchanged into Extended Revolving Commitments, as applicable, shall notify the Administrative Agent (each, an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Term Loans or Revolving Commitments, as applicable, which it has elected to convert or exchange into Extended Term Loans or Extended Revolving Commitments, as applicable. In the event that the aggregate principal amount of Term Loans and/or Revolving Commitments, as applicable, subject to Extension Elections exceeds the amount of Extended Term Loans and/or Extended Revolving Commitments, respectively, requested pursuant to the Extension Request, Term Loans and/or Revolving Commitments, as applicable, subject to Extension Elections shall be converted or exchanged into Extended Term Loans and/or Revolving Commitments, respectively, on a pro rata basis (subject to such rounding requirements as may be established by the Administrative Agent) based on the aggregate principal amount of Term Loans or Revolving Commitments, as applicable, included in each such Extension Election or as may be otherwise agreed to in the applicable Extension Amendment.

(4) **Extension Amendment.** Extended Term Loans and Extended Revolving Commitments shall be established pursuant to an amendment (each, an "Extension Amendment") to this Agreement (which, notwithstanding anything to the contrary set forth in Section 10.01, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Term Loans and/or Extended Revolving Commitments established thereby, as the case may be) executed by the Borrower, the Administrative Agent and the Extending Lenders, it being understood that such Extension Amendment shall not require the consent of any Lender other than (A) the Extending Lenders with respect to the Extended Term Loans or Extended Revolving Commitments, as applicable, established thereby and (B) with respect to any extension of the Revolving Commitments that results in an extension of Issuing Bank’s obligations with respect to Letters of Credit, the consent of such Issuing Bank). Each request for an Extension Series of Extended Term Loans or Extended Revolving Commitments proposed to be incurred under this Section 2.16 shall be in an aggregate principal amount that is not less than $5.0 million (it being understood that the actual principal amount thereof provided by the applicable Lenders may be lower than such minimum amount), and the Borrower may condition the effectiveness of any Extension Amendment on an Extension Minimum Condition, which may be waived by the Borrower in its sole discretion. In addition to any terms and changes required or permitted by Sections 2.16(1) and (2), each of the parties hereto agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent necessary to (i) in respect of each Extension Amendment in respect of Extended Term Loans, amend the scheduled amortization payments pursuant to Section 2.07 or the applicable Incremental Amendment, Extension Amendment, Refinancing Amendment or other amendment, as the case may be, with respect to the Existing Term Loan Class from which the Extended Term Loans were exchanged to reduce each
scheduled repayment amount for the Existing Term Loan Class in the same proportion as the amount of Term Loans of the Existing Term Loan Class is to be reduced pursuant to such Extension Amendment (it being understood that the amount of any repayment amount payable with respect to any individual Term Loan of such Existing Term Loan Class that is not an Extended Term Loan shall not be reduced as a result thereof); (ii) reflect the existence and terms of the Extended Term Loans or Extended Revolving Commitments, as applicable, incurred pursuant thereto; (iii) modify the prepayments set forth in Section 2.05 to reflect the existence of the Extended Term Loans and the application of prepayments with respect thereto and (iv) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.16, and the Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment. In connection with any Extension Amendment, the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Extended Term Loans and/or Extended Revolving Commitments are provided with the benefit of the applicable Loan Documents.

(5) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Term Loan Class and/or Existing Revolving Class is converted or exchanged to extend the related scheduled maturity date(s) in accordance with paragraphs (1) and (2) of this Section 2.16, in the case of the existing Term Loans or Revolving Commitments, as applicable, of each Extending Lender, the aggregate principal amount of such existing Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Term Loans and/or Extended Revolving Commitments, respectively, so converted or exchanged by such Lender on such date, and the Extended Term Loans and/or Extended Revolving Commitments shall be established as a separate Class of Loans, except as otherwise provided under Sections 2.16(1) and (2). Subject to the provisions of Section 2.03(13) in connection with Letters of Credit which mature or expire after a Maturity Date at any time Extended Revolving Commitments with a later Maturity Date are outstanding, all Letters of Credit shall be participated on a pro rata basis by each Lender with a Revolving Commitment in accordance with its percentage of the Revolving Commitments existing on the date of the Extension of such Extended Revolving Commitments (and except as provided in Section 2.03(13), without giving effect to changes thereto on an earlier Maturity Date with respect to Letters of Credit theretofore incurred or issued).

(6) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Term Loans and/or Extended Revolving Commitments of a given Extension Series to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of an Extension Election timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Amendment, then the Administrative Agent, the Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, enter into an amendment to this Agreement and the other Loan Documents (each, a “Corrective Extension Amendment”) within 15 days following the effective date of such Extension Amendment, as the case may be, which Corrective Extension Amendment shall (i) provide for the conversion or exchange and extension of Term Loans under the Existing Term Loan Class, or of Revolving Commitments under the Existing Revolving Class, in either case, in such amount as is required to cause such Lender to hold Extended Term Loans or Extended Revolving Commitments, as applicable, of the applicable Extension Series into which such other Term Loans or Revolving Commitments were initially converted or exchanged, as the case may be, in the amount such Lender would have held had such administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was entitled under the terms of such Extension Amendment, in the absence of such error, (ii) be subject to the satisfaction of such conditions as the Administrative Agent, the Borrower and such Extending Term Lender or Extending Revolving Lender, as applicable, may agree, and (iii) effect such other amendments of the type (with appropriate reference and nomenclature changes) described in the penultimate sentence of Section 2.16(4).
(7) No conversion or exchange of Loans or Commitments pursuant to any Extension Amendment in accordance with this Section 2.16 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(8) This Section 2.16 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.16 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).

SECTION 2.17 Defaulting Lenders.

(1) 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:

(a) Waivers and Amendments. That Defaulting Lender’s right to approve or disapprove of any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.01.

(b) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise), 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 that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the relevant Issuing Banks hereunder; third, if so determined by the Administrative Agent or requested by the relevant Issuing Banks, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; fourth, as the Borrower may request (so long as no Default has occurred and is continuing), to the funding of any Loan in respect of which that 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 non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders or the relevant Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the relevant Issuing Banks against that Defaulting Lender as a result of that Defaulting Lender’s breach of its obligations under this Agreement; seventh, so long as no Default has occurred and is continuing, 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 that Defaulting Lender as a result of that Defaulting Lender’s breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (i) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (ii) such Loans or L/C Borrowings were made 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 Borrowings 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 Borrowings owed to, that Defaulting Lender. 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 2.17(1)(b) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.
(c) **Certain Fees.** That Defaulting Lender (i) shall not be entitled to receive any commitment fee pursuant to Section 2.09(1) 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) and (ii) shall be limited in its right to receive Letter of Credit fees as provided in Section 2.03(9).

(d) **Reallocation of Applicable Percentages to Reduce Fronting Exposure.** During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 2.03, the “Applicable Percentage” of each Non-Defaulting Lender’s Revolving Loans and L/C Obligations shall be computed without giving effect to the Commitment of that Defaulting Lender; **provided** that the aggregate obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit shall not exceed the positive difference, if any, of (1) the Revolving Commitment of that Non-Defaulting Lender minus (2) the aggregate Outstanding Amount of the Revolving Loans of that Non-Defaulting Lender.

(2) **Defaulting Lender Cure.** If the Borrower, the Administrative Agent and the Issuing Banks agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be 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 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 Revolving Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(1)(d)), whereupon that 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; **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 having been a Defaulting Lender.

SECTION 2.18 **Loan Repricing Protection.** In the event that, on or prior to the twelve month anniversary of the Closing Date that is six months after the Second Amendment Effective Date, the Borrower (a) makes any prepayment of any Closing Date Term B Loans in connection with any Repricing Transaction with respect to such Closing Date Term B Loans or (b) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each applicable Lender, (i) in the case of clause (a), a prepayment premium of 1.00% of the aggregate principal amount of such Closing Date Term B Loans being prepaid and (ii) in the case of clause (b), a payment equal to 1.00% of the aggregate principal amount of the applicable Closing Date Term B Loans outstanding immediately prior to such amendment that are subject to such Repricing Transaction.
SECTION 3.01 Taxes.

(1) Except as required by applicable Law, all payments by or on account of any Loan Party to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes.

(2) If any Loan Party or any other applicable withholding agent is required by applicable Law to make any deduction or withholding on account of any Taxes from any sum paid or payable by or on account of any Loan Party to or for the account of any Lender or Agent under any of the Loan Documents:

   (a) the applicable Loan Party or other applicable withholding agent shall make such deduction or withholding and pay to the relevant Governmental Authority any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Loan Party) for such Loan Party’s account or (if that liability is imposed on the Lender or Agent) on behalf of and in the name of the Lender or Agent (as applicable);

   (b) if the Tax in question is a Non-Excluded Tax or Other Tax, the sum payable to such Lender or Agent (as applicable) shall be increased by such Loan Party to the extent necessary to ensure that, after the making of any required deduction or withholding for Non-Excluded Taxes or Other Taxes (including any deductions or withholdings for Non-Excluded Taxes or Other Taxes attributable to any payments required to be made under this Section 3.01), such Lender (or, in the case of any payment made to the Administrative Agent for its own account, the Administrative Agent) receives on the due date a net sum equal to what it would have received had no such deduction or withholding been required or made; and

   (c) within thirty days after paying any sum from which it is required by Law to make any deduction or withholding, and within thirty days after the due date of payment of any Tax which it is required by clause (a) above to pay (or, in each case, as soon as reasonably practicable thereafter), the Borrower shall deliver to the Administrative Agent evidence reasonably satisfactory to the other affected parties of such deduction or withholding and of the remittance thereof to the relevant Governmental Authority.

(3) Status of Lender. Each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any documentation prescribed by Laws or reasonably requested by the Borrower or the Administrative Agent certifying as to any entitlement of such Lender to an exemption from, or reduction in, withholding Tax with respect to any payments to be made to such Lender under any Loan Document. 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. Each such Lender shall, whenever a lapse in time or change in circumstances renders any such documentation (including any specific documentation required below in this Section 3.01(3)) obsolete, expired or inaccurate in any respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and Administrative Agent of its legal ineligibility to do so.
Without limiting the foregoing:

(a) Each U.S. Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding.

(b) Each Foreign Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) whichever of the following is applicable:

(i) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms) claiming eligibility for the benefits of an income tax treaty to which the United States is a party, and such other documentation as required under the Code,

(ii) two properly completed and duly signed copies of IRS Form W-8ECI (or any successor forms),

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, (A) two properly completed and duly signed certificates substantially in the form of Exhibit H (any such certificate, a “United States Tax Compliance Certificate”) and (B) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms),

(iv) to the extent a Foreign Lender is not the beneficial owner (for example, where such Foreign Lender is a partnership or a participating Lender), IRS Form W-8IMY (or any successor forms) of such Foreign Lender, accompanied by an IRS Form W-8ECI, Form W-8BEN or W-8BEN-E, United States Tax Compliance Certificate, Form W-9, Form W-8IMY and any other required information (or any successor forms) from each beneficial owner that would be required under this Section 3.01(3) if such beneficial owner were a Lender, as applicable (provided that, if a Lender is a partnership (and not a participating Lender) and if one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Foreign Lender on behalf of such beneficial owner(s)), or

(v) two properly completed and duly signed copies of any other documentation prescribed by applicable U.S. federal income tax laws (including the Treasury Regulations) as a basis for claiming a complete exemption from, or a reduction in, U.S. federal withholding tax on any payments to such Lender under the Loan Documents.

(c) If a payment made to a Lender under any Loan Document would be subject to Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 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, to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this paragraph (c), the term “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

For the avoidance of doubt, if a Lender is an entity disregarded from its owner for U.S. federal income tax purposes, references to the foregoing documentation are intended to refer to documentation with respect to such Lender’s owner and, as applicable, such Lender.

Notwithstanding any other provision of this Section 3.01(3), a Lender shall not be required to deliver any documentation that such Lender is not legally eligible to deliver. Each Lender hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender to the Administrative Agent pursuant to this Section 3.01(3).

(4) Without duplication of other amounts payable by the Borrower pursuant to Section 3.01(2), the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(5) The Loan Parties shall, jointly and severally, indemnify a Lender or the Administrative Agent (each a “Tax Indemnitee”), within 10 days after written demand therefor, for the full amount of any Non-Excluded Taxes paid or payable by such Tax Indemnitee on or attributable to any payment under or with respect to any Loan Document, and any Other Taxes payable by such Tax Indemnitee (including Non-Excluded Taxes or Other Taxes imposed on or attributable to amounts payable under this Section 3.01) (other than any interest, penalties and other costs determined by a final and non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Tax Indemnitee), whether or not such Taxes were correctly or legally imposed or asserted by the Governmental Authority; provided that if the Borrower reasonably believes that such Taxes were not correctly or legally imposed or asserted by the Governmental Authority, such Tax Indemnitee will use reasonable efforts to cooperate with the Borrower to obtain a refund of such Taxes (which shall be repaid to the Borrower in accordance with Section 3.01(6)) so long as such efforts would not, in the sole determination of such Tax Indemnitee (exercised in good faith), result in any additional out-of-pocket costs or expenses not reimbursed by such Loan Party or be otherwise materially disadvantageous to such Tax Indemnitee. A certificate as to the amount of such payment or liability prepared in good faith and delivered by the Tax Indemnitee or by the Administrative Agent on behalf of another Tax Indemnitee, shall be conclusive absent manifest error.

(6) If and to the extent that a Tax Indemnitee, in its sole discretion (exercised in good faith), determines that it has received a refund (whether received in cash or applied as a credit against any other cash Taxes payable) of any Non-Excluded Taxes or Other Taxes in respect of which it has received indemnification payments or additional amounts under this Section 3.01, then such Tax Indemnitee shall pay to the relevant Loan Party the amount of such refund, net of all out-of-pocket expenses of the Tax Indemnitee (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Tax Indemnitee, agrees to repay the amount paid over by the Tax Indemnitee (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Tax Indemnitee to the extent the Tax Indemnitee is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(6), in no event
will the Tax Indemnitee be required to pay any amount to a Loan Party pursuant to this Section 3.01(6) the payment of which would place the Tax Indemnitee in a less favorable net after-Tax position than the Tax Indemnitee would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require a Tax Indemnitee to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Loan Party or any other Person.

(7) On or before the date the Administrative Agent becomes a party to this Agreement, the Administrative Agent shall deliver to the Borrower whichever of the following is applicable: (i) if the Administrative Agent is a “United States person” within the meaning of Section 7701(a)(30) of the Code, two executed original copies of IRS Form W-9 certifying that such Administrative Agent is exempt from U.S. federal backup withholding or (ii) if the Administrative Agent is not a “United States person” within the meaning of Section 7701(a)(30) of the Code, (A) with respect to payments received for its own account, two executed original copies of IRS Form W-8ECI and (ii) with respect to payments received on account of any Lender, two executed original copies of IRS Form W-8IMY (together with all required accompanying documentation) certifying that the Administrative Agent is a U.S. branch and may be treated as a United States person for purposes of applicable U.S. federal withholding Tax. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. Notwithstanding anything to the contrary in this Section 3.01(7), the Administrative Agent shall not be required to provide any documentation that the Administrative Agent is not legally eligible to deliver as a result of a Change in Law after the Closing Date.

(8) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(9) For the avoidance of doubt, for purposes of this Section 3.01, the term “Lender” includes any Issuing Bank.

SECTION 3.02 Illegality.

(1) If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, (1) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended, and (2) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on Base Rate Loans of such Lender shall be suspended, and (2) 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 Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be reasonably determined by the Administrative Agent without reference to the Eurodollar Rate 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, (a) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate 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 Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (b) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

(2) If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the EURIBOR Rate, or to determine or charge interest rates based upon the EURIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Euros in the European interbank market, then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, (1) any obligation of such Lender to make or continue EURIBOR Rate Loans or to convert Base Rate Loans to EURIBOR Rate Loans shall be suspended 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, the Borrower may revoke any pending request for a Borrowing of or continuation of EURIBOR Rate Loans and, unless the Administrative Agent (acting on instructions of the Required Lenders) and the Borrower otherwise agree to a substitute rate (it being understood that the Administrative Agent, Required Lenders and Borrower shall negotiate in good faith to amend the definition of “EURIBOR Rate” and other applicable provisions to preserve the original intent thereof in light of such change) such EURIBOR Rate Loans shall bear interest at such rate as the Administrative Agent (acting on instructions of the Required Lenders) shall determine adequately and fairly reflects the cost to the Euro Term Lenders of making or maintaining such EURIBOR Rate Loans for the applicable Interest Period plus the applicable percentage set forth in the definition of Applicable Rate with respect to such EURIBOR Rate Loans.

SECTION 3.03 Inability to Determine Rates.

(1) If the Administrative Agent (in the case of clause (1) or (2) below) or the Required Lenders (in the case of clause (3) below) reasonably determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that

(a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan,

(b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan, or

(c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate 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, (i) the obligation of the Lenders to make or maintain
Eurodollar Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence with respect to the Eurodollar
Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until
the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any
pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans 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.

(2) If the Administrative Agent (in the case of clause (1) or (2) below) or the Required Lenders (in the case of clause (3) below) reasonably
determine that for any reason in connection with any request for a EURIBOR Rate Loan or continuation thereof that

(a) Euro deposits are not being offered to banks in the European interbank market for the applicable amount and Interest Period of such
EURIBOR Rate Loan,

(b) adequate and reasonable means do not exist for determining the EURIBOR Rate for any requested Interest Period with respect to a
proposed EURIBOR Rate Loan, or

(c) the EURIBOR Rate for any requested Interest Period with respect to a proposed EURIBOR Rate 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 Euro Term Lender. Thereafter, the obligation of the Lenders to make or
maintain EURIBOR Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice
and, unless the Administrative Agent (acting on instructions of the Required Lenders) and the Borrower otherwise agree to a substitute rate (it being
understood that the Administrative Agent, Required Lenders and Borrower shall negotiate in good faith to amend the definition of “EURIBOR Rate”
and other applicable provisions to preserve the original intent thereof in light of such change) such EURIBOR Rate Loans shall bear interest at such rate
as the Administrative Agent (acting on instructions of the Required Lenders) shall determine adequately and fairly reflects the cost to the Euro Term
Lenders of making or maintaining such EURIBOR Rate Loans for the applicable Interest Period plus the applicable percentage set forth in the definition
of Applicable Rate with respect to such EURIBOR Rate Loans. Upon receipt of such notice, the Borrower may revoke any pending request for a
Borrowing of or continuation of EURIBOR Rate Loans.

SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans and EURIBOR Rate Loans.

(1) Increased Costs Generally. If any Change in Law shall:

(a) 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;

(b) subject any Lender to any Tax of any kind whatsoever with respect to this Agreement or any Eurodollar Rate Loan or EURIBOR Rate
Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes or Other Taxes
covered by Section 3.01 and any Excluded Taxes); or
(c) impose on any Lender or the London interbank market or European interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans or EURIBOR Rate Loans made by such Lender that is not otherwise accounted for in the definition of “Eurodollar Rate”, “EURIBOR Rate” or this clause (1);

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate or EURIBOR Rate (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, from time to time within fifteen (15) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered; provided that such amounts shall only be payable by the Borrower to the applicable Lender under this Section 3.04(1) so long as it is such Lender’s general policy or practice to demand compensation in similar circumstances under comparable provisions of other financing agreements.

(2) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender’s capital or on the capital of such Lender’s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by it, or participations in or issuance of Letters of Credit by such Lender, to a level below that which such Lender or such Lender’s holding company, as the case may be, could have achieved but for such Change in Law (taking into consideration such Lender’s policies and the policies of such Lender’s holding company with respect to capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender additional amount or amounts as will compensate such Lender or such Lender’s holding company for any such reduction suffered; provided that such amounts shall only be payable by the Borrower to the applicable Lender under this Section 3.04(2) so long as it is such Lender’s general policy or practice to demand compensation in similar circumstances under comparable provisions of other financing agreements.

(3) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (1) or (2) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within fifteen (15) days after receipt thereof.

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender and hold such Lender harmless from any loss, cost or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of:

(1) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan or EURIBOR Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);
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 Eurodollar Rate Loan or EURIBOR Rate Loan on the date or in the amount notified by the Borrower; or

(3) any assignment of a Eurodollar Rate Loan or EURIBOR Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07; including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Eurodollar Rate Loan or EURIBOR Rate Loan or from fees payable to terminate the deposits from which such funds were obtained.

Notwithstanding the foregoing, no Lender may make any demand under this Section 3.05 with respect to the “floor” specified (x) in the proviso to the definition of “Eurodollar Rate” or (y) in the proviso to the definition of “EURIBOR Rate”.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(1) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall 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 good faith judgment of such Lender such designation or assignment (a) 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 (b) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(2) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurodollar Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurodollar Rate Loans until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(3) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(3) Conversion of Eurodollar Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender’s Eurodollar Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Rate Loans made by other Lenders, as applicable, are outstanding, such Lender’s Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Rate Loans to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurodollar Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.
Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of Sections 3.01 or 3.04 shall not constitute a waiver of such Lender’s right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of Section 3.01 or 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the event giving rise to such claim and of such Lender’s intention to claim compensation therefor (except that, if the circumstance giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 3.07 Replacement of Lenders under Certain Circumstances. If (1) any Lender requests compensation under Section 3.04 or ceases to make Eurodollar Rate Loans or EURIBOR Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (2) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 or 3.04, (3) any Lender is a Non-Consenting Lender, (4) any Lender becomes a Defaulting Lender or (5) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent,

(a) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.07), all of its interests, rights and obligations under this Agreement (or, with respect to clause (3) above, all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver, or amendment, as applicable) and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.07(b)(iv);

(ii) such Lender shall have received payment of an amount equal to the applicable outstanding principal of its Loans, 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 and, in the case of a Repricing Transaction, any “prepayment premium” pursuant to Section 2.18 that would otherwise be owed in connection therewith) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to all, or a portion, as applicable, of such Lender’s Commitment and outstanding Loans and participations in L/C Obligations and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); provided that the failure of any such Lender to execute an Assignment and Assumption or deliver such Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such failure;

(iv) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification and confidentiality provisions under this Agreement, which shall survive as to such assigning Lender;
(v) 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;

(vi) such assignment does not conflict with applicable Laws;

(vii) any Lender that acts as an Issuing Bank may not be replaced hereunder at any time when it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such Issuing Bank or the depositing of Cash Collateral into a Cash Collateral Account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit; and

(viii) the Lender that acts as Administrative Agent cannot be replaced in its capacity as Administrative Agent other than in accordance with Section 9.11, or

(b) terminate the Commitment of such Lender or Issuing Bank, as the case may be, and (A) in the case of a Lender (other than an Issuing Bank), repay all Obligations of the Borrower owing to such Lender relating to the Loans and participations held by such Lender as of such termination date (including in the case of a Repricing Transaction, any “prepayment premium” pursuant to Section 2.18 that would otherwise be owed in connection therewith) and (B) in the case of an Issuing Bank, repay all Obligations of the Borrower owing to such Issuing Bank relating to the Loans and participations held by such Issuing Bank as of such termination date and Cash Collateralize, cancel or backstop, or provide for the deemed reissuance under another facility, on terms satisfactory to such Issuing Bank any Letters of Credit issued by it; provided that in the case of any such termination of the Commitment of a Non-Consenting Lender such termination shall be sufficient (together with all other consenting Lenders) to cause the adoption of the applicable consent, waiver or amendment of the Loan Documents and such termination shall, with respect to clause (3) above, be in respect of all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver and amendment.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans/Commitments and (iii) the Required Lenders or Required Facility Lenders, as applicable, have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “Non-Consenting Lender.”

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.

SECTION 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent.

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Article IV

Conditions Precedent to Credit Extensions

SECTION 4.01 Conditions to Credit Extensions on Closing Date. The obligation of each Lender to make a Credit Extension hereunder on the Closing Date is subject to satisfaction (or waiver) of the following conditions precedent, except as otherwise agreed between the Borrower and the Administrative Agent:

1. The Administrative Agent’s receipt of the following, each of which shall be originals, facsimiles or copies in .pdf format (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party (other than in the case clause (1)(e) below):

   (a) a Committed Loan Notice;
   
   (b) executed counterparts of this Agreement and the Guaranty;
   
   (c) each Collateral Document set forth on Schedule 4.01(1)(c) required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party that is party thereto, together with (subject to Section 6.13(2)):

      (i) certificates, if any, representing the Pledged Collateral that is certificated equity of the Borrower and the Loan Parties’ Material Domestic Subsidiaries accompanied by undated stock powers executed in blank; and

      (ii) evidence that all UCC-1 financing statements in the appropriate jurisdiction or jurisdictions for each Loan Party that the Administrative Agent and the Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been provided for, and arrangements for the filing thereof in a manner reasonably satisfactory to the Administrative Agent shall have been made;

   (d) certificates of good standing from the secretary of state of the state of organization of each Loan Party (to the extent such concept exists in such jurisdiction), customary certificates of resolutions or other action, incumbency certificates or other certificates of Responsible Officers of each Loan Party certifying true and complete copies of the Organizational Documents attached thereto and 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 or is to be a party on the Closing Date;

   (e) a customary legal opinion from Ropes & Gray LLP, counsel to the Loan Parties;

   (f) a certificate of a Responsible Officer certifying that the conditions set forth in Section 4.02 has been satisfied; and

   (g) a solvency certificate from a Financial Officer of the Borrower (after giving effect to the Transactions) substantially in the form attached hereto as Exhibit I.
(2) The First Lien/Second Lien Intercreditor Agreement shall have been duly executed and delivered by the Loan Parties thereto and the Second Lien Administrative Agent.

(3) The Arrangers shall have received (i) the Annual Financial Statements and (ii) the Quarterly Financial Statements. The Arrangers shall have received the Pro Forma Financial Statements.

(4) The representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the Closing Date; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(5) No Default shall exist, or would result from such proposed Credit Extension on the Closing Date or from the application of the proceeds therefrom.

(6) The Administrative Agent or the relevant Issuing Bank (as applicable) shall have received a Request for Credit Extension in accordance with the requirements hereof.

(7) The Administrative Agent shall have received at least two (2) Business Days prior to the Closing Date all documentation and other information in respect of the Borrower and the Guarantors required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, that has been reasonably requested in writing by it at least ten (10) Business Days prior to the Closing Date.

(8) All fees and expenses (in the case of expenses, to the extent invoiced at least three (3) Business Days prior to the Closing Date (except as otherwise reasonably agreed by the Borrower)) required to be paid hereunder on the Closing Date shall have been paid, or shall be paid substantially concurrently with the initial Borrowing on the Closing Date.

(9) Substantially concurrently with the initial Borrowing(s) on the Closing Date, the Transactions shall have been consummated from the proceeds of the Facilities.

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.

SECTION 4.02 Conditions to Credit Extensions after the Closing Date. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or a Borrowing pursuant to any Incremental Amendment) after the Closing Date is subject to the following conditions precedent:

(1) The representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Extension; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.
(2) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

(3) The Administrative Agent or the relevant Issuing Bank (as applicable) shall have received a Request for Credit Extension in accordance with the requirements hereof.

(4) Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or a Borrowing pursuant to an Incremental Amendment) submitted by the Borrower after the Closing Date shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(1) and 4.02(2) have been satisfied on and as of the date of the applicable Credit Extension.

In addition, solely to the extent the Borrower has delivered to the Administrative Agent a Notice of Intent to Cure pursuant to Section 8.04, no request for a Credit Extension shall be honored after delivery of such notice until the applicable Cure Amount specified in such notice is actually received by the Borrower. For the avoidance of doubt, the preceding sentence shall have no effect on the continuation or conversion of any Loans outstanding.

Article V

Representations and Warranties

The Borrower and, in respect of Sections 5.01, 5.02, 5.04, 5.06, 5.13 and 5.17 only, Holdings, represent and warrant to the Administrative Agent and the Lenders, after giving effect to the Transactions, at the time of each Credit Extension (solely to the extent required to be true and correct for such Credit Extension pursuant to Section 2.14):

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its respective Restricted Subsidiaries that is a Material Subsidiary:

(1) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concept exists in such jurisdiction),

(2) has all corporate or other organizational power and authority to (a) own or lease its assets and carry on its business as currently conducted and (b) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party,

(3) is duly qualified and in good standing (to the extent such concept exists) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business as currently conducted requires such qualification,
(4) is in compliance with all applicable Laws orders, writs, injunctions and orders (including the United States Foreign Corrupt Practices Act of 1977 (the “FCPA”)); and
(5) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in the preceding clauses (2)(a), (3), (4) or (5), to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention.

(1) The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate or other organizational action.

(2) None of the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party will:

(a) contravene the terms of any of such Person’s Organizational Documents;

(b) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Person or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under (i) any Contractual Obligation to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject; or

(c) violate any applicable Law;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in the preceding clauses (b) and (c), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority 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, except for:

(1) filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties,

(2) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement), and

(3) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto or thereto, as applicable. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each such Loan Party in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws, by general principles of equity and principles of good faith and fair dealing.
SECTION 5.05 Financial Statements; No Material Adverse Effect.

(1) (a) The Annual Financial Statements and the Quarterly Financial Statements fairly present in all material respects the financial condition of (x) in the case of the Annual Financial Statements, the McAfee Business and (y) in the case of the Quarterly Financial Statements, the Borrower and its Subsidiaries, in each case, as of the date(s) thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, (i) except as otherwise expressly noted therein and (ii) subject, in the case of the Quarterly Financial Statements, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) The unaudited pro forma consolidated statement of operations of the Borrower for the 12-month period ending on July 1, 2017 (which may be prepared on a combined or other pro forma basis in the good faith judgment of the Borrower with respect to predecessor and successor periods relative to the Original Transactions), prepared after giving effect to the Transactions as if the Transactions had occurred at the beginning of such period (collectively, the “Pro Forma Financial Statements”), copies of which have heretofore been furnished to the Administrative Agent, have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated results of operations of the Borrower and its Subsidiaries for the period covered thereby.

(2) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(3) The forecasts of consolidated statements of operations of the Borrower and its Subsidiaries for each fiscal year ending after the Closing Date until the fifth anniversary of the Closing Date, copies of which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that:

(a) no forecasts are to be viewed as facts,

(b) all forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Investors,

(c) no assurance can be given that any particular forecasts will be realized and

(d) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against Holdings, the Borrower or any of the Restricted Subsidiaries that would reasonably be expected to have a Material Adverse Effect.
SECTION 5.07 Labor Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (1) there are no strikes or other labor disputes against the Borrower or the Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened in writing and (2) hours worked by and payment made based on hours worked to employees of each of the Borrower or the Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each of its respective Restricted Subsidiaries has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.09 Environmental Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) each Loan Party and each of its Restricted Subsidiaries and their respective operations and properties is in compliance with all applicable Environmental Laws; (b) each Loan Party and each of its Restricted Subsidiaries has obtained and maintained all Environmental Permits required to conduct their operations; (c) none of the Loan Parties or any of their respective Restricted Subsidiaries is subject to any pending or, to the knowledge of the Borrower, threatened Environmental Claim in writing or Environmental Liability; (d) none of the Loan Parties or any of their respective Restricted Subsidiaries or predecessors has treated, stored, transported or Released Hazardous Materials at or from any currently or formerly owned, leased or operated real estate or facility except for such actions that were in compliance with Environmental Law; and (e) to the knowledge of any Loan Party or any Restricted Subsidiary, there are no occurrences, facts, circumstances or conditions which could reasonably be expected to give rise to an Environmental Claim.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Loan Party and each of its Restricted Subsidiaries has timely filed all Tax returns and reports required to be filed, and have timely paid all Taxes (including satisfying its withholding tax obligations) levied or imposed on their properties, income or assets (whether or not shown in a Tax return), except those which are being contested in good faith by appropriate actions diligently taken and for which adequate reserves have been provided in accordance with GAAP.

There is no proposed Tax assessment, deficiency or other claim against any Loan Party or any of its Restricted Subsidiaries except (i) those being actively contested by a Loan Party or such Restricted Subsidiary in good faith and by appropriate actions diligently taken and for which adequate reserves have been provided in accordance with GAAP or (ii) those which would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

SECTION 5.11 ERISA Compliance.

(1) Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws.

(2) (a) No ERISA Event has occurred or is reasonably expected to occur; and

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(b) none of the Loan Parties or any of their respective ERISA Affiliates has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA, except, with respect to each of the foregoing clauses of this Section 5.11(2), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(3) Except where noncompliance or the incurrence of an obligation would not reasonably be expected to result in a Material Adverse Effect, (a) each Foreign Plan has been maintained in compliance with its terms and with the requirements of any and all applicable Laws, and (b) none of Holdings, the Borrower or any Subsidiary has incurred any obligation in connection with the termination of or withdrawal from any Foreign Plan.

SECTION 5.12 Subsidiaries.

(1) As of the Closing Date, after giving effect to the Transactions, all of the outstanding Equity Interests in the Borrower and its Restricted Subsidiaries have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests that constitute Collateral owned by Holdings in the Borrower, and by the Borrower or any Subsidiary Guarantor in any of their respective Subsidiaries are owned free and clear of all Liens of any person except (a) those Liens created under the Collateral Documents or the Second Lien Credit Documents and (b) any nonconsensual Lien that is permitted under Section 7.01.

(2) As of the Closing Date, Schedule 5.12 sets forth:

(a) the name and jurisdiction of organization of each Subsidiary, and

(b) the ownership interests of Holdings in the Borrower and of the Borrower and any Subsidiary of the Borrower in each Subsidiary, including the percentage of such ownership.

SECTION 5.13 Margin Regulations; Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it 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 Board of Governors of the Federal Reserve System of the United States), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.

(b) No Loan Party is required to be registered as an “investment company” under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Subsidiary Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the Transactions, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered and prior to the Closing Date); it being understood that for purposes of this Section 5.14, such written information and written data shall not include any projections, pro forma financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

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SECTION 5.15 Intellectual Property; Licenses, etc. The Borrower and the Restricted Subsidiaries have good and marketable title to, or a valid license or right to use, all patents, patent rights, trademarks, servicemarks, trade names, copyrights, technology, software, know-how, database rights and other intellectual property rights (collectively, “IP Rights”) that to the knowledge of the Borrower are reasonably necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Borrower or any Subsidiary of the Borrower as currently conducted does not infringe upon, dilute, misappropriate or violate any IP Rights held by any Person except for such infringements, dilutions, misappropriations or violations, individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against any Loan Party or Subsidiary, that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and the Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 USA PATRIOT Act; Anti-Terrorism Laws. To the extent applicable, each of the Borrower and the Restricted Subsidiaries are in compliance, in all material respects, with (i) the USA PATRIOT Act, and (ii) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other applicable enabling legislation or executive order relating thereto. Neither Holdings, the Borrower nor any Restricted Subsidiary nor, to the knowledge of the Borrower, any director, officer or employee of Holdings, the Borrower or any of the Restricted Subsidiaries, is currently the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”) (“Sanctions”). No proceeds of the Loans will be used by Holdings, the Borrower or any Restricted Subsidiary directly or, to the knowledge of the Borrower, indirectly, for the purpose of financing activities of or with any Person, or in any country, that, at the time of such financing, is the subject of any Sanctions administered by OFAC, except to the extent licensed or otherwise approved by OFAC.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents and subject to limitations set forth in the Collateral and Guarantee Requirement, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents (including the delivery to Collateral Agent of any Pledged Collateral required to be delivered pursuant hereto or the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid, perfected and enforceable first priority Lien (subject to Liens permitted by Section 7.01 and to any applicable Intercreditor Agreement) on all right, title and interest of the respective Loan Parties in the Collateral described therein.

Notwithstanding anything herein (including this Section 5.18) or in any other Loan Document to the contrary, no Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign Law, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement, (C) on the Closing Date and until required pursuant to Section 6.13 or 4.01, the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to Section 4.01 or (D) any Excluded Assets.
Article VI

Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall (and, with respect to Sections 6.05(1) and 6.11 only, Holdings shall), and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in Section 6.02) each of the following:

1. within ninety (90) days after the end of each fiscal year of the Borrower (or, solely for the fiscal year ending on or about December 30, 2017 and December 29, 2018, one hundred and fifty (150) days) commencing with the fiscal year ending on or about December 30, 2017, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of operations and cash flows for such fiscal year (in the case of such financial statements for the fiscal year ending on or about December 30, 2017, for the period from April 3, 2017 to the last day of such fiscal year), together with related notes thereto, setting forth in each case (commencing with the fiscal year ending on or about December 29, 2018) in comparative form the figures for the previous fiscal year (provided that financial statements or financial data for the fiscal year ending on or about December 30, 2017, for comparative purposes relative to the fiscal year ending on or about December 29, 2018, may be presented on a combined or other pro forma basis prepared in good faith by the Borrower), in reasonable detail and all prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion (a) will be prepared in accordance with generally accepted auditing standards and (b) will not be subject to any qualification as to the scope of such audit (but may contain a “going concern” explanatory paragraph or like qualification that is due to (i) the impending maturity of any Indebtedness, (ii) any anticipated inability to satisfy the Financial Covenant or any other financial covenant or (iii) an actual Default of the Financial Covenant or any default with respect to any other financial covenant);

2. within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (or, solely for the fiscal quarters ending on or about September 30, 2017 and March 31, 2018, seventy-five (75) days after the end of such fiscal quarter and solely for the fiscal quarters ending on or about March 31, 2018 and June 30, 2018, and September 29, 2018, sixty (60) days after the end of such fiscal quarter) commencing with the fiscal quarter ended on or about September 30, 2017, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related (a) consolidated statement of operations for such fiscal quarter and for the portion of the fiscal year then ended and (b) consolidated statement of cash flows for the portion of the fiscal year then ended, setting forth commencing with the fiscal quarter ending on or about September 29, 2018, (x) in the case of the preceding clause (a), in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year and (y) in the case of the preceding clause (b), in comparative form the figures for the corresponding portion of the previous fiscal year provided that for any fiscal quarter ending in fiscal year 2018,
comparative figures of prior fiscal periods shall be limited to the corresponding fiscal quarter of fiscal year 2017 (and not for the portion of the fiscal year then ended), accompanied by an Officer’s Certificate stating that such financial statements fairly present in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject to normal year-end adjustments and the absence of footnotes, together with related notes thereto;

(3) within ninety (90) days after the end of each fiscal year of the Borrower (or, solely for the fiscal year ending on or about December 30, 2017, one hundred and fifty (150) days and solely for the year ending on or about December 29, 2018, one hundred and twenty (120) days) commencing with the fiscal year ending on or about December 30, 2017, a consolidated budget for the following fiscal year in form customarily prepared with regard to the Borrower and its Restricted Subsidiaries, which budget shall be prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such budget (it being understood that any projections contained therein are not to be viewed as facts, are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties and that no assurance can be given that any particular projections will be realized, that actual results may differ and that such differences may be material); provided that the requirements of this Section 6.01(3) shall not apply at any time following the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date;

(4) simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(1) and 6.01(2), the related unaudited (it being understood that such information may be audited at the option of the Borrower) consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements; and

(5) at a time mutually agreed with the Administrative Agent that is promptly after the delivery of the information required pursuant to Sections 6.01(1) and 6.01(2) above, to participate in one conference call for Lenders (if requested by the Administrative Agent) to discuss the financial position and results of operations of the Borrower and its Subsidiaries for the most recently ended period for which financial statements have been delivered, which conference call will only pertain to matters available or distributed to “public side” Lenders; provided that if the Borrower holds a conference call open to the public or holders of any public securities to discuss the financial condition and results of operations of the Borrower and its Subsidiaries for the most recently ended measurement period for which financial statements have been delivered pursuant to Sections 6.01(1) or 6.01(2) above, such conference call will be deemed to satisfy the requirements of this Section 6.01(5).

Notwithstanding the foregoing, the obligations referred to in Sections 6.01(1) and 6.01(2) may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (A) the applicable financial statements of any Parent Company or (B) the Borrower’s or such Parent Company’s Form 10-K or 10-Q, as applicable, filed with the SEC (and the public filing of such report with the SEC shall constitute delivery under this Section 6.01); provided that with respect to each of the preceding clauses (A) and (B), (1) to the extent such information relates to a parent of the Borrower, if and so long as such Parent Company will have Independent Assets or Operations, such information is accompanied by consolidating information (which need not be audited) that explains in reasonable detail the differences between the information relating to such Parent Company and its Independent Assets or Operations, on the one hand, and the information relating to the Borrower and the consolidated Restricted Subsidiaries on a stand-alone basis, on the other hand and (2) to the extent such information is in lieu of
information required to be provided under Section 6.01(1) (it being understood that such information may be audited at the option of the Borrower), such materials are accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion (a) will be prepared in accordance with generally accepted auditing standards and (b) will not be subject to any qualification as to the scope of such audit (but may contain a “going concern” explanatory paragraph or like qualification that is due to (i) the impending maturity of any Indebtedness, (ii) any anticipated inability to satisfy the Financial Covenant or any other financial covenant or (iii) an actual Default of the Financial Covenant or any default with respect to any other financial covenant).

Any financial statements required to be delivered pursuant to Sections 6.01(1) or 6.01(2) shall not be required to contain all purchase accounting adjustments relating to the Transactions or any other transaction(s) permitted hereunder to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in this Section 6.02):

(1) no later than five (5) days after the delivery of the financial statements referred to in Sections 6.01(1) and (2) (commencing with such delivery for the fiscal year ended on or about December 30, 2017), a duly completed Compliance Certificate signed by a Financial Officer of the Borrower;

(2) promptly after the same are publicly available, copies of all special reports and registration statements which the Borrower or any Restricted Subsidiary files with the SEC or with any Governmental Authority that may be substituted therefor or with any national securities exchange, as the case may be (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02;

(3) promptly after the furnishing thereof, copies of any notices of default to any holder of any class or series of debt securities of any Loan Party having an aggregate outstanding principal amount greater than the Threshold Amount or pursuant to the terms of the Second Lien Credit Agreement so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount (in each case, other than in connection with any board observer rights) and not otherwise required to be furnished to the Administrative Agent pursuant to any other clause of this Section 6.02;

(4) together with the delivery of the Compliance Certificate with respect to the financial statements referred to in Section 6.01(1), (a) a report setting forth the information required by Section 1(a) of the Perfection Certificate (or confirming that there has been no change in such information since the later of the Closing Date or the last report delivered pursuant to this clause (a)) and (b) a list of each Subsidiary of the Borrower that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such list or a confirmation that there is no change in such information since the later of the Closing Date and the last such list; and
(5) promptly, but subject to the limitations set forth in Section 6.10 and Section 10.09, such additional information regarding the business and financial affairs of any Loan Party or any Material Subsidiary that is a Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request in writing from time to time.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02(2) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which the Borrower posts such documents, or provides a link thereto, on the Borrower’s (or any Parent Company’s) website on the Internet at the website address listed on Schedule 10.02 hereto (or as such address may be updated from time to time in accordance with Section 10.02); or (b) on which such documents are posted on the Borrower’s behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (i) upon written request by the Administrative Agent, the Borrower will deliver paper copies of such documents to the Administrative Agent for further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in this Section 6.02) until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents or link and, upon the Administrative Agent’s request, provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders and the Issuing Banks materials or information provided by or on behalf of the Borrower hereunder (collectively, the “Borrower Materials”) by posting the Borrower Materials on Intralinks, SyndTrak, ClearPar or another similar electronic system (the “Platform”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to Holdings, their Subsidiaries or their respective securities that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities (each, a “Public Lender”). The Borrower hereby agrees that (i) at the Administrative Agent’s request, all Borrower Materials that are to be made available to Public Lenders will be clearly and conspicuously marked “PUBLIC” which, at a minimum, means that the word “PUBLIC” will appear prominently on the first page thereof; (ii) by marking Borrower Materials “PUBLIC,” the Borrower will be deemed to have authorized the Administrative Agent, the Lenders and the Issuing Banks to treat such Borrower Materials as containing only Public-Side Information (provided, however, that to the extent such Borrower Materials constitute Information, they will be treated as set forth in Section 10.09); (iii) all Borrower Materials marked “PUBLIC” and, except to the extent the Borrower notifies the Administrative Agent to the contrary, any Borrower Materials provided pursuant to Sections 6.01(1), 6.01(2) or 6.02(1) are permitted to be made available through a portion of the Platform designated as “Public Side Information”; and (iv) the Administrative Agent and the Arrangers shall be entitled to treat Borrower Materials that are not specifically identified as “PUBLIC” as being suitable only for posting on a portion of the Platform not designated as “Public Side Information.” Notwithstanding the foregoing, the Borrower shall be under no obligation to mark the Borrower Materials “PUBLIC.”

Anything to the contrary notwithstanding, nothing in this Agreement will require Holdings, the Borrower or any Subsidiary to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter, or provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by Law or binding agreement or (iii) that is subject to attorney-client or
similar privilege or constitutes attorney work product; provided that in the event that the Borrower does not provide information that otherwise would be required to be provided hereunder in reliance on the exclusions in this paragraph relating to violation of any obligation of confidentiality, the Borrower shall use commercially reasonable efforts to provide notice to the Administrative Agent promptly upon obtaining knowledge that such information is being withheld (but solely if providing such notice would not violate such obligation of confidentiality).

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent of:

1. the occurrence of any Default; and
2. (a) any dispute, litigation, investigation or proceeding between any Loan Party and any arbitrator or Governmental Authority, (b) the filing or commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any of its Subsidiaries, including pursuant to any applicable Environmental Laws or in respect of IP Rights, the occurrence of any violation by any Loan Party or any of its Subsidiaries of, or liability under, any Environmental Law or Environmental Permit, or (c) the occurrence of any ERISA Event that, in any such case referred to in clauses (a), (b) or (c) of this Section 6.03(2), has resulted or would reasonably be expected to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower (a) that such notice is being delivered pursuant to Section 6.03(1) or (2) (as applicable) and (b) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

SECTION 6.04 Payment of Obligations. Timely pay, discharge or otherwise satisfy, as the same shall become due and payable, all of its obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (1) any such Tax is being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with GAAP or (2) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 6.05 Preservation of Existence, etc.

1. Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization; and
2. take all reasonable action to obtain, preserve, renew and keep in full force and effect its rights, licenses, permits, privileges, franchises, and IP Rights material to the conduct of its business,

except in the case of clause (1) or (2) to the extent (other than with respect to the preservation of the existence of the Borrower) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or pursuant to any merger, consolidation, liquidation, dissolution or disposition permitted by Article VII.

SECTION 6.06 Maintenance of Properties. Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted and any repairs and replacements that are the obligation of the owner or landlord of any property leased by the Borrower or any of the Restricted Subsidiaries excepted.

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SECTION 6.07 Maintenance of Insurance. Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to the Borrower’s and the Restricted Subsidiaries’ 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 reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons, and will furnish to the Lenders, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried; provided that notwithstanding the foregoing, in no event will the Borrower or any Restricted Subsidiary be required to obtain or maintain insurance that is more restrictive than its normal course of practice. Subject to Section 6.13(2), each such policy of insurance will, as appropriate, (i) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear or (ii) in the case of each casualty insurance policy, contain an additional loss payable clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties, as the additional loss payee thereunder.

SECTION 6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and comply with the USA PATRIOT Act, sanctions administered by OFAC and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain proper books of record and account, in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that certain Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent 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 (subject to such accountants’ customary policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year absent the existence of an Event of Default and only one (1) such time shall be at the Borrower’s expense; provided further that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent shall give the Borrower the opportunity to participate in any discussions with the Borrower’s independent public accountants. For the avoidance of doubt, this Section 6.10 is subject to the last paragraph of Section 6.02.
SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower’s expense, subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document, take all action necessary or reasonably requested by the Administrative Agent or the Collateral Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(1) (x) upon (i) the formation or acquisition of any new direct or indirect wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) by any Loan Party, (ii) the designation of any existing direct or indirect wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) as a Restricted Subsidiary, (iii) any Subsidiary (other than any Excluded Subsidiary) becoming a wholly owned Material Domestic Subsidiary or (iv) an Excluded Subsidiary that is a wholly owned Material Domestic Subsidiary ceasing to be an Excluded Subsidiary but continuing as a wholly owned Material Domestic Subsidiary of the Borrower, (y) upon the acquisition of any material assets by the Borrower or any Subsidiary Guarantor or (z) with respect to any Subsidiary at the time it becomes a Loan Party, for any material assets held by such Subsidiary (in each case, other than assets constituting Collateral under a Collateral Document that becomes subject to the Lien created by such Collateral Document upon acquisition thereof (without limitation of the obligations to perfect such Lien) but excluding Excluded Assets):

(a) within the days specified below after such formation, acquisition or designation or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor under the Collateral and Guarantee Requirement to execute the Guaranty (or a joinder thereto) and other documentation the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Guaranty and the Collateral Documents and

(A) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after such formation, acquisition or designation, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent items listed in Section 6.11(2)(b), mutatis mutandis, with respect to any supplements to the Security Agreement, a counterpart signature page to the Intercompany Note, Intellectual Property Security Agreements and other security agreements and documents (if applicable), as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (consistent with the Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date as amended and in effect from time to time), in each case granting and perfecting Liens required by the Collateral and Guarantee Requirement;

(B) within sixty (60) days after such formation, acquisition or designation, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and, if applicable, a joinder to the Intercompany Note substantially in the form of Annex I thereto with respect to the intercompany Indebtedness held by such Material Domestic Subsidiary and required to be pledged pursuant to the Collateral Documents;
(C) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after such formation, acquisition or designation, take and cause (i) the applicable Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement and (ii) to the extent applicable, each direct or indirect parent of such applicable Material Domestic Subsidiary, in each case, to take customary action(s) (including the filing of Uniform Commercial Code financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected (subject to Liens permitted by Section 7.01) Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(D) within sixty (60) days (or ninety (90) days in the case of documents described in Section 6.11(2)(b)) after the reasonable request therefor by the Administrative Agent, deliver to the Administrative Agent a signed copy of a customary Opinion of Counsel, addressed to the Administrative Agent and the Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(1) as the Administrative Agent may reasonably request;

provided that actions relating to Liens on real property are governed by Section 6.11(2) and not this Section 6.11(1).

(2) Material Real Property.

(a) Notice.

(i) Within ninety (90) days after the formation, acquisition or designation of a Material Domestic Subsidiary that is required to become a Subsidiary Guarantor under the Collateral and Guarantee Requirement, the Borrower will, or will cause such Material Domestic Subsidiary to, furnish to the Collateral Agent a description of any Material Real Property (other than any Excluded Asset(s)) owned by such Material Domestic Subsidiary.

(ii) Within ninety (90) days after the acquisition of any Material Real Property (other than any Excluded Asset(s)) by a Loan Party (other than Holdings), after the Closing Date, the Borrower will, or will cause such Loan Party to, furnish to the Collateral Agent a description of any such Material Real Property.

(b) Mortgages. The Borrower will, or will cause the applicable Loan Party to, provide the Collateral Agent with a Mortgage with respect to any Material Real Property that is the subject of a notice delivered pursuant to Section 6.11(2)(a), within ninety (90) days of the acquisition, formation or designation of such Material Domestic Subsidiary or the acquisition of such Material Real Property (or such longer period as the Collateral Agent may agree in its sole discretion), together with:

(i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create, except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 7.01, a valid and subsisting perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;
(ii) fully paid American Land Title Association Lender’s title insurance policies (or marked up title commitments having the effect of policies of title insurance) or the equivalent or other form available in each applicable jurisdiction (the “Mortgage Policies”) in form and substance, with endorsements available in the applicable jurisdiction without surveys or survey coverage (it being agreed that zoning reports from a nationally recognized zoning company shall be acceptable in lieu of zoning endorsements to title policies in any jurisdiction where there is a material difference in the cost of zoning reports and zoning endorsements and in amounts, reasonably acceptable to the Collateral Agent (not to exceed the fair market value of the real properties covered thereby), issued, co-insured and reinsured by title insurers reasonably acceptable to the Collateral Agent, insuring the Mortgages to be valid subsisting Liens on the property described therein, subject only to Liens permitted by Section 7.01 or such other Liens reasonably satisfactory to the Collateral Agent that do not have a material adverse impact on the use or value of the Mortgaged Properties, and providing for such other affirmative insurance and such co-insurance and direct access reinsurance as the Collateral Agent may reasonably request and is available in the applicable jurisdiction;

(iii) customary Opinions of Counsel for the applicable Loan Parties in states in which such Material Real Properties are located, with respect to the enforceability and perfection of the Mortgage(s) and any related fixture filings and the due authorization, execution and delivery of the Mortgages, in form and substance reasonably satisfactory to the Collateral Agent;

(iv) a completed “Life of Loan” Federal Emergency Management Agency standard flood hazard determination with respect to each Material Real Property containing improved land addressed to the Collateral Agent and otherwise in compliance with the Flood Insurance Laws; and

(v) as promptly as practicable after the reasonable request therefor by the Collateral Agent, environmental assessment reports and reliance letters (if any) that have been prepared in connection with such acquisition, designation or formation of any Material Domestic Subsidiary or acquisition of any Material Real Property; provided that there shall be no obligation to deliver to the Collateral Agent any environmental assessment report whose disclosure to the Collateral Agent would require the consent of a Person other than the Borrower or one of its Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained.

(3) Notwithstanding anything to the contrary in this Section 6.11, the Collateral Agent may grant one or more extensions of time from any time period set forth herein for the taking of or causing any action, delivering or furnishing any notice, information, documents, insurance or opinions or for the creation and perfection of any Liens in its reasonable discretion and any such extensions may, in the sole discretion of the Collateral Agent, be effective retroactively.

SECTION 6.12 Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (1) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits (including any cleanup, removal or remedial obligations) and (2) obtain and renew all Environmental Permits required to conduct its operations or in connection with its properties.
SECTION 6.13 Further Assurances and Post-Closing Covenant.

(1) Subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document and in each case at the expense of the Borrower, promptly upon reasonable request from time to time by the Administrative Agent or the Collateral Agent or as may be required by applicable Laws (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to satisfy the Collateral and Guarantee Requirement.

(2) As promptly as practicable, and in any event no later than one hundred and twenty (120) days after the Closing Date or such later date as the Administrative Agent reasonably agrees to in writing, including to reasonably accommodate circumstances unforeseen on the Closing Date, (a) deliver the documents or take the actions required pursuant to sub clauses (i) through (v) of Section 6.11(2)(b) hereof with respect to any Material Real Properties listed in Schedule 1.01(2) and (b) deliver the documents or take the actions specified in Schedule 6.13(2), in each case except to the extent otherwise agreed by the Collateral Agent pursuant to its authority as set forth in the definition of the term “Collateral and Guarantee Requirement.”

SECTION 6.14 Use of Proceeds. The proceeds of (a) the Closing Date Term Loans made on the Closing Date, together with the proceeds of the Second Lien Initial Term Loans, any Revolving Loans drawn on the Closing Date (to the extent permitted under this Agreement) and cash on hand, will be used (i) to fund the Transactions, and (b) any Revolving Loans will be used for working capital and general corporate purposes and for any other purpose not prohibited by the Loan Documents; provided that the Closing Date Revolving Facility shall not be utilized to finance the Parent Distribution, (c) the Initial Incremental Term Loans will be used solely (i) to finance certain acquisitions and investments, including all or a portion of the purchase price for SkyHigh Networks, Inc., (ii) to pay fees, costs and expenses related to such acquisitions and investment and the transactions contemplated by the First Amendment and any other transaction occurring on the First Amendment Effective Date and (iii) for other general corporate purposes not prohibited by this Agreement and the transactions contemplated by the First Amendment and any other transaction occurring on the First Amendment Effective Date and (iii) for other general corporate purposes not prohibited by this Agreement and (d) the Term B Loans made on the Second Amendment Effective Date will be used (i) to refinance the Closing Date Term Loans on the Second Amendment Effective Date and (ii) to pay fees, costs and expenses in connection therewith.

SECTION 6.15 Maintenance of Ratings. Use commercially reasonable efforts to maintain (1) a public corporate credit rating (but not any specific rating) from S&P and a public corporate family rating (but not any specific rating) from Moody’s, in each case in respect of the Borrower, and (2) a public rating (but not any specific rating) in respect of each Term Facility comprising the Term B Loans as of the Closing Second Amendment Effective Date from each of S&P and Moody’s.

Article VII

Negative Covenants

So long as the Termination Conditions are not satisfied:
SECTION 7.01 Liens. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly, create, incur or assume any Lien (except any Permitted Lien(s)) that secures obligations under any Indebtedness or any related guarantee of Indebtedness on any asset or property of the Borrower or any Restricted Subsidiary, or any income or profits therefrom.

The expansion of Liens by virtue of accretion or amortization of original issue discount, the payment of dividends in the form of Indebtedness, and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 7.01.

SECTION 7.02 Indebtedness.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly:

(i) create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness), or

(ii) issue any shares of Disqualified Stock or permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock;

provided that the Borrower may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, in each case, if (any Indebtedness, Disqualified Stock or Preferred Stock incurred or issued pursuant to following clauses (A), (B) and (C), “Permitted Ratio Debt”):

(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 4.25 to 1.00;

(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 5.25 to 1.00; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 5.50 to 1.00,

in each case, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such Test Period;

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provided further that (I) Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under this Section 7.02(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to this Section 7.02(a), together with any principal amounts incurred or issued by such Restricted Subsidiaries under Section 7.02(b)(14)(a) and Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), in each case then outstanding, would exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (i) $500.0 million and (ii) 65.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), (II) Permitted Ratio Debt in the form of Indebtedness (x) shall not mature earlier than the Original Term Loan Maturity Date and (y) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Closing Date Term B Loans on the date of incurrence of such Permitted Ratio Debt, (III) if the terms of any such Permitted Ratio Debt in the form of revolving loans or commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility and (IV) if any such Indebtedness in clause (A) of the definition of Permitted Ratio Debt consists of syndicated Dollar-denominated or Euro-denominated term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14.

(b) The provisions of Section 7.02(a) will not apply to:

(1) Indebtedness under the Loan Documents (including Incremental Loans, Other Loans, Extended Term Loans, Loans made pursuant to Extended Revolving Commitments and Replacement Loans);

(2) the incurrence by the Borrower and any Guarantor of Indebtedness pursuant to the Second Lien Credit Documents or consisting of “Permitted Incremental Equivalent Debt” (or equivalent term) (as defined in the Second Lien Credit Agreement) or any Refinancing Indebtedness in respect thereof (including any “Credit Agreement Refinancing Indebtedness” (or equivalent term) (as defined in the Second Lien Credit Agreement)) in an aggregate outstanding principal amount not to exceed $600.0 million (plus (x)(i) the amount of any “Incremental Loans” and “Permitted Incremental Equivalent Debt” (or equivalent terms) (each, as defined in the Second Lien Credit Agreement (as in effect on the date hereof)) permitted under Sections 2.14(4)(c) and 7.02 (or equivalent provisions) of the Second Lien Credit Agreement (as in effect on the date hereof) and (ii) any Refinancing Indebtedness in respect thereof and (y) the amount of accrued interest, fees and premiums (including tender premium) and penalties (if any) with respect to any such Indebtedness under this clause (b)(2) refinanced, and fees, expenses, original issue discount and upfront fees incurred in connection with any such refinancing);

(3) the incurrence of Indebtedness by the Borrower and any Restricted Subsidiary in existence on the Closing Date (excluding Indebtedness described in the preceding clauses (1) and (2)); provided that any such item of Indebtedness with an aggregate outstanding principal amount on the Closing Date in excess of $15.0 million shall be set forth on Schedule 7.02;
(4) the incurrence of Attributable Indebtedness and Indebtedness (including Capitalized Lease Obligations and Purchase Money Obligations) and Disqualified Stock incurred or issued by the Borrower or any Restricted Subsidiary and Preferred Stock issued by any Restricted Subsidiary, to finance the purchase, lease, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or other assets, including assets that are used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets in an aggregate principal amount, together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts) and all other Indebtedness, Disqualified Stock or Preferred Stock incurred or issued and outstanding under this clause (4) at such time, not to exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (I) $230.0 million and (II) 30.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis);

(5) Indebtedness incurred by the Borrower or any Restricted Subsidiary (a) constituting reimbursement obligations with respect to letters of credit, bank guarantees, banker’s acceptances, warehouse receipts, or similar instruments issued or entered into, or relating to obligations or liabilities incurred, in the ordinary course of business or consistent with industry practice, including in respect of workers’ compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance, unemployment insurance or other social security legislation or other Indebtedness with respect to reimbursement-type obligations regarding workers’ compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or (b) as an account party in respect of letters of credit, bank guarantees or similar instruments in favor of suppliers, trade creditors or other Persons issued or incurred in the ordinary course of business or consistent with industry practice;

(6) the incurrence of Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnouts, other contingent consideration obligations and other deferred purchase price or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;

(7) the incurrence of Indebtedness by the Borrower and owing to a Restricted Subsidiary or the issuance of Disqualified Stock of the Borrower to a Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to any Restricted Subsidiary); provided that any such Indebtedness for borrowed money owing to a Restricted Subsidiary that is not a Guarantor is expressly subordinated in right of payment to the Loans to the extent permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness or Disqualified Stock (except to the Borrower or another Restricted Subsidiary or any pledge of such Indebtedness or Disqualified Stock constituting a Permitted Lien) will be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) or issuance of such Disqualified Stock (to the extent such Disqualified Stock is then outstanding) not permitted by this clause (7);
(8) the incurrence of Indebtedness of a Restricted Subsidiary to the Borrower or another Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to the Borrower or any Restricted Subsidiary) to the extent permitted by Section 7.05; provided that any such Indebtedness for borrowed money incurred by a Guarantor and owing to a Restricted Subsidiary that is not a Guarantor is expressly subordinated in right of payment to the Guaranty of the Loans of such Guarantor to the extent permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any such subsequent transfer of any such Indebtedness (except to the Borrower or a Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien) will be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause (8);

(9) the issuance of shares of Preferred Stock or Disqualified Stock of a Restricted Subsidiary to the Borrower or a Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to the Borrower or any Restricted Subsidiary); provided that any subsequent issuance or transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary that holds such Preferred Stock or Disqualified Stock ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock or Disqualified Stock (except to the Borrower or another Restricted Subsidiary or any pledge of such Preferred Stock or Disqualified Stock constituting a Permitted Lien) will be deemed, in each case, to be an issuance of such shares of Preferred Stock or Disqualified Stock (to the extent such Preferred Stock or Disqualified Stock is then outstanding) not permitted by this clause (9);

(10) the incurrence of Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes);

(11) the incurrence of obligations in respect of self-insurance and obligations in respect of performance, bid, appeal and surety bonds and performance, banker’s acceptance facilities and completion guarantees and similar obligations provided by the Borrower or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with industry practice, including those incurred to secure health, safety and environmental obligations;

(12) the incurrence of:

(a) Indebtedness or issuance of Disqualified Stock of the Borrower and the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference up to 200.0% of the net cash proceeds received by the Borrower since the Closing Date from the issue or sale of Equity Interests of the Borrower or contributions to the capital of the Borrower, including through consolidation, amalgamation or merger (in each case, other than proceeds of Disqualified Stock or any exercise of the cure right set forth in Section 8.04 and other than proceeds received from the Borrower or a Restricted Subsidiary) as determined in accordance with clauses (3)(b) and (3)(c) of Section 7.05(a) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments pursuant to Section 7.05(a) or to make Permitted Investments (other than Permitted Investments specified in clause (1), (2) or (3) of the definition thereof); and

(b) Indebtedness or issuance of Disqualified Stock of the Borrower and the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference that,
when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (12)(b), together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) (i) the greater of (I) $200.0 million and (II) 25.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus, without duplication, (ii) in the event of any extension, replacement, refinancing, renewal or defeasance of any such Indebtedness, Disqualified Stock or Preferred Stock, an amount equal to (x) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased plus (y) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Indebtedness, Disqualified Stock or Preferred Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Disqualified Stock or Preferred Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such Indebtedness, Disqualified Stock or Preferred Stock, minus (iii) any General Debt Basket Reallocated Amount;

(13) the incurrence or issuance by the Borrower of Refinancing Indebtedness or the incurrence or issuance by a Restricted Subsidiary of Refinancing Indebtedness that serves to Refinance any Indebtedness (including any Designated Revolving Commitments) permitted under Section 7.02(a) and clauses (b)(3) and (12)(a) above, this clause (13) and clauses (14) and (30), or any successive Refinancing Indebtedness with respect to any of the foregoing;

(14) (a) the incurrence or issuance of:

(x) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary, incurred or issued to finance an acquisition or investment (or other purchase of assets), or

(y) Indebtedness, Disqualified Stock or Preferred Stock (I) of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement or (II) that is assumed by the Borrower or any Restricted Subsidiary in connection with such acquisition or investment (or other purchase of assets),

in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), not to exceed (i) the greater of $270.0 million and 35.0% of Consolidated EBITDA plus (ii) an unlimited amount so long as in the case of this clause (ii) only, either:

(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 4.25 to 1.00 and (II) the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness;
(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 5.25 to 1.00 and (II) the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 5.50 to 1.00 and (II) the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness or the issuance of such Disqualified Stock or Preferred Stock;

provided that (x) with respect to such Indebtedness, Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under clause (14)(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to clause (14)(a), together with any principal amounts incurred, assumed or issued by such Restricted Subsidiaries under Section 7.02(a) and any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), would exceed (as of the date of such Indebtedness) the greater of (i) $500.0 million and (ii) 65.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), (y) such Indebtedness (I) shall not mature earlier than the Original Term Loan Maturity Date and (II) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Closing Date Term B Loans on the date of incurrence of such Indebtedness and (z) if any Indebtedness under clause (i) or clause (ii)(A) consists of syndicated Dollar-denominated or Euro-denominated term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14;

(b) so long as not created in contemplation of such acquisition or investment, (i) Indebtedness or Disqualified Stock that is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition or investment (or other purchase of assets) and (ii) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement, in each case in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), not to exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is assigned or acquired) (A) the greater of $115.0 million and 15.0% of Consolidated EBITDA of the Borrower and the Restricted
Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus (B) an unlimited amount of Indebtedness, Disqualified Stock or Preferred stock so long as, after giving pro forma effect to the assumption or acquisition of such Indebtedness, Disqualified Stock or Preferred stock and such acquisition or investment (or other purchase of assets), the Borrower is in compliance with the Financial Covenant (whether or not then in effect) calculated on a pro forma basis as of the last day of the most recently ended Test Period;

(15) the incurrence of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or consistent with industry practice;

(16) the incurrence of Indebtedness of the Borrower or any Restricted Subsidiary supported by letters of credit or bank guarantees issued in connection herewith, any Credit Agreement Refinancing Indebtedness or Permitted Incremental Equivalent Debt, in each case, in a principal amount not in excess of the stated amount of such letters of credit or bank guarantees;

(17) (a) the incurrence of any guarantee by the Borrower or a Restricted Subsidiary of Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations incurred by the Borrower or such Restricted Subsidiary is permitted by this Agreement, or (b) any co-issuance by the Borrower or any Restricted Subsidiary of any Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations by the Borrower or such Restricted Subsidiary is permitted by this Agreement;

(18) the incurrence of Indebtedness issued by the Borrower or any Restricted Subsidiary to future, present or former employees, directors, officers, members of management, consultants and independent contractors thereof, their respective Controlled Investment Affiliates or Immediate Family Members and permitted transferees thereof, in each case to finance the purchase or redemption of Equity Interests of the Borrower or any Parent Company to the extent described in Section 7.05(b)(4);

(19) customer deposits and advance payments received in the ordinary course of business or consistent with industry practice from customers for goods and services purchased in the ordinary course of business or consistent with industry practice;

(20) the incurrence of (a) Indebtedness owed to banks and other financial institutions incurred in the ordinary course of business or consistent with industry practice in connection with ordinary banking arrangements to manage cash balances of the Borrower and its Restricted Subsidiaries and (b) Indebtedness in respect of Cash Management Services, including Cash Management Obligations;

(21) Indebtedness incurred by a Restricted Subsidiary in connection with bankers’ acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business or consistent with industry practice on arm’s-length commercial terms;

(22) the incurrence of Indebtedness of the Borrower or any Restricted Subsidiary consisting of (a) the financing of insurance premiums or (b) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business or consistent with industry practice;
(23) the incurrence of Indebtedness, Disqualified Stock or Preferred Stock by Restricted Subsidiaries of the Borrower that are not Guarantors in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (23), together with any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness is issued, incurred or otherwise obtained) the greater of (I) $270.0 million and (II) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis);

(24) the incurrence of Indebtedness by the Borrower or any Restricted Subsidiary undertaken in connection with cash management (including netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and related or similar services or activities) with respect to the Borrower, any Subsidiaries or any joint venture in the ordinary course of business or consistent with industry practice, including with respect to financial accommodations of the type described in the definition of Cash Management Services;

(25) Qualified Securitization Facilities and, to the extent constituting Indebtedness, Receivables Financing Transactions;

(26) guarantees incurred in the ordinary course of business or consistent with industry practice in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners;

(27) the incurrence of Indebtedness attributable to (but not incurred to finance) the exercise of appraisal rights or the settlement of any claims or actions (whether actual, contingent or potential) with respect to the Transactions or any other acquisition (by merger, consolidation or amalgamation or otherwise) in accordance with the terms hereof;

(28) the incurrence of Indebtedness representing deferred compensation to employees of any Parent Company, the Borrower or any Restricted Subsidiary, including Indebtedness consisting of obligations under deferred compensation or any other similar arrangements incurred in connection with the Transactions, any investment or any acquisition (by merger, consolidation or amalgamation or otherwise) permitted under this Agreement;

(29) the incurrence of Indebtedness arising out of any Sale-Leaseback Transaction incurred in the ordinary course of business or consistent with industry practice;

(30) (a) Credit Agreement Refinancing Indebtedness and (b) Permitted Incremental Equivalent Debt;

(31) the incurrence of Indebtedness, Disqualified Stock or Preferred Stock by Restricted Subsidiaries of the Borrower that are not Guarantors to fund working capital requirements in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (31), together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (I) $40.0 million and (II) 5.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis); and
(32) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (1) through (31) above.

(c) For purposes of determining compliance with this Section 7.02:

(1) the principal amount of Indebtedness outstanding under any clause of this Section 7.02 will be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness;

(2) guarantees of, or obligations in respect of letters of credit relating to, Indebtedness that are otherwise included in the determination of a particular amount of Indebtedness will not be included in the determination of such amount of Indebtedness; provided that the incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was incurred in compliance with this Section 7.02.

The accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies, in each case, will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 7.02. Any Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, to refinance Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, pursuant to clauses (2), (3), (4), (12), (13), (14), (23), (30) and (31) of Section 7.02(b) will be permitted to include additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay (I) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased and (II) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock (and with respect to Indebtedness under Designated Revolving Commitments, including an amount equal to any unutilized Designated Revolving Commitments being refinanced, extended, replaced, refunded, renewed or defeased to the extent permanently terminated at the time of incurrence of such Refinancing Indebtedness).

For purposes of determining compliance with any Dollar denominated restriction on the incurrence of Indebtedness or issuance of Disqualified Stock or Preferred Stock, the Dollar equivalent principal amount of Indebtedness or liquidation preference of Disqualified Stock or amount of Preferred Stock denominated in a foreign currency will be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness, Disqualified Stock or Preferred Stock was incurred or issued (or, in the case of revolving credit debt, the date such Indebtedness was first committed or first incurred (whichever yields the lower Dollar equivalent)); provided that if such Indebtedness, Disqualified Stock or Preferred Stock is issued to Refinance other Indebtedness, Disqualified Stock or Preferred Stock denominated in a foreign currency, and such refinancing would cause the applicable Dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar denominated restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness, Disqualified Stock or Preferred Stock does not exceed (i) the principal amount of such Indebtedness, the liquidation preference of such Disqualified Stock or the amount of such Preferred Stock (as applicable) being refinanced, extended, replaced, refunded, renewed
or defeased plus (ii) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased, plus (iii) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock (and with respect to Indebtedness under Designated Revolving Commitments, including an amount equal to any unutilized Designated Revolving Commitments being refinanced, extended, replaced, refunded, renewed or defeased to the extent permanently terminated at the time of incurrence of such Refinancing Indebtedness).

The principal amount of any Indebtedness incurred or Disqualified Stock or Preferred Stock issued to refinance other Indebtedness, Disqualified Stock or Preferred Stock, if incurred or issued in a different currency from the Indebtedness, Disqualified Stock or Preferred Stock, as applicable, being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness or Disqualified Stock or Preferred Stock is denominated that is in effect on the date of such refinancing. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date will be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

SECTION 7.03 Fundamental Changes. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, consolidate, amalgamate or merge with or into or wind up into another Person, or liquidate or dissolve 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 (other than as part of the Transactions), except that:

(1) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); provided that

(a) the Borrower shall be the continuing or surviving Person,

(b) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia and

(c) in the case of a merger or consolidation of Holdings with and into the Borrower,

(i) Holdings shall not be an obligor in respect of any Indebtedness that is not permitted to be Indebtedness of the Borrower under this Agreement,

(ii) Holdings shall have no direct Subsidiaries at the time of such merger or consolidation other than the Borrower,

(iii) no Event of Default exists at such time or after giving effect to such transaction and
(iv) after giving effect to such transaction, a direct parent of the Borrower will (A) expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower and (B) pledge 100% of the Equity Interests of the Borrower held by such direct parent to the Administrative Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Administrative Agent and the Borrower;

(2) (a) any Restricted Subsidiary that is not a Loan Party may merge or consolidate with or into any other Restricted Subsidiary that is not a Loan Party,

(b) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary that is a Loan Party; provided that a Loan Party shall be the continuing or surviving Person;

(c) any merger the sole purpose of which is to reincorporate or reorganize a Loan Party in another jurisdiction in the United States will be permitted; and

(d) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders; provided that in the case of clause (d), the Person who receives the assets of such dissolving or liquidated Restricted Subsidiary that is a Guarantor shall be a Loan Party or such disposition shall otherwise be permitted under Section 7.05 or the definition of “Permitted Investments”;

(3) any Restricted Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Restricted Subsidiary;

(4) so long as no Event of Default has occurred and is continuing or would result therefrom, the Borrower may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person; provided that (a) the Borrower shall be the continuing or surviving corporation or (b) if the Person formed by or surviving any such merger or consolidation is not the Borrower (or, in connection with a disposition of all or substantially all of the Borrower’s assets, is the transferee of such assets) (any such Person, a “Successor Borrower”):

(i) the Successor Borrower will:

(A) be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,

(B) expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower and

(C) deliver to the Administrative Agent (I) an Officer’s Certificate stating that such merger or consolidation or other transaction and such supplement to this Agreement or any Loan Document (as applicable) comply with this Agreement and (II) an Opinion of Counsel including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent;
(ii) substantially contemporaneously with such transaction (or at a later date as agreed by the Administrative Agent),

(A) each Guarantor, unless it is the other party to such merger or consolidation, will by a supplement to the Guaranty (or in another form reasonably satisfactory to the Administrative Agent and the Borrower) reaffirm its Guaranty of the Obligations (including the Successor Borrower’s obligations under this Agreement),

(B) each Loan Party, unless it is the other party to such merger or consolidation, will, by a supplement to the Security Agreement (or in another form reasonably satisfactory to the Administrative Agent), confirm its grant or pledge thereunder,

(C) if reasonably requested by the Administrative Agent, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, will, by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent and the Borrower), confirm that its obligations thereunder shall apply to the Successor Borrower’s obligations under this Agreement;

(iii) after giving pro forma effect to such incurrence, the Borrower would be permitted to incur at least $1.00 of additional Permitted Ratio Debt; and

(iv) to the extent reasonably requested by the Administrative Agent, the Administrative Agent shall have received at least two (2) Business Days prior to the consummation of such transaction all documentation and other information in respect of the Successor Borrower required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act;

provided further that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement and in the case of the disposition of all or substantially all assets, the original Borrower will be released;

(5) so long as no Event of Default has occurred and is continuing or would result therefrom, Holdings may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person; provided that (a) Holdings will be the continuing or surviving Person or (b) if:

(i) the Person formed by or surviving any such merger or consolidation is not Holdings,

(ii) Holdings is not the Person into which the applicable Person has been liquidated or

(iii) in connection with a disposition of all or substantially all of Holding’s assets, the Person that is the transferee of such assets is not Holdings (any such Person described in the preceding clauses (i) through (iii), a “Successor Holdings”), then the Successor Holdings will:
(A) be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,

(B) expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a
party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower,

(C) pledge 100% of the Equity Interests of the Borrower held by such Successor Holding Entity to the Administrative Agent as Collateral to secure the Obligations in accordance with the Security Agreement or otherwise in form and substance reasonably satisfactory to the Administrative Agent and the Borrower,

(D) if requested by the Administrative Agent, deliver, or cause the Borrower to deliver, to the Administrative Agent (I) an Officer’s Certificate stating that such merger or consolidation or other transaction and such supplement to this Agreement or any Collateral Document (as applicable) comply with this Agreement and (II) an Opinion of Counsel including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent; and

(iv) to the extent reasonably requested by the Administrative Agent, the Administrative Agent shall have received at least two (2) Business Days prior to the consummation of such transaction all documentation and other information in respect of the Successor Holdings required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act;

provided further that if the foregoing are satisfied, the Successor Holdings will succeed to, and be substituted for, Holdings under this Agreement and in the case of the disposition of all or substantially all assets, the original Holdings will be released;

(6) any Restricted Subsidiary may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person in order to effect a Permitted Investment or other investment permitted pursuant to Section 7.05;

(7) a merger, dissolution, liquidation, consolidation or disposition, the purpose of which is to effect a disposition permitted pursuant to Section 7.04 or a disposition that does not constitute any Asset Sale (other than a transaction described in clause (b) of the definition of Asset Sale);

(8) the Borrower, Holdings and any Restricted Subsidiary may (a) convert into a corporation, partnership, limited partnership, limited liability company or trust organized or existing under the laws of the jurisdiction of organization of the Borrower or the laws of a jurisdiction in the United States and (b) change its name; and

(9) the Loan Parties and the Restricted Subsidiaries may consummate the Transactions.
SECTION 7.04 Asset Sales. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, consummate any Asset Sale unless:

(1) the Borrower or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise in connection with such Asset Sale) at least equal to the fair market value (measured at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed of and

(2) except in the case of a Permitted Asset Swap, with respect to any Asset Sale pursuant to this Section 7.04 for a purchase price in excess of $50.0 million, at least 75.0% of the consideration for such Asset Sale, together with all other Asset Sales since the Closing Date (on a cumulative basis), received by the Borrower or a Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; provided that each of the following will be deemed to be cash or Cash Equivalents for purposes of this clause (2):

(a) any liabilities (as shown on the Borrower’s or any Restricted Subsidiary’s most recent balance sheet or in the footnotes thereto or if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Borrower’s or a Restricted Subsidiary’s balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such balance sheet, as determined in good faith by the Borrower) of the Borrower or any Restricted Subsidiary, other than liabilities that are by their terms subordinated in right of payment to the Obligations, that are (i) assumed by the transferee of any such assets (or a third party in connection with such transfer) or (ii) otherwise cancelled or terminated in connection with the transaction with such transferee (other than intercompany debt owed to the Borrower or a Restricted Subsidiary);

(b) any securities, notes or other obligations or assets received by the Borrower or any Restricted Subsidiary from such transferee or in connection with such Asset Sale (including earnouts and similar obligations) that are converted by the Borrower or a Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of such Asset Sale;

(c) any Designated Non-Cash Consideration received by the Borrower or any Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of (i) $155.0 million and (ii) 20.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), with the fair market value of each item of Designated Non-Cash Consideration being measured, at the Borrower’s option, either at the time of contractually agreeing to such Asset Sale or at the time received and, in either case, without giving effect to any subsequent change(s) in value;

(d) Indebtedness of any Restricted Subsidiary that ceases to be a Restricted Subsidiary as a result of such Asset Sale (other than intercompany debt owed to the Borrower or a Restricted Subsidiary), to the extent that the Borrower and each other Restricted Subsidiary are released from any guarantee of payment of the principal amount of such Indebtedness in connection with such Asset Sale; or
(e) any Investment, Capital Stock, assets, property or capital or other expenditure of the kind referred to in Section 2.05(2)(b)(ii).

To the extent any Collateral is disposed of as expressly permitted by this Section 7.04 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and, if requested by the Administrative Agent, upon the certification by the Borrower that such disposition is permitted by this Agreement, the Administrative Agent and the Collateral Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

SECTION 7.05 Restricted Payments.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly:

   (A) declare or pay any dividend or make any payment or distribution on account of the Borrower’s or any Restricted Subsidiary’s Equity Interests (in each case, solely in such Person’s capacity as holder of such Equity Interests), including any dividend or distribution payable in connection with any merger, amalgamation or consolidation, other than:

   (i) dividends, payments or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Borrower or a Parent Company or in options, warrants or other rights to purchase such Equity Interests; or

   (ii) dividends, payments or distributions by a Restricted Subsidiary so long as, in the case of any dividend, payment or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a wholly owned Subsidiary, the Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend, payment or distribution in accordance with its Equity Interests in such class or series of securities or such other amount to which it is entitled pursuant to the terms of such Equity Interest;

   (B) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Borrower or any Parent Company, including in connection with any merger, amalgamation or consolidation, in each case held by Persons other than the Borrower or a Restricted Subsidiary;

   (C) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case, prior to any scheduled repayment, sinking fund payment or final maturity, any Junior Indebtedness with an aggregate outstanding principal amount in excess of the Threshold Amount, other than:

   (i) Indebtedness permitted under clauses (7), (8) and (9) of Section 7.02(b); or

   (ii) the payment, redemption, repurchase, defeasance, acquisition or retirement for value of Junior Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement; or
(D) make any Restricted Investment;

(all such payments and other actions set forth in clauses (A) through (D) above being collectively referred to as "Restricted Payments"), unless, at the time of and immediately after giving effect to such Restricted Payment:

1. in the case of a Restricted Payment described in clauses (A) and (B) above utilizing clause 3(a) or (g) below, no Event of Default under Section 8.01(1) or Section 8.01(6) will have occurred and be continuing or would occur as a consequence thereof;

2. [reserved];

3. such Restricted Payment, together with the aggregate amount of all other Restricted Payments (including the fair market value of any non-cash amount) made by the Borrower and its Restricted Subsidiaries after the Closing Date (excluding Restricted Payments permitted by 7.05(b) other than clause (1) thereof), is less than the sum of (without duplication):

   a. 50.0% of the Consolidated Net Income of the Borrower and the Restricted Subsidiaries for the period (taken as one accounting period) commencing on April 3, 2017 to the end of the most recently ended fiscal quarter for which internal financial statements of the Borrower are available (as determined in good faith by the Borrower) preceding such Restricted Payment or, in the case such Consolidated Net Income for such period is a deficit, minus 100.0% of such deficit; plus

   b. 100.0% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Borrower and its Restricted Subsidiaries since the Closing Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 7.02(b)(12)(a)) from the issue or sale of:

      i. (A) Equity Interests of the Borrower, including Treasury Capital Stock (as defined below), but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

         (I) Equity Interests to any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates, Immediate Family Members or any permitted transferees thereof) of the Borrower, its Subsidiaries or any Parent Company after the Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with Section 7.05(b)(4); and

         (II) Designated Preferred Stock; and

      B. Equity Interests of Parent Companies, to the extent the proceeds of any such issuance or consideration for any such sale are contributed to the Borrower (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with Section 7.05(b)(4)); or

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(ii) Indebtedness of the Borrower or any Restricted Subsidiary, that has been converted into or exchanged for Equity Interests of the Borrower or any Parent Company; provided that this clause (b) will not include the proceeds from (v) any exercise of the cure right set forth in Section 8.04, (w) Refunding Capital Stock (as defined below) applied in accordance with Section 7.05(b)(2) below, (x) Equity Interests or convertible debt securities of the Borrower sold to a Restricted Subsidiary, (y) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (z) Excluded Contributions; plus

(c) 100.0% of the aggregate amount of cash, Cash Equivalents and the fair market value of marketable securities or other property contributed to the capital of the Borrower following the Closing Date (including the fair market value of any Indebtedness contributed to the Borrower or its Subsidiaries for cancellation) or that becomes part of the capital of the Borrower through consolidation, amalgamation or merger following the Closing Date, in each case not involving cash consideration payable by the Borrower (other than (w) net cash proceeds of any exercise of the cure right set forth in Section 8.04, (x) net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 7.02(b)(12)(a), (y) cash, Cash Equivalents and marketable securities or other property that are contributed by a Restricted Subsidiary or (z) Excluded Contributions); plus

(d) 100.0% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by the Borrower or a Restricted Subsidiary by means of:

(i) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of, or other returns on investments from, Restricted Investments made by the Borrower or its Restricted Subsidiaries (including cash distributions and cash interest received in respect of Restricted Investments) and repurchases and redemptions of such Restricted Investments from the Borrower or its Restricted Subsidiaries (other than by the Borrower or a Restricted Subsidiary) and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments made by the Borrower or its Restricted Subsidiaries, in each case after the Closing Date (excluding any Excluded Contributions made pursuant to clause (2) of the definition thereof);

(ii) the sale (other than to the Borrower or a Restricted Subsidiary) of Equity Interests of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than, in each case, to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment, but including such cash or fair market value to the extent exceeding the amount of such Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Closing Date (excluding any Excluded Contributions made pursuant to clause (2) of the definition thereof); or
(iii) any returns, profits, distributions and similar amounts received on account of any Permitted Investment subject to a Dollar-denominated or ratio based Basket (to the extent in excess of the original amount of the Investment); plus

(e) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Borrower or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Borrower or a Restricted Subsidiary after the Closing Date, the fair market value of the Investment in such Unrestricted Subsidiary (or the assets transferred) at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation, consolidation or transfer of assets, other than to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment, but, to the extent exceeding the amount of such Permitted Investment, including such excess amounts of cash or fair market value; plus

(f) 100% of the aggregate amount of any Excluded Proceeds (except to the extent utilized to repurchase, redeem, defease, acquire, or retire for value any Junior Indebtedness pursuant to clause (b)(13) below); plus

(g) $100.0 million.

(b) The provisions of Section 7.05(a) will not prohibit:

(1) the payment of any dividend or other distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or other distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or other distribution or redemption payment would have complied with the provisions of this Section 7.05;

(2) (a) the redemption, repurchase, defeasance, discharge, retirement or other acquisition of (i) any Equity Interests of the Borrower, any Restricted Subsidiary or any Parent Company, including any accrued and unpaid dividends thereon (“Treasury Capital Stock”) or (ii) Junior Indebtedness, in each case, made (x) in exchange for, or out of the proceeds of, a sale or issuance (other than to a Restricted Subsidiary) of Equity Interests of the Borrower or any Parent Company (in the case of proceeds, to the extent any such proceeds therefrom are contributed to the Borrower) (in each case, other than Disqualified Stock) (“Refunding Capital Stock”) and (y) within 120 days of such sale or issuance,

(b) the declaration and payment of dividends on Treasury Capital Stock out of the proceeds of a sale or issuance (other than to a Restricted Subsidiary of the Borrower or to an employee stock ownership plan or any trust established by the Borrower or any Restricted Subsidiary) of Refunding Capital Stock made within 120 days of such sale or issuance, and

(c) if, immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon by the Borrower was permitted under clause (6)(a) or (b) of this Section 7.05(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any Parent Company) in an aggregate amount per annum no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;
the principal payment on, defeasance, redemption, repurchase, exchange or other acquisition or retirement of:

(a) Junior Indebtedness of the Borrower or a Guarantor made by exchange for, or out of the proceeds of the sale, issuance or incurrence of, new Junior Indebtedness of the Borrower or a Guarantor or Disqualified Stock of the Borrower or a Guarantor within 120 days of such sale, issuance or incurrence,

(b) Disqualified Stock of the Borrower or a Guarantor made by exchange for, or out of the proceeds of the sale, issuance or incurrence of Disqualified Stock or Junior Indebtedness of the Borrower or a Guarantor, made within 120 days of such sale, issuance or incurrence,

(c) Disqualified Stock of a Restricted Subsidiary that is not a Guarantor made by exchange for, or out of the proceeds of the sale or issuance of, Disqualified Stock of a Restricted Subsidiary that is not a Guarantor, made within 120 days of such sale or issuance, that, in each case, is Refinancing Indebtedness incurred or issued, as applicable, in compliance with Section 7.02, and

(d) any Junior Indebtedness or Disqualified Stock that constitutes Acquired Indebtedness;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) (including related stock appreciation rights or similar securities) of the Borrower or any Parent Company held by any future, present or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any equity subscription or equity holder agreement (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Borrower or any Parent Company in connection with any such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management of the Borrower, any of its Subsidiaries or any Parent Company in connection with the Transactions; provided that the aggregate amount of Restricted Payments made under this clause (4) does not exceed $25.0 million in any calendar year (increasing to $50.0 million following an underwritten public Equity Offering by the Borrower or any Parent Company) with unused amounts in any calendar year being carried over to succeeding calendar years; provided further that each of the amounts in any calendar year under this clause (4) may be increased by an amount not to exceed:

(a) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Borrower and, to the extent contributed to the Borrower, the cash proceeds from the sale of Equity Interests of any Parent Company, in each case to any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company that occurs after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of Section 7.05(a); plus
(b) the amount of any cash bonuses otherwise payable to members of management, employees, directors, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company that are foregone in exchange for the receipt of Equity Interests of the Borrower or any Parent Company pursuant to any compensation arrangement, including any deferred compensation plan; plus

(c) the cash proceeds of life insurance policies received by the Borrower or its Restricted Subsidiaries (or by any Parent Company to the extent contributed to the Borrower (other than in the form of Disqualified Stock)) after the Closing Date; minus

(d) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (a), (b) and (c) of this clause (4);

provided that the Borrower may elect to apply all or any portion of the aggregate increase contemplated by clauses (a), (b) and (c) above in any calendar year; provided further that cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any Parent Company or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Borrower or any Parent Company will not be deemed to constitute a Restricted Payment for purposes of this Section 7.05 or any other provision of this Agreement;

(5) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Borrower or any Restricted Subsidiary or any class or series of Preferred Stock of any Restricted Subsidiary issued in accordance with Section 7.02; provided, that after giving pro forma effect to such dividend or distribution, including the amount thereof in Consolidated Interest Expense solely for the purposes of this clause (5), the Borrower would have had a Interest Coverage Ratio of at least 2.00 to 1.00;

(6) (a) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock issued by the Borrower or any Restricted Subsidiary after the Closing Date;

(b) the declaration and payment of dividends or distributions to any Parent Company, the proceeds of which will be used to fund the payment of dividends or distributions to holders of any class or series of Designated Preferred Stock issued by such Parent Company after the Closing Date; provided that the amount of dividends and distributions paid pursuant to this clause (b) will not exceed the aggregate amount of cash actually contributed to the Borrower from the sale of such Designated Preferred Stock; or

(c) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 7.05(b);

provided that in the case of each of clauses (a), (b) and (c) of this clause (6), for the most recently ended Test Period preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Borrower would have had a Interest Coverage Ratio of at least 2.00 to 1.00;
(a) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable by any future, present or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or permitted transferees) of the Borrower, any Restricted Subsidiary or any Parent Company,

(b) any repurchases or withholdings of Equity Interests in connection with the exercise of stock options, warrants or similar rights if such Equity Interests represent a portion of the exercise price of, or withholding obligations with respect to, such options, warrants or similar rights or required withholding or similar taxes and

(c) loans or advances to officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Restricted Subsidiary or any Parent Company in connection with such Person’s purchase of Equity Interests of the Borrower or any Parent Company; provided that no cash is actually advanced pursuant to this clause (c) other than to pay taxes due in connection with such purchase, unless immediately repaid;

(8) the declaration and payment of dividends on the Borrower’s common equity (or the payment of dividends to any Parent Company to fund a payment of dividends on such company’s common equity), following the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, in an aggregate amount per annum not to exceed 6.0% of Market Capitalization;

(9) Restricted Payments in an amount that does not exceed the aggregate amount of Excluded Contributions;

(10) Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (10) not to exceed (as of the date any such Restricted Payment is made) $100.0 million; provided that if this clause (10) is utilized to make a Restricted Investment, the amount deemed to be utilized under this clause (10) will be the amount of such Restricted Investment at any time outstanding (with the fair market value of such Investment being measured at the time made and without giving effect to subsequent changes in value, but subject to adjustment as set forth in the definition of “Investment”);

(11) distributions or payments of Securitization Fees;

(12) any Restricted Payment made in connection with the Transactions and the fees and expenses related thereto;

(13) the repurchase, redemption, defeasance, acquisition or retirement for value of any Junior Indebtedness from Excluded Proceeds (except to the extent utilized to make Restricted Payments pursuant to clause (i) of Section 7.05(a));

(14) the declaration and payment of dividends or distributions by the Borrower or any Restricted Subsidiary to, or the making of loans or advances to, the Borrower or any Parent Company in amounts required for any Parent Company to pay in each case without duplication:
(a) franchise, excise and similar taxes and other fees and expenses, required to maintain their corporate or other legal existence;

(b) for any taxable period (or portion thereof) for which the Borrower or any of its Restricted Subsidiaries are members of a consolidated, combined, unitary or similar income tax group for U.S. federal or applicable foreign, state or local income tax purposes of which a Parent Company is the common parent (a “Tax Group”), to pay the portion of any U.S. federal, foreign, state or local income Taxes (as applicable) of such Tax Group for such taxable period that are attributable to the taxable income of the Borrower and/or the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries); provided that for each taxable period, (A) the amount of such payments made in respect of such taxable period in the aggregate will not exceed the amount that the Borrower and the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries), as applicable, would have been required to pay in respect of such taxable income as stand-alone taxpayers or in a stand-alone Tax Group and (B) the amount of such payments made in respect of an Unrestricted Subsidiary will be permitted only to the extent that cash distributions were made by an Unrestricted Subsidiary to the Borrower or any Restricted Subsidiary for such purpose;

(c) for any taxable period (or portion thereof) for which the Borrower and any Parent Company is a partnership or disregarded entity for U.S. federal income tax purposes (amounts permitted to be distributed, loaned or advanced pursuant to this clause (c), “Tax Distributions“): cash distributions from the Borrower at such times and in such amounts necessary to permit each Parent Company to make cash distributions to each direct or indirect member of the Parent Company in accordance with the terms of its relevant operating agreement, in an aggregate amount not to exceed the sum of (I) any non-income Taxes payable by such member with respect to the Borrower and (II) the product of (A) the taxable income of the Borrower allocable to such member for such period (assuming the Borrower for this purpose is a regarded entity for U.S. federal income tax purposes), determined by taking into account any basis step-up in the assets of the Borrower or any of its Subsidiaries resulting from the Transactions (other than any basis adjustment arising under section 743 of the Code), and (B) the maximum combined effective tax rate applicable to any direct or indirect equity owner of the Borrower or Parent Company for such taxable period (taking into account the Medicare Contribution Tax on net investment income tax, the character of the taxable income in question (e.g. long-term capital gain, qualified dividend income, etc.) and the deductibility of state and local income taxes for U.S. federal income tax purposes (and any applicable limitations thereon, including the limitations in Sections 67 and 68 of the Code) and adjusted to the extent necessary to calculate federal, state and local tax liability separately so as to take into account the calculation under the applicable state and local tax laws of taxable income and taxable losses and the extent to which such losses may offset such income) increased if necessary to apply alternative minimum tax rates and rules in years in which the alternative minimum tax applies (or would apply based on the assumptions stated herein) to the relevant distributee (assuming the distributee were an individual or a corporation, assuming each distributee’s sole asset is its direct or indirect interest in the Borrower)); provided that the amount of any Tax Distribution permitted under this clause (c) shall be reduced by the amount of any income taxes that are paid directly by the Borrower and attributable to such member and would otherwise have been taken into account in the calculation of such Tax Distribution; provided further that (1) Tax Distributions in respect of a taxable year may be made based on estimates of taxable income, with
adjustments being made to subsequent Tax Distributions to reflect differences between such estimates and final calculations of taxable income, (2) Tax Distributions may be increased by an amount sufficient to enable any Parent Company to pay any Taxes arising from the Partnership Audit Rules and attributable to the operations and activities of Borrower and its Subsidiaries (calculated by assuming that such Parent Company does not make the election described in Section 6226 of the Code (or any analogous state, local or non-U.S. law) and is unable to reduce the amount of any Tax pursuant to the provisions of Section 6225 of the Code (or any analogous state, local or non-U.S. law)), and (3) if, following an audit or examination, there is an adjustment that would affect the calculation of taxable income or taxable loss for a given period or portion thereof, or in the event that a Parent Company files an amended tax return which has such effect, then, additional Tax Distributions may be made (increased by an additional amount estimated to be sufficient to cover any interest or penalties) to give effect to such adjustment or amended tax return; and

(d) salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, employees, directors, officers, members of management, consultants and independent contractors of any Parent Company, and any payroll, social security or similar taxes thereof;

(e) general corporate or other operating, administrative, compliance and overhead costs and expenses (including expenses relating to auditing and other accounting matters) of any Parent Company;

(f) fees and expenses (including ongoing compliance costs and listing expenses) related to any equity or debt offering of a Parent Company (whether or not consummated);

(g) amounts that would be permitted to be paid directly by the Borrower or its Restricted Subsidiaries under Section 7.07(b) (other than clause 2(a) thereof);

(h) interest or principal on Indebtedness the proceeds of which have been contributed to the Borrower or any Restricted Subsidiary or that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower or any Restricted Subsidiary incurred in accordance with Section 7.02;

(i) to finance Investments or other acquisitions or investments otherwise permitted to be made pursuant to this Section 7.05 if made by the Borrower; provided that:

   (i) such Restricted Payment must be made within 120 days of the closing of such Investment, acquisition or investment,

   (ii) such Parent Company must, promptly following the closing thereof, cause (A) all property acquired (whether assets or Equity Interests) to be contributed to the capital of the Borrower or a Restricted Subsidiary or (B) the merger, amalgamation, consolidation or sale of the Person formed or acquired into the Borrower or a Restricted Subsidiary (to the extent not prohibited by Section 7.03) in order to consummate such Investment, acquisition or investment,
(iii) such Parent Company and its Affiliates (other than the Borrower or any Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Borrower or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Agreement,

(iv) any property received by the Borrower may not increase amounts available for Restricted Payments pursuant to clause (3) of Section 7.05(a), and

(v) to the extent constituting an Investment, such Investment will be deemed to be made by the Borrower or such Restricted Subsidiary pursuant to another provision of this Section 7.05 (other than pursuant to clause (9) of this Section 7.05(b)) or pursuant to the definition of “Permitted Investments” (other than clause (9) thereof); and

(j) amounts payable pursuant to the Transaction Documents;

(15) the distribution, by dividend or otherwise, or other transfer or disposition of shares of Capital Stock of, Equity Interests in, or Indebtedness owed to the Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, substantially all the assets of which are cash and Cash Equivalents);

(16) cash payments, or loans, advances, dividends or distributions to any Parent Company to make payments, in lieu of issuing fractional shares in connection with share dividends, share splits, reverse share splits, mergers, consolidations, amalgamations or other business combinations and in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Borrower, any Restricted Subsidiary or any Parent Company;

(17) (a) Restricted Payments described in clauses (A) and (B) of the definition thereof contained in Section 7.05(a); provided that after giving pro forma effect thereto and the application of the net proceeds therefrom, the Total Net Leverage Ratio for the Test Period immediately preceding such Restricted Payment would be no greater than 4.25 to 1.00 and (b) Restricted Payments described in clauses (C) and (D) of the definition thereof contained in Section 7.05(a); provided that after giving pro forma effect thereto and the application of the net proceeds therefrom, the Total Net Leverage Ratio for the Test Period immediately preceding such Restricted Payment would be no greater than 4.25 to 1.00;

(18) payments made for the benefit of the Borrower or any Restricted Subsidiary to the extent such payments could have been made by the Borrower or any Restricted Subsidiary because such payments (a) would not otherwise be Restricted Payments and (b) would be permitted by Section 7.07;

(19) payments and distributions to dissenting stockholders of Restricted Subsidiaries pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of any Restricted Subsidiary that complies with the terms of this Agreement or any other transaction that complies with the terms of this Agreement;
(20) the payment of dividends, other distributions and other amounts by the Borrower to, or the making of loans to, any Parent Company in the amount required for such parent to, if applicable, pay amounts equal to amounts required for any Parent Company, if applicable, to pay interest or principal (including AHYDO Payments) on Indebtedness, the proceeds of which have been permanently contributed to the Borrower or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower or any Restricted Subsidiary incurred in accordance with this Agreement; provided that the aggregate amount of such dividends, distributions, loans and other amounts shall not exceed the amount of cash actually contributed to the Borrower for the incurrence of such Indebtedness;

(21) the making of cash payments in connection with any conversion of Convertible Indebtedness of the Borrower or any Restricted Subsidiary in an aggregate amount since the date of this Agreement not to exceed the sum of (a) the principal amount of such Convertible Indebtedness plus (b) any payments received by the Borrower or any Restricted Subsidiary pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transaction;

(22) any payments in connection with (a) a Permitted Bond Hedge Transaction and (b) the settlement of any related Permitted Warrant Transaction (i) by delivery of shares of the Borrower’s common equity upon settlement thereof or (ii) by (A) set-off against the related Permitted Bond Hedge Transaction or (B) payment of an early termination amount thereof in common equity upon any early termination thereof; and

(23) the refinancing of any Junior Indebtedness with the Net Proceeds of, or in exchange for, any Refinancing Indebtedness;

(24) the prepayment of Second Lien Term Loans on the Second Amendment Effective Date in an aggregate principal amount not to exceed $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith); and

(25) the prepayment of Second Lien Term Loans in an aggregate principal amount taken together with all other Restricted Payments made pursuant to this clause (25) not to exceed (as of the date any such Restricted Payment is made) $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith),

provided that at the time of, and after giving effect to, any Restricted Payment pursuant to clause (17) in respect of Restricted Payments described in clauses (A) or (B) of the definition thereof, no Event of Default will have occurred and be continuing or would occur as a consequence thereof. For purposes of clauses (7) and (14) above, taxes will include all interest and penalties with respect thereto and all additions thereto.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date the Restricted Payment is made, or at the Borrower’s election, the date a commitment is made to make such Restricted Payment, of the assets or securities proposed to be transferred or issued by the Borrower or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

For the avoidance of doubt, this Section 7.05 will not restrict the making of any AHYDO Payment with respect to, and required by the terms of, any Indebtedness of the Borrower or any Restricted Subsidiary permitted to be incurred under this Agreement.
SECTION 7.06 Change in Nature of Business. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business(es) or any other activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the business conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date.

SECTION 7.07 Transactions with Affiliates.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Borrower (each of the foregoing, an “Affiliate Transaction”) involving aggregate payments or consideration in excess of $75.0 million, unless such Affiliate Transaction is on terms, taken as a whole, that are not materially less favorable to the Borrower or the relevant Restricted Subsidiary than those that would have been obtained at such time in a comparable transaction by the Borrower or such Restricted Subsidiary with a Person other than an Affiliate of the Borrower on an arm’s-length basis or, if in the good faith judgment of the Board of Directors no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view.

(b) The foregoing restriction will not apply to the following:

(1) (a) transactions between or among the Borrower and one or more Restricted Subsidiaries or between or among Restricted Subsidiaries or, in any case, any entity that becomes a Restricted Subsidiary as a result of such transaction and (b) any merger, consolidation or amalgamation of the Borrower and any Parent Company; provided that such merger, consolidation or amalgamation of the Borrower is otherwise in compliance with the terms of this Agreement;

(2) (a) Restricted Payments permitted by Section 7.05 (including any transaction specifically excluded from the definition of the term “Restricted Payments,” including pursuant to the exceptions contained in the definition thereof and the parenthetical exclusions of such definition, but excluding any Restricted Payment permitted by Section 7.05(14)(g)), (b) any Permitted Investment(s) or any acquisition otherwise permitted hereunder and (c) Indebtedness permitted by Section 7.02;

(3) (a) the payment of management, consulting, monitoring, transaction, advisory and other fees, indemnities and expenses pursuant to the Management Services Agreement (including any unpaid management, consulting, monitoring, transaction, advisory and other fees, indemnities and expenses accrued in any prior year) and any termination fees pursuant to the Management Services Agreement, or any amendment thereto or replacement thereof so long as any such amendment or replacement is not materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders when taken as a whole, as compared to the Management Services Agreement as in effect on the Closing Date,
(b) the payment of indemnification and similar amounts to, and reimbursement of expenses to, the Investors and their officers, directors, employees and Affiliates, in each case, approved by, or pursuant to arrangements approved by, the Board of Directors,

(c) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to future, present or former employees, officers, directors, managers, consultants or independent contractors or guarantees in respect thereof for bona fide business purposes or in the ordinary course of business or consistent with industry practice,

(d) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with current, former or future officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Subsidiary or any Parent Company and

(e) any payment of compensation or other employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers current, former or future officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Subsidiary or any Parent Company;

(4) the payment of fees and compensation paid to, and indemnities and reimbursements and employment and severance arrangements provided to, or on behalf of or for the benefit of, present, future or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any Parent Company or any Restricted Subsidiary;

(5) transactions in which the Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or stating that the terms, when taken as a whole, are not materially less favorable to the Borrower or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Borrower or such Restricted Subsidiary with a Person that is not an Affiliate of the Borrower on an arm's-length basis;

(6) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any agreement as in effect as of the Closing Date, or any amendment thereto or replacement thereof (so long as any such amendment or replacement is not materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders, when taken as a whole, as compared to the applicable agreement as in effect on the Closing Date);

(7) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any equity holders agreement or the equivalent (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date and any amendment thereto or replacement thereof (so long as any such amendment or replacement is not otherwise materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders, when taken as a whole, as compared to the original agreement or arrangement in effect on the Closing Date);
the Transactions and the payment of all fees and expenses related to the Transactions, including Transaction Expenses;

transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

the issuance, sale or transfer of Equity Interests (other than Disqualified Stock) of the Borrower or any Parent Company to any Person and the granting and performing of customary rights (including registration rights) in connection therewith, and any contribution to the capital of the Borrower;

sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility and any other transaction effected in connection with a Qualified Securitization Facility or a financing related thereto;

transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;
(15) payments to or from, and transactions with, any joint venture or Unrestricted Subsidiary in the ordinary course of business or consistent with past practice, industry practice or industry norms (including, any cash management activities related thereto);

(16) payments by the Borrower (and any Parent Company) and its Subsidiaries pursuant to tax sharing agreements among the Borrower (and any Parent Company) and its Subsidiaries; provided that in each case the amount of such payments by the Borrower and its Subsidiaries are permitted under Section 7.05(b)(14);

(17) any lease entered into between the Borrower or any Restricted Subsidiary, as lessee and any Affiliate of the Borrower, as lessor, and any transaction(s) pursuant to that lease, which lease is approved by the Board of Directors or senior management of the Borrower in good faith;

(18) intellectual property licenses in the ordinary course of business or consistent with industry practice;

(19) the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided to equity holders of the Borrower or any Parent Company pursuant to any equity holders agreement or registration rights agreement entered into on or after the Closing Date;

(20) transactions permitted by, and complying with, Section 7.03 solely for the purpose of (a) reorganizing to facilitate any initial public offering of securities of the Borrower or any Parent Company, (b) forming a holding company or (c) reincorporating the Borrower in a new jurisdiction;

(21) transactions undertaken in good faith (as determined by the Board of Directors or certified by senior management of the Borrower in an Officer’s Certificate) for the purposes of improving the consolidated tax efficiency of the Borrower and its Restricted Subsidiaries and not for the purpose of circumventing Articles VI and VII of this Agreement; so long as such transactions, when taken as a whole, do not result in a material adverse effect on the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, when taken as a whole, in each case, as determined in good faith by the Board of Directors or certified by senior management of the Borrower in an Officer’s Certificate;

(22) (a) transactions with a Person that is an Affiliate of the Borrower (other than an Unrestricted Subsidiary) solely because the Borrower or any Restricted Subsidiary owns Equity Interests in such Person and (b) transactions with any Person that is an Affiliate solely because a director or officer of such Person is a director or officer of the Borrower, any Restricted Subsidiary or any Parent Company;

(23) (a) pledges and other transfers of Equity Interests in Unrestricted Subsidiaries and (b) any transactions with an Affiliate in which the consideration paid consists solely of Equity Interests of the Borrower or a Parent Company;

(24) the sale, issuance or transfer of Equity Interests (other than Disqualified Stock) of the Borrower;

(25) investments by any Investor or Parent Company in securities or Indebtedness of the Borrower or any Guarantor;

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(26) payments in respect of (a) the Obligations (or any Credit Agreement Refinancing Indebtedness), (b) the Second Lien Term Loans or (c) other Indebtedness, Disqualified Stock or Preferred Stock of the Borrower and its Subsidiaries held by Affiliates; provided that such Obligations were acquired by an Affiliate of the Borrower in compliance herewith;

(27) transactions undertaken in the ordinary course of business pursuant to membership in a purchasing consortium; and

(28) any transactions and payments contemplated by, and the performance by the Parent Borrower or any Restricted Subsidiary of any other obligations under, each of the Transaction Documents (and any amendment thereto and similar agreements or arrangements that it may enter into thereafter), including any Restricted Payment made in connection with such transactions or used to fund amounts owed to Affiliates (including Restricted Payments to any Parent Company to permit payment by such Parent Company of such amounts); provided that the existence of, or the performance by the Borrower or any Restricted Subsidiary of obligations under any such amendment to such Transaction Document or under such similar agreement or arrangement entered into after the Closing Date will only be permitted by this clause (28) to the extent that the terms of any such amendment or new agreement or arrangement are not otherwise materially disadvantageous in the good faith judgment of the Borrower to the Lenders when taken as a whole (as compared to such Transaction Document in effect on the Closing Date).

SECTION 7.08 Burdensome Agreements.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary that is not a Guarantor (or, solely in the case of clause (4), that is a Subsidiary Guarantor) to, directly or indirectly, create or otherwise cause to exist or become effective any consensual encumbrance or consensual restriction (other than this Agreement or any other Loan Document) on the ability of any Restricted Subsidiary that is not a Guarantor (or, solely in the case of clause (4), that is a Subsidiary Guarantor) to:

(1) (a) pay dividends or make any other distributions to the Borrower or any Restricted Subsidiary that is a Guarantor on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or

(b) pay any Indebtedness owed to the Borrower or to any Restricted Subsidiary that is a Guarantor;

(2) make loans or advances to the Borrower or to any Restricted Subsidiary that is a Guarantor;

(3) sell, lease or transfer any of its properties or assets to the Borrower or to any Restricted Subsidiary that is a Guarantor; or

(4) with respect to (a) any Subsidiary Guarantor (and, solely to the extent this clause (4)(a) relates to Hedging Obligations of Restricted Subsidiaries, the Borrower), Guaranty the Obligations or (b) with respect to the Borrower or any Subsidiary Guarantor, create, incur or cause to exist or become effective Liens on property of such Person for the benefit of the Lenders with respect to the Obligations under the Loan Documents to the extent such Lien is required to be given to the Secured Parties pursuant to the Loan Documents;
provided that any dividend or liquidation priority between or among classes or series of Capital Stock, and the subordination of any obligation
(including the application of any remedy bars thereto) to any other obligation will not be deemed to constitute such an encumbrance or restriction.

(b) Section 7.08(a) will not apply to any encumbrances or restrictions existing under or by reason of:

1. encumbrances or restrictions in effect on the Closing Date, including pursuant to the Loan Documents and any Hedge Agreements, Hedging Obligations and the related documentation;
2. the Second Lien Credit Documents;
3. Purchase Money Obligations and Capitalized Lease Obligations that impose restrictions of the nature discussed in clauses (3) and 4(b) above on the property so acquired;
4. applicable Law or any applicable rule, regulation or order;
5. any agreement or other instrument of a Person, or relating to Indebtedness or Equity Interests of a Person, acquired by or merged, amalgamated or consolidated with and into the Borrower or any Restricted Subsidiary or an Unrestricted Subsidiary that is designated as a Restricted Subsidiary, or any other transaction entered into in connection with any such acquisition, merger, consolidation or amalgamation in existence at the time of such acquisition or at the time it merges, amalgamates or consolidates with or into the Borrower or any Restricted Subsidiary or an Unrestricted Subsidiary that is designated as a Restricted Subsidiary or assumed in connection with the acquisition of assets from such Person (but, in any such case, not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person so acquired and its Subsidiaries, or the property or assets of the Person so acquired or designated and its Subsidiaries or the property or assets so acquired or designated;
6. contracts or agreements for the sale or disposition of assets, including any restrictions with respect to a Subsidiary of the Borrower pursuant to an agreement that has been entered into for the sale or disposition of any of the Capital Stock or assets of such Subsidiary;
7. [reserved];
8. restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business or consistent with industry practice or arising in connection with any Liens permitted by Section 7.01;
9. provisions in agreements governing Indebtedness, Disqualified Stock or Preferred Stock of Restricted Subsidiaries that are not Guarantors permitted to be incurred subsequent to the Closing Date pursuant to Section 7.02;
10. provisions in joint venture agreements and other similar agreements (including equity holder agreements) relating to such joint venture or its members or entered into in the ordinary course of business;
(11) customary provisions contained in leases, subleases, licenses, sub-licenses, Equity Interests or similar agreements, including with respect to intellectual property and other agreements;

(12) restrictions created in connection with any Qualified Securitization Facility or Receivables Financing Transaction that, in the good faith determination of the Board of Directors of the Borrower, are necessary or advisable to effect such Qualified Securitization Facility or Receivables Financing Transaction;

(13) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Borrower or any Restricted Subsidiary is a party entered into in the ordinary course of business or consistent with industry practice; provided that such agreement prohibits the encumbrance of solely the property or assets of the Borrower or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Borrower or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary;

(14) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary;

(15) customary provisions restricting assignment of any agreement;

(16) restrictions arising in connection with cash or other deposits permitted under Section 7.01;

(17) any other agreement or instrument governing any Indebtedness, Disqualified Stock, or Preferred Stock permitted to be incurred or issued pursuant to Section 7.02 entered into after the Closing Date that contains encumbrances and restrictions that either (i) are no more restrictive in any material respect, taken as a whole, with respect to the Borrower or any Restricted Subsidiary than (A) the restrictions contained in the Loan Documents and the Second Lien Credit Documents as of the Closing Date or (B) those encumbrances and other restrictions that are in effect on the Closing Date with respect to the Borrower or that Restricted Subsidiary pursuant to agreements in effect on the Closing Date, (ii) are not materially more disadvantageous, taken as a whole, to the Lenders than is customary in comparable financings for similarly situated issuers or (iii) will not materially impair the Borrower’s ability to make payments on the Obligations when due, in each case in the good faith judgment of the Borrower;

(18) (i) under terms of Indebtedness and Liens in respect of Indebtedness permitted to be incurred pursuant to Section 7.02(b)(4) and any permitted refinancing in respect of the foregoing and (ii) agreements entered into in connection with any Sale-Leaseback Transaction entered into in the ordinary course of business or consistent with industry practice;

(19) customary restrictions and conditions contained in documents relating to any Lien so long as (i) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien and (ii) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 7.08;

(20) any encumbrance or restriction with respect to a Restricted Subsidiary that was previously an Unrestricted Subsidiary which encumbrance or restriction exists pursuant to or by reason of an agreement that such Subsidiary is a party to or entered into before the date on which
such Subsidiary became a Restricted Subsidiary; provided that such agreement was not entered into in anticipation of an Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction does not extend to any assets or property of the Borrower or any other Restricted Subsidiary other than the assets and property of such Restricted Subsidiary;

(21) any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (20) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive in any material respect with respect to such encumbrance and other restrictions, taken as a whole, than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;

(22) any encumbrance or restriction existing under, by reason of or with respect to Refinancing Indebtedness; provided that the encumbrances and restrictions contained in the agreements governing that Refinancing Indebtedness are, in the good faith judgment of the Borrower, not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced; and

(23) applicable law or any applicable rule, regulation or order in any jurisdiction where Indebtedness, Disqualified Stock or Preferred Stock of Foreign Subsidiaries permitted to be incurred or issued pursuant to Section 7.02 is incurred.

SECTION 7.09 Accounting Changes. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make any change in fiscal year; provided, however, that the Borrower may, upon written notice to the Administrative Agent, (i) change its fiscal year to a calendar year ending December 31 and (ii) change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, and in the case of each of (i) and (ii), the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

SECTION 7.10 Modification of Terms of Subordinated Indebtedness. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, amend, modify or change in any manner materially adverse to the interests of the Lenders, as determined in good faith by the Borrower, any term or condition of any Junior Indebtedness that is contractually subordinated in right of payment and having an aggregate outstanding principal amount greater than the Threshold Amount (other than as a result of any Refinancing Indebtedness in respect thereof) with respect to the payment subordination thereof, without the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed); provided, however, that no amendment, modification or change of any term or condition of any Junior Indebtedness permitted by any subordination provisions set forth in the applicable Junior Indebtedness or any other stand-alone subordination agreement in respect thereof shall be deemed to be materially adverse to the interests of the Lenders.

SECTION 7.11 Holdings. Holdings shall not engage in any material operating or business activities; provided that the following and any activities incidental thereto shall be permitted in any event:

(i) its ownership of the Equity Interests of the Borrower and its other Subsidiaries, including receipt and payment of Restricted Payments and other amounts in respect of Equity Interests,
(ii) the maintenance of its legal existence (including the ability to incur and pay, as applicable, fees, costs and expenses and taxes relating to such maintenance),

(iii) the performance of its obligations with respect to the Transactions, the Transaction Documents, the Loan Documents, the Second Lien Credit Documents and any other documents governing Indebtedness permitted hereby,

(iv) any public offering of its common equity or any other issuance, registration or sale of its Equity Interests,

(v) financing activities, including the issuance of securities, incurrence of debt, receipt and payment of dividends and distributions, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of the Borrower and its other Subsidiaries,

(vi) if applicable, participating in tax, accounting and other administrative matters as a member of the consolidated group and the provision of administrative and advisory services (including treasury and insurance services) to its Subsidiaries of a type customarily provided by a holding company to its Subsidiaries,

(vii) holding any cash or property (but not operate any property),

(viii) providing indemnification to officers and directors,

(ix) merging, amalgamating or consolidating with or into any Person (in compliance with Section 7.03), (x) repurchases of Indebtedness through open market purchases and Dutch auctions,

(x) activities incidental to Permitted Acquisitions or similar Investments consummated by the Borrower and the Restricted Subsidiaries, including the formation of acquisition vehicle entities and intercompany loans and/or Investments incidental to such Permitted Acquisitions or similar Investments,

(xi) any transaction with the Borrower and/or any Restricted Subsidiary to the extent expressly permitted under this Section 7, and

(xii) any activities incidental or reasonably related to the foregoing.

SECTION 7.12 Financial Covenant. The Borrower and each of the Restricted Subsidiaries covenant and agree that:

1. If on the last day of any Test Period (commencing with the fiscal quarter ending on or about December 30, 2017) there are outstanding Revolving Loans and Letters of Credit (excluding (a) undrawn Letters of Credit in an aggregate amount not to exceed $30.0 million and (b) Letters of Credit to the extent Cash Collateralized or backstopped (whether drawn or undrawn) on terms reasonably acceptable to the applicable Issuing Bank) in an aggregate principal amount exceeding 35% of the aggregate principal amount of all Revolving Commitments under all outstanding Revolving Facilities (including any Incremental Revolving Facilities), the Borrower shall not permit the First Lien Net Leverage Ratio as of the last day of such Test Period to be greater than 6.30 to 1.00 (such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent pursuant to Section 6.01(1) and Section 6.01(2) for such Test Period) (the “Financial Covenant”).
Article VIII

Events of Default and Remedies

SECTION 8.01 Events of Default. Each of the events referred to in clauses (1) through (11) of this Section 8.01 shall constitute an “Event of Default”:

1. Non-Payment. The Borrower fails to pay (a) when and as required to be paid herein, any amount of principal of any Loan or (b) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

2. Specific Covenants. The Borrower, any Subsidiary Guarantor or, in the case of Section 7.11, Holdings, fails to perform or observe any term, covenant or agreement contained in Section 6.03(1), 6.05(1) (solely with respect to the Borrower, other than in a transaction permitted under Section 7.03 or 7.04) or Article VII; provided that the Borrower’s failure to comply with the Financial Covenant or a breach of a financial maintenance covenant under any Incremental Revolving Commitments or any revolving facility that constitutes Credit Agreement Refinancing Indebtedness (each, a “Financial Covenant Event of Default”) shall not constitute an Event of Default with respect to any Term Loans or Term Commitments unless and until the Required Facility Lenders for the Revolving Facilities have actually terminated the Revolving Commitments and declared all Obligations with respect to the applicable Revolving Facility to be immediately due and payable pursuant to Section 8.02 as a result of such failure to comply (and such declaration has not been rescinded as of the applicable date) (the occurrence of such termination and declaration by the Required Facility Lenders for the Revolving Facilities, a “Financial Covenant Cross Default”); provided further that any Financial Covenant Event of Default is subject to cure pursuant to Section 8.04; or

3. Other Defaults. The Borrower or any Subsidiary Guarantor fails to perform or observe any other covenant or agreement (not specified in Section 8.01(1) or (2) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

4. Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be untrue in any material respect when made or deemed made; or

5. Cross-Default. The Borrower or any Restricted Subsidiary (a) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) of not less than the 219
Threshold Amount, or (b) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Hedging Obligations, termination events or equivalent events pursuant to the terms of such Hedging Obligations and not as a result of any default thereunder by the Borrower or any Restricted Subsidiary), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem all of such Indebtedness to be made, prior to its stated maturity; provided that (A) such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Section 8.02 and (B) this clause (5)(b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or

(6) Insolvency Proceedings, etc. The Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, 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, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver 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

(7) Judgments. There is entered against the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, a final non-appealable judgment and order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not paid or covered by insurance or indemnities as to which the insurer or indemnity has been notified of such judgment or order and the applicable insurance company or indemnity has not denied coverage thereof) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(8) ERISA. (a) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan, (b) the Borrower or any Subsidiary Guarantor or any of their respective ERISA Affiliates 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, or (c) with respect to a Foreign Plan, a termination, withdrawal or noncompliance with applicable Law or plan terms occurs, except, with respect to each of the foregoing clauses of this Section 8.01(8), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect; or
Invalidity of Loan Documents. Any material provision of the Loan Documents, taken as a whole, at any time after its execution and delivery and for any reason (other than (a) as expressly permitted by a Loan Document (including as a result of a transaction permitted under Section 7.03 or 7.04), (b) as a result of acts or omissions by an Agent or any Lender or (c) due to the satisfaction in full of the Termination Conditions) ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of the Loan Documents, taken as a whole (other than as a result of the satisfaction of the Termination Conditions), or any Loan Party denies in writing that it has any or further liability or obligation under the Loan Documents, taken as a whole (other than (i) as expressly permitted by a Loan Document (including as a result of a transaction permitted under Section 7.03 or 7.04) or (ii) as a result of the satisfaction of the Termination Conditions), or purports in writing to revoke or rescind the Loan Documents, taken as a whole, prior to the satisfaction of the Termination Conditions; or

Collateral Documents. Any Collateral Document with respect to a material portion of the Collateral after delivery thereof pursuant to Section 4.01, 6.11, 6.13 or pursuant to the provisions of any Collateral Document for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction not prohibited under this Agreement) ceases to create, or any Lien purported to be created by any Collateral Document with respect to a material portion of the Collateral shall be asserted in writing by any Loan Party (prior to the satisfaction of the Termination Conditions) not to be, a valid and perfected Lien with the priority required by such Collateral Document (or other security purported to be created on the applicable Collateral) on, and security interest in, any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 7.01, except to the extent that any such loss of perfection or priority results from the failure of the Administrative Agent or the Collateral Agent to maintain possession of Collateral actually delivered to it and pledged under the Collateral Documents, to file Uniform Commercial Code amendments relating to a Loan Party’s change of name or jurisdiction of formation (solely to the extent that the Borrower provides the Collateral Agent written notice thereof in accordance with the Security Agreement, and the Collateral Agent and the Borrower have agreed that the Collateral Agent will be responsible for filing such amendments) or continuation statements and except as to Collateral consisting of real property to the extent that such losses are covered by a lender’s title insurance policy and such insurer has not denied coverage; or

Change of Control. There occurs any Change of Control.

SECTION 8.02 Remedies upon Event of Default. Subject to Section 8.04, if any Event of Default occurs and is continuing, the Administrative Agent may with the consent of the Required Lenders and shall, at the request of the Required Lenders, take any or all of the following actions:

(1) declare the Commitments of each Lender and any obligation of the Issuing Banks to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligation will be terminated;

(2) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable under any 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;

(3) require that the Borrower Cash Collateralize the then outstanding Letters of Credit (in an amount equal to the then Outstanding Amount thereof); and

(4) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;
provided that (a) upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under Title 11 of the United States Code entitled “Bankruptcy,” as now or hereafter in effect, or any successor thereto (the “Bankruptcy Code”), the Commitments of each Lender and any obligation of the Issuing Banks to issue Letters of Credit, will automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid will automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid will automatically become effective, in each case without further act of the Administrative Agent or any Lender and (b) notwithstanding anything to the contrary, if the only Events of Default then having occurred and continuing are pursuant to a Financial Covenant Event of Default, then, unless a Financial Covenant Cross Default has occurred and is continuing, the Administrative Agent shall only take the actions set forth in this Section 8.02 at the request (or with the consent) of the Required Facility Lenders under the Revolving Facilities (as opposed to the Required Lenders) and only with respect to the Revolving Commitments, Revolving Loans, Letters of Credit and Obligations under the Revolving Facilities.

SECTION 8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in clause (a) of the proviso to Section 8.02), subject to any Intercreditor Agreement then in effect, any amounts received on account of the Obligations will 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 (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Lenders, ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and L/C Borrowings, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings (including to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit), the Obligations under Secured Hedge Agreements and Cash Management Obligations under Secured Cash Management Agreements, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.
Subject to Section 2.03(3), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above will be applied to satisfy 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 will be applied to the other Obligations, if any, in the order set forth above and, if no Obligations remain outstanding, will be paid to the Borrower.

Notwithstanding the foregoing, amounts received from any Loan Party shall not be applied to any Excluded Swap Obligation of such Loan Party.

SECTION 8.04 Right to Cure.

(1) Notwithstanding anything to the contrary contained in Section 8.01 or Section 8.02, but subject to Sections 8.04(2) and (3), for the purpose of determining whether an Event of Default under the Financial Covenant has occurred, the Borrower may on one or more occasions designate any portion of the Net Proceeds from any Permitted Equity Issuance or of any contribution to the common equity capital of the Borrower (or from any other contribution to capital or sale or issuance of any other Equity Interests on terms reasonably satisfactory to the Administrative Agent) (the "Cure Amount") as an increase to Consolidated EBITDA of the Borrower for the applicable fiscal quarter; provided that

(a) such amounts to be designated are actually received by the Borrower (i) on or after the first Business Day of the applicable fiscal quarter and (ii) on or prior to the tenth (10th) Business Day after the date on which financial statements are required to be delivered with respect to such applicable fiscal quarter (the "Cure Expiration Date"),

(b) such amounts to be designated do not exceed the maximum aggregate amount necessary to cure any Event of Default under the Financial Covenant as of such date and

(c) the Borrower will have provided notice to the Administrative Agent on the date such amounts are designated as a “Cure Amount” (it being understood that to the extent such notice is provided in advance of delivery of a Compliance Certificate for the applicable period, the amount of such Net Proceeds that is designated as the Cure Amount may be lower than specified in such notice to the extent that the amount necessary to cure any Event of Default under the Financial Covenant is less than the full amount of such originally designated amount).

The Cure Amount used to calculate Consolidated EBITDA for one fiscal quarter will be used and included when calculating Consolidated EBITDA for each Test Period that includes such fiscal quarter. The parties hereby acknowledge that this Section 8.04(1) may not be relied on for purposes of calculating any financial ratios other than as applicable to the Financial Covenant (and may not be included for purposes of determining pricing, mandatory prepayments and the availability or amount permitted pursuant to any covenant under Article VII) and may not result in any adjustment to any amounts (including the amount of Indebtedness) or increase in cash with respect to the fiscal quarter with respect to which such Cure Amount was received other than the amount of the Consolidated EBITDA referred to in the immediately preceding sentence, except to the extent such proceeds are actually applied to prepay Indebtedness under the Facilities. Notwithstanding anything to the contrary contained in Section 8.01 and Section 8.02, (A) upon designation of the Cure Amount by the Borrower in an amount necessary to cure any Event of Default under the Financial Covenant, the Financial Covenant will be deemed satisfied and complied with as of the end of the relevant fiscal quarter with the same effect as though there had been no failure to comply with the Financial Covenant and any Event of Default under the Financial Covenant (and any other Default as a result thereof) will be deemed not to have occurred for
purposes of the Loan Documents, (B) from and after the date that the Borrower delivers a written notice to the Administrative Agent that it intends to
exercise its cure right under this Section 8.04 (a “Notice of Intent to Cure”) neither the Administrative Agent nor any Lender may exercise any rights
or remedies under Section 8.02 (or under any other Loan Document) on the basis of any actual or purported Event of Default under the Financial
Covenant (and any other Default as a result thereof) until and unless the Cure Expiration Date has occurred without the Cure Amount having been
designated and (C) no Lender or Issuing Bank shall be required to (but in its sole discretion may) make any Revolving Loan or issue or amend any
Letter of Credit from and after such time as the Administrative Agent has received the Notice of Intent to Cure unless and until the Cure Amount is
actually received.

(2) In each period of four consecutive fiscal quarters, there shall be no more than two (2) fiscal quarters in which the cure right set forth in
Section 8.04(1) is exercised.

(3) There shall be no more than five (5) fiscal quarters in which the cure rights set forth in Section 8.04(1) are exercised during the term of
the Facilities; provided that, so long as the Closing Date Revolving Facility is no longer outstanding, there may be an additional fiscal quarter after the
Original Revolving Facility Maturity Date in which the cure rights set forth in this Section 8.04 are exercised during the term of any Revolving
Commitments.

Article IX

Administrative Agent and Other Agents

SECTION 9.01 Appointment and Authorization of the Administrative Agent.

(1) Each Lender and Issuing Bank hereby irrevocably appoints Morgan Stanley Senior Funding, Inc., 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 IX (other than Sections 9.07, 9.11, 9.12, 9.15 and 9.16) are solely for the benefit of the
Administrative Agent, the Lenders and each Issuing Bank shall not have rights as a third-party beneficiary of any such provision. The
Administrative Agent hereby represents and warrants that it is either (i) a “U.S. person” and a “financial institution” and that it will comply with its
“obligation to withhold,” each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii) or (ii) a Withholding U.S. Branch.

(2) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its
capacities as a Lender and a potential Hedge Bank or Cash Management Bank) and the Issuing Banks hereby irrevocably appoints and authorizes the
Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for)
such Lender and Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to
secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative
Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for
purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights
and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX and Article X
with respect to the Administrative Agent (including Sections 10.04 and 10.05), as though such co-agents, sub-agents and attorneys-in-fact were the
“collateral agent” under the Loan Documents. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the
Administrative Agent to execute any and all documents
(including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including any Intercreditor Agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 9.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any such Person serving as an Agent and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 9.03 Exculpatory Provisions. The Administrative Agent and Collateral Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents. Without limiting the generality of the foregoing, each Agent (including the Administrative Agent):

(1) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent or Arranger is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(2) 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 such 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 no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such 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

(3) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Persons shall be liable for any action taken or not taken by it (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 the final and non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender, or an Issuing Bank.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, 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 the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender or the holder of any Note; and nothing in this Agreement or in any other Loan Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein.

Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each Arranger is named as such for recognition purposes only, and in its capacity as such shall have no powers, duties, responsibilities or liabilities with respect to this Agreement or the other Loan Documents or the transactions contemplated hereby and thereby; it being understood and agreed that each Arranger shall be entitled to all indemnification and reimbursement rights in favor of the Arrangers as, and to the extent, provided for under Section 10.05. Without limitation of the foregoing, each Arranger shall not, solely by reason of this Agreement or any other Loan Documents, have any fiduciary relationship in respect of any Lender or any other Person.

SECTION 9.04 Lack of Reliance on the Administrative Agent. Independently and without reliance upon the Administrative Agent, each Lender and the holder of each Note, to the extent it deems appropriate, has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of Holdings, the Borrower and the Restricted Subsidiaries in connection with the making and the continuance of the Loans and the taking or not taking of any action in connection herewith and (ii) its own appraisal of the creditworthiness of Holdings, the Borrower and the Restricted Subsidiaries and, except as expressly provided in this Agreement, the Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender or the holder of any Note with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter. The Administrative Agent shall not be responsible to any Lender or the holder of any Note for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of this Agreement or any other Loan Document or the financial condition of Holdings, the Borrower or any of the Restricted Subsidiaries or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any other Loan Document, or the financial condition of Holdings, the Borrower or any of the Restricted Subsidiaries or the existence or possible existence of any Default or Event of Default.

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SECTION 9.05 Certain Rights of the Administrative Agent. If the Administrative Agent requests instructions from the Required Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Loan Document, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders; and the Administrative Agent shall not incur liability to any Lender by reason of so refraining. Without limiting the foregoing, neither any Lender nor the holder of any Note shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any other Loan Document in accordance with the instructions of the Required Lenders.

SECTION 9.06 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any note, writing, resolution, notice, statement, certificate, telex, teletype or facsimile message, cablegram, radiogram, order or other document or telephone message signed, sent or made by any Person that the Administrative Agent believed to be the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan Document and its duties hereunder and thereunder, upon advice of counsel selected by the Administrative Agent. 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 Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or issuances 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.

SECTION 9.07 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents 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 Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Agent-Related Persons 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. Notwithstanding anything to the contrary in this Section 9.07 or Section 9.15, the Administrative Agent shall not delegate to any Supplemental Administrative Agent responsibility for receiving any payments under any Loan Document for the account of any Lender, which payments shall be received directly by the Administrative Agent, without prior written consent of the Borrower (not to unreasonably withheld or delayed).

SECTION 9.08 Indemnification. Whether or not the transactions contemplated hereby are consummated, to the extent the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) is not reimbursed and indemnified by the Borrower, the Lenders will reimburse and indemnify the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) in proportion to their respective Pro Rata Shares for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits,
costs, expenses or disbursements resulting from the Administrative Agent’s or any other Agent-Related Person’s gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision). In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.08 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower, provided that such reimbursement by the Lenders shall not affect the Borrower’s continuing reimbursement obligations with respect thereto, provided further that the failure of any Lender to indemnify or reimburse the Administrative Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 9.08 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.

SECTION 9.09 The Administrative Agent in Its Individual Capacity. With respect to its obligation to make Loans under this Agreement, the Administrative Agent shall have the rights and powers specified herein for a “Lender” and may exercise the same rights and powers as though it were not performing the duties specified herein; and the term “Lender,” “Required Lenders” or any similar terms shall, unless the context clearly indicates otherwise, include the Administrative Agent in its respective individual capacities. The Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, investment banking, trust or other business with, or provide debt financing, equity capital or other services (including financial advisory services) to any Loan Party or any Affiliate of any Loan Party (or any Person engaged in a similar business with any Loan Party or any Affiliate thereof) as if they were not performing the duties specified herein, and may accept fees and other consideration from any Loan Party or any Affiliate of any Loan Party for services in connection with this Agreement and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 9.10 [Reserved].

SECTION 9.11 Resignation by the Administrative Agent. The Administrative Agent may resign from the performance of all its respective functions and duties hereunder or under the other Loan Documents at any time by giving 30 Business Days prior written notice to the Lenders and the Borrower. If the Administrative Agent becomes subject to a Lender-Related Distress Event, then the Administrative Agent may be removed as the Administrative Agent at the reasonable request of the Required Lenders. If the Administrative Agent becomes subject to an Agent-Related Distress Event, then the Borrower may remove the Administrative Agent from such role upon 15 days’ prior written notice to the Lenders. Such resignation or removal shall take effect upon the appointment of a successor Administrative Agent as provided below.

Notwithstanding anything to the contrary in this Agreement, no successor Administrative Agent shall be appointed unless such successor Administrative Agent represents and warrants that it is (i) a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of U.S. Treasury Regulations Section 1.1441-1, or (ii) a Withholding U.S. Branch.
Upon any such notice of resignation by, or notice of removal of, the Administrative Agent, the Required Lenders shall appoint a successor Administrative Agent hereunder or thereunder who shall be a commercial bank or trust company reasonably acceptable to the Borrower, which acceptance shall not be unreasonably withheld or delayed (provided that the Borrower’s approval shall not be required if an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing).

If a successor Administrative Agent shall not have been so appointed within such 30 Business Day period, the Administrative Agent, with the consent of the Borrower (which consent shall not be unreasonably withheld or delayed, provided that the Borrower’s consent shall not be required if an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing), shall then appoint a successor Administrative Agent who shall serve as Administrative Agent hereunder or thereunder until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.

If no successor Administrative Agent has been appointed pursuant to the foregoing by the 35th Business Day after the date such notice of resignation was given by the Administrative Agent or such notice of removal was given by the Required Lenders or the Borrower, as applicable, the Administrative Agent’s resignation shall nonetheless become effective and the Required Lenders shall thereafter perform all the duties of the Administrative Agent hereunder or under any other Loan Document until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above. The retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Banks under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and 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 or Issuing Bank directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 9.11.

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 Administrative Agent’s resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 10.04 and 10.05 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.
Upon a resignation or removal of the Administrative Agent pursuant to this Section 9.11, the Administrative Agent (i) shall continue to be subject to Section 10.09 and (ii) shall remain indemnified to the extent provided in this Agreement and the other Loan Documents and the provisions of this Article IX (and the analogous provisions of the other Loan Documents) shall continue in effect for the benefit of the Administrative Agent for all of its actions and inactions while serving as the Administrative Agent.

SECTION 9.12 Collateral Matters. Each Lender (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) irrevocably authorizes and directs the Administrative Agent and the Collateral Agent to take the actions to be taken by them as set forth in Sections 7.04 and 10.24.

Each Lender hereby agrees, and each holder of any Note by the acceptance thereof will be deemed to agree, that, except as otherwise set forth herein, any action taken by the Required Lenders or the Required Facility Lenders, as applicable, in accordance with the provisions of this Agreement or the Collateral Documents, and the exercise by the Required Lenders or the Required Facility Lenders, as applicable, of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. The Collateral Agent is hereby authorized on behalf of all of the Lenders, without the necessity of any notice to or further consent from any Lender, from time to time, to take any action with respect to any Collateral or Collateral Documents which may be necessary to perfect and maintain perfected the security interest in and liens upon the Collateral granted pursuant to the Collateral Documents.

Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Collateral Agent’s authority to release particular types or items of Collateral pursuant to this Section 9.12. In each case as specified in this Section 9.12, Section 7.04 and Section 10.24, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrower’s expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents, this Section 9.12, Section 7.04 and Section 10.24.

The Collateral Agent shall have no obligation whatsoever to the Lenders or to any other Person to assure that the Collateral exists or is owned by any Loan Party or is cared for, protected or insured or that the Liens granted to the Collateral Agent herein or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to the Collateral Agent in this Section 9.12, Section 7.04, Section 10.24 or in any of the Collateral Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its sole discretion, given the Collateral Agent’s own interest in the Collateral as one of the Lenders and that the Collateral Agent shall have no duty or liability whatsoever to the Lenders, except for its gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

SECTION 9.13 [Reserved].

SECTION 9.14 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

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(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other 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, any Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, any Issuing Bank and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, any Issuing Bank and the Administrative Agent under Sections 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank 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 relevant Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective 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 Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required
Lenders contained in clauses (a) through (i) of the first proviso to Section 10.01(1) of this Agreement), (iii) the Administrative Agent shall be authorized
to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed
to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of
the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that
Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better,
because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise),
such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition
vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any
Secured Party or any acquisition vehicle to take any further action.

SECTION 9.15 Appointment of Supplemental Administrative Agents.

(1) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction
denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in
case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents,
or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers
or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith,
the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole
discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such
additional individual or institution being referred to herein individually as a “Supplemental Administrative Agent” and collectively as “Supplemental
Administrative Agents”).

(2) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and
every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or
conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the
extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect
to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and
necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the
Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and 10.05 that refer to
the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent
shall be deemed to be references to the Administrative Agent or such Supplemental Administrative Agent, as the context may require.

(3) Should any instrument in writing from any Loan Party be reasonably required by any Supplemental Administrative Agent so appointed
by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower
shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments reasonably acceptable to it promptly upon
request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting,
resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest
in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.
SECTIONS 9.16 Intercreditor Agreements. The Administrative Agent and Collateral Agent are hereby authorized to enter into any Intercreditor Agreement to the extent contemplated by the terms hereof, and the parties hereto acknowledge that such Intercreditor Agreement is binding upon them. Each Secured Party (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreements, (b) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into the Intercreditor Agreements and to subject the Liens on the Collateral securing the Obligations to the provisions thereof and (c) without any further consent of the Lenders, hereby authorizes and instructs the Administrative Agent and the Collateral Agent to negotiate, execute and deliver on behalf of the Secured Parties any intercreditor agreement or any amendment (or amendment and restatement) to the Collateral Documents or any Intercreditor Agreement contemplated hereunder (including any such amendment (or amendment and restatement) of the First Lien/Second Lien Intercreditor Agreement or other intercreditor agreement to provide for the incurrence of any Indebtedness permitted hereunder that will be secured on a junior lien or pari passu basis to (x) the Obligations and/or (y) any Indebtedness pursuant to the Second Lien Credit Documents). In addition, each Secured Party hereby authorizes the Administrative Agent and the Collateral Agent to enter into (i) any amendments to any Intercreditor Agreements, and (ii) any other intercreditor arrangements, in the case of clauses (i) and (ii) to the extent required to give effect to the establishment of intercreditor rights and privileges as contemplated and required or permitted by this Agreement (including any such amendment (or amendment and restatement) of the First Lien/Second Lien Intercreditor Agreement or other intercreditor agreement to provide for the incurrence of any Indebtedness permitted hereunder that will be secured on a junior lien or pari passu basis to (x) the Obligations and/or (y) any Indebtedness pursuant to the Second Lien Credit Documents). Each Secured Party acknowledges and agrees that any of the Administrative Agent and Collateral Agent (or one or more of their respective Affiliates) may (but are not obligated to) act as the “Debt Representative” or like term for the holders of Credit Agreement Refinancing Indebtedness under the security agreements with respect thereto or any Intercreditor Agreement then in effect. Each Lender waives any conflict of interest, now contemplated or arising hereafter, in connection therewith and agrees not to assert against any Agent or any of its affiliates any claims, causes of action, damages or liabilities of whatever kind or nature relating thereto.

SECTION 9.17 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

SECTION 9.18 Withholding Tax. To the extent required by any applicable Laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 3.01, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within ten (10) days after demand therefor, any and all Taxes and any and all related losses,
claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 9.18. The agreements in this Section 9.18 shall survive the resignation or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

Article X

Miscellaneous

SECTION 10.01 Amendments, etc.

(1) Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, 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 (other than (x) with respect to any amendment or waiver contemplated in clauses (g), (h) or (i) below (in the case of clause (i), to the extent permitted by Section 2.14), which shall only require the consent of the Required Facility Lenders under the applicable Facility or Facilities, as applicable (and not the Required Lenders) and (y) with respect to any amendment or waiver contemplated in clauses (a), (b) or (c), which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders) or by the Administrative Agent with the consent of the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and the Administrative Agent hereby agrees to acknowledge any such waiver, consent or amendment that otherwise satisfies the requirements of this Section 10.01 as promptly as possible, however, to the extent the final form of such waiver, consent or amendment has been delivered to the Administrative Agent at least one Business Day prior to the proposed effectiveness of the consents by the Lenders party thereto, the Administrative Agent shall acknowledge such waiver, consent or amendment (i) immediately, in the case of any amendment which does not require the consent of any existing Lender under this Agreement or (ii) otherwise, within two hours of the time copies of the Required Lender consents or other applicable Lender consents required by this Section 10.01 have been provided to 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:

(a) extend or increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Section 4.01 or 4.02 or the waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);
(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.07 or 2.08 (other than pursuant to Section 2.08(2)) or any payment of fees or premiums hereunder or under any Loan Document with respect to payments to any Lender without the written consent of such Lender, it being understood that none of the following will constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of principal, interest, fees or premiums: (i) the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans, (ii) the waiver of any Default or Event of Default, and (iii) any change to the definition of “First Lien Net Leverage Ratio,” “Secured Net Leverage Ratio,” “Total Net Leverage Ratio,” “Interest Coverage Ratio” or, in each case, in the component definitions thereof;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or Unreimbursed Amount, or any fees or other amounts payable hereunder or under any other Loan Document to any Lender without the written consent of such Lender, it being understood that none of the following will constitute a reduction in any rate of interest or any fees: any change to the definition of “First Lien Net Leverage Ratio,” “Secured Net Leverage Ratio,” “Total Net Leverage Ratio,” “Interest Coverage Ratio,” or, in each case, in the component definitions thereof; provided that only the consent of (A) the Required Lenders shall be necessary to amend the definition of “Default Rate” and (B) the Required Facility Lenders under the Closing Date Revolving Facility, the Required Facility Lenders under the Closing Date Revolving Facility, shall be necessary to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) except as contemplated by clause (C) in the second proviso immediately succeeding clause (i) of this Section 10.01(1), change any provision of this Section 10.01 or the definition of “Required Lenders” or “Required Facility Lenders,” “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents or Section 2.13 or 8.03, without the written consent of each Lender directly and adversely affected thereby;

(e) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the aggregate value of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;

(g) amend, waive or otherwise modify any term or provision (including the waiver of any conditions set forth in Section 4.02 as to any Credit Extension under one or more Revolving Facilities) which directly affects Lenders under one or more Revolving Facilities and does not directly affect Lenders under any other Facilities, in each case, without the written consent of the Required Facility Lenders under such applicable Revolving Facility or Facilities with respect to Revolving Commitments (and in the case of multiple Facilities which are affected, such Required Facility Lenders shall consent together as one Facility); provided, however, that the waivers described in this clause (g) shall not require the consent of the Required Lenders or any other Lenders other than the Required Facility Lenders under the applicable Revolving Facility or Facilities (it being understood that any amendment to the conditions of effectiveness of Incremental Commitments set forth in Section 2.14 shall be subject to clause (i) below);

(h) amend, waive or otherwise modify the Financial Covenant or any definition related thereto (solely in respect of the use of such defined terms in the Financial Covenant) or waive any Default or Event of Default resulting from a failure to perform or observe the Financial Covenant) without the written consent of the Required Facility Lenders under the applicable Revolving Facility or Facilities with respect to Revolving Commitments (such Required Facility Lenders shall consent together as one Facility); provided, however, that the amendments, waivers and other modifications described in this clause (h) shall not require the consent of the Required Lenders or any other Lenders other than the Required Facility Lenders under the applicable Revolving Facility or Facilities;
(i) amend, waive or otherwise modify any term or provision (including the availability and conditions to funding (subject to the requirements of Section 2.14) with respect to Incremental Term Loans and Incremental Revolving Commitments, but excluding the rate of interest applicable thereto which shall be subject to clause (c) above)) which directly affects Lenders of one or more Incremental Term Loans or Incremental Revolving Commitments and does not directly affect Lenders under any other Facility, in each case, without the written consent of the Required Facility Lenders under such applicable Incremental Term Loans or Incremental Revolving Commitments (and in the case of multiple Facilities which are affected, such Required Facility Lenders shall consent together as one Facility); provided, however, that, to the extent permitted under Section 2.14, no amendments or waivers described in this clause (i) shall require the consent of the Required Lenders or any other Lenders and shall only require the consent of the Required Facility Lenders under such applicable Incremental Term Loans or Incremental Revolving Commitments, including to the extent such amendment or waiver includes provisions that benefit the Lenders under any other Facility and are not adverse to such other Lenders;

provided that:

(I) no amendment, waiver or consent shall, unless in writing and signed by each Issuing Bank in addition to the Lenders required above, affect the rights or duties of such Issuing Bank under this Agreement or any Issuing Bank Document relating to any Letter of Credit issued or to be issued by it; provided, however, that this Agreement may be amended to adjust the mechanics related to the issuance of Letters of Credit, including mechanical changes relating to the existence of multiple Issuing Banks, with only the written consent of the Administrative Agent, the applicable Issuing Bank and the Borrower so long as the obligations of the Revolving Lenders, if any, who have not executed such amendment, and if applicable the other Issuing Banks, if any, who have not executed such amendment, are not adversely affected thereby;

(II) [reserved]

(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, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document; and

(IV) Section 10.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification;

provided further that notwithstanding the foregoing:

(A) no Defaulting Lender shall have any right to approve or disapprove of 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 than Defaulting Lenders), except that the Commitment of such Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders),
(B) no Lender consent is required to effect any amendment or supplement to any Intercreditor Agreement (i) that is for the purpose of adding the holders of Permitted Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or any other Permitted Indebtedness that is Secured Indebtedness (or a Debt Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of such Intercreditor Agreement, as applicable (it being understood that any such amendment, modification or supplement may make such other changes to the applicable Intercreditor Agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing and provided that such other changes are not adverse, in any material respect, to the interests of the Lenders) or (ii) that is expressly contemplated by any Intercreditor Agreement in connection with joinders and supplements; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document without the prior written consent of the Administrative Agent or the Collateral Agent, as applicable;

(C) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans, the Revolving Loans and L/C Obligations and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders;

(D) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section 10.01 if such Class of Lenders were the only Class of Lenders hereunder at the time;

(E) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent (or the Collateral Agent, as applicable) to cure any ambiguity, omission, defect or inconsistency (including amendments, supplements or waivers to any of the Collateral Documents, guarantees, intercreditor agreements or related documents executed by any Loan Party or any other Subsidiary in connection with this Agreement if such amendment, supplement or waiver is delivered in order to cause such Collateral Documents, guarantees, intercreditor agreements or related documents to be consistent with this Agreement and the other Loan Documents) so long as, in each case, the Lenders shall have received at least five (5) Business Days’ prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; provided that the consent of the Lenders or the Required Lenders, as the case may be, shall not be required to make any such changes necessary to be made in connection with any borrowing of Incremental Loans, any borrowing of Other Loans, any Extension or any borrowing of Replacement Loans and otherwise to effect the provisions of Section 2.14, 2.15 or 2.16 or the immediately succeeding paragraph of this Section 10.01, respectively; and
(F) the Borrower and the Administrative Agent may, without the input or consent of the other Lenders, (i) effect changes to any Mortgage as may be necessary or appropriate in the opinion of the Collateral Agent and (ii) effect changes to this Agreement that are necessary and appropriate to effect the offering process set forth in Section 2.05(1)(e).

(2) In addition, notwithstanding anything to the contrary contained in this Section 10.01, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the Replacement Loans (as defined below) to permit the refinancing of all outstanding Term Loans of any Class (“Replaced Loans”) with replacement term loans (“Replacement Loans”) hereunder; provided that:

(a) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Replaced Loans, plus accrued interest, fees, premiums (if any) and penalties thereon and reasonable fees and expenses incurred in connection with such refinancing of Replaced Loans with such Replacement Loans,

(b) the All-In Yield with respect to such Replacement Loans (or similar interest rate spread applicable to such Replacement Loans) shall not be higher than the All-In Yield for such Replaced Loans (or similar interest rate spread applicable to such Replaced Loans) immediately prior to such refinancing,

(c) the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the Weighted Average Life to Maturity of such Replaced Loans at the time of such refinancing, and

(d) all other terms (other than with respect to pricing, interest rate margins, fees, discounts, rate floors and prepayment or redemption terms) applicable to such Replacement Loans shall either, at the option of the Borrower, (i) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Replacement Loans (as determined by the Borrower in good faith) or (ii) if not otherwise consistent with the terms of such Replaced Loans, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Replaced Loans, except with respect to covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such refinancing.

Each amendment to this Agreement providing for Replacement Loans may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower to effect the provisions of this paragraph, and for the avoidance of doubt, this paragraph shall supersede any other provisions in this Section 10.01 to the contrary.

(3) In addition, notwithstanding anything to the contrary in this Section 10.01,
(a) the Guaranty, the Collateral Documents and related documents executed by Loan Parties in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause the Guaranty, Collateral Documents or other document to be consistent with this Agreement and the other Loan Documents (including by adding additional parties as contemplated herein or therein) and

(b) if the Administrative Agent and the Borrower shall have jointly identified an obvious error, mistake, ambiguity, incorrect cross-reference or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then the Administrative Agent (acting in its sole discretion) and the Borrower or any other relevant Loan Party shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document. Notification of such amendment shall be made by the Administrative Agent to the Lenders promptly upon such amendment becoming effective.

SECTION 10.02 Notices and Other Communications; Facsimile Copies.

(1) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (2) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to Holdings, the Borrower or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

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 facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next succeeding Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (2) below shall be effective as provided in such subsection (2).

(2) Electronic Communication. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.
Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender’s receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next succeeding Business Day for the recipient, 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.

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 Agent-Related Persons or any Arranger (collectively, the “Agent Parties”) have any liability to Holdings, the Borrower, any Lender, 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 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 non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

Change of Address. Each Loan Party and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by written notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by written notice to the Borrower and the Administrative Agent. 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, facsimile number and electronic 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 may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

Reliance by the Administrative Agent. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed 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, each Lender and the Agent-Related Persons 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.

SECTION 10.03 No Waiver; Cumulative Remedies. No failure by any Lender 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 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; provided, however, 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) any Issuing Bank from exercising the rights and remedies that inure to its benefit (solely in its capacity as Issuing Bank, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.10 (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.

SECTION 10.04 Costs and Expenses. The Borrower agrees (a) if the Closing Date occurs and to the extent not paid or reimbursed on or prior to the Closing Date, to pay or reimburse the Administrative Agent and the Arrangers for all reasonable and documented out-of-pocket costs and expenses of the Administrative Agent and such Arrangers incurred in connection with the preparation, negotiation, syndication, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs of a single U.S. counsel and, if necessary, a single local counsel in each relevant material jurisdiction, and (b) upon presentation of a summary statement, together with any supporting documentation reasonably requested by the Borrower, to pay or reimburse the Administrative Agent, each Issuing Bank and the other Lenders, taken as a whole, promptly following a written demand therefor for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of one counsel to the Administrative Agent and the Lenders taken as a whole (and, if necessary, one local counsel in any relevant material jurisdiction and solely in the case of a conflict of interest, one additional counsel in each relevant material jurisdiction to each group of affected
Lenders similarly situated taken as a whole). The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within thirty (30) Business Days following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

SECTION 10.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Agents, each Issuing Bank, each other Lender, the Arrangers and their respective Related Persons (collectively, the “Indemnitees”) from and against any and all losses, claims, damages, liabilities or expenses (including Attorney Costs and Environmental Liabilities) to which any such Indemnitee may become subject arising out of, resulting from or in connection with (but limited, in the case of legal fees and expenses, to the reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, a single local counsel for all Indemnitees taken as a whole in each relevant material jurisdiction, and solely in the case of a conflict of interest, one additional counsel in each relevant material jurisdiction to each group of affected Indemnitees similarly situated taken as a whole) any actual or threatened claim, litigation, investigation or proceeding relating to the Transactions or to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents, the Loans, the Letters of Credit or the use, or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank 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), whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, litigation, investigation or proceeding), and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the “Indemnified Liabilities”); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or expenses resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its Related Indemnified Persons as determined by any final, non-appealable judgment of a court of competent jurisdiction, (y) a material breach of any obligations under any Loan Document by such Indemnitee or any of its Related Indemnified Persons as determined by a final, non-appealable judgment of a court of competent jurisdiction or (z) any dispute solely among Indemnitees other than any claims arising out of or in connection with this Agreement (except to the extent such damages are found in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of such Indemnitee), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party for which such Indemnitee is otherwise entitled to indemnification pursuant to this Section 10.05). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors,
stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 10.05 shall be paid within thirty (30) Business Days after written demand therefor. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 10.05 shall not apply to Taxes, except any Taxes that represent losses or damages arising from any non-Tax claim. Notwithstanding the foregoing, each Indemnitee shall be obligated to refund and return promptly any and all amounts paid by any Loan Party or any of its Affiliates under this Section 10.05 to such Indemnitee for any such fees, expenses or damages to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof.

SECTION 10.06 Marshaling; Payments Set Aside. None of the Administrative Agent or any Lender shall be under any obligation to marshal any assets in favor of the Loan Parties or any other party or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent 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 such Agent 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 severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any 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 Overnight Rate from time to time in effect.

SECTION 10.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and registered assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 7.03, 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 (including to existing Lenders and their Affiliates) except (i) to an assignee in accordance with the provisions of Section 10.07(b) (such an assignee, an “Eligible Assignee”) and (A) in the case of any Eligible Assignee that, immediately prior to or upon giving effect to such assignment, is an Affiliated Lender, in accordance with the provisions of Section 10.07(h), (B) in the case of any Eligible Assignee that is Holdings, the Borrower or any Subsidiary of the Borrower, in accordance with the provisions of Section 10.07(l), or (C) in the case of any Eligible Assignee that is Holdings, the Borrower or any Subsidiary of the Borrower, in accordance with the provisions of Section 10.07(l), or (C) in the case of any Eligible Assignee that, immediately prior to or upon giving effect to such assignment, is a Debt Fund Affiliate, in accordance with the provisions of Section 10.07(k), (ii) by way of participation in accordance with the provisions of Section 10.07(d), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(f), or (iv) to an SPC in accordance with the provisions of Section 10.07(g) (and any other attempted assignment or transfer by any party hereto shall be null and void) (or in the case of any such attempted assignment or transfer to a Disqualified Institution shall be subject to the provisions set forth in the fourth sentence of the definition of “Lender”). 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 Section 10.07(d) and, to the extent expressly contemplated hereby, Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

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Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this Section 10.07(b), participations in L/C Obligations) 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 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 10.07, the aggregate amount of the Commitment or, 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 $1.0 million, in the case of USD Term Loans, not less than €1.0 million, in the case of Euro Term Loans, and not less than $5.0 million, in the case of Revolving Loans and Revolving Commitments, unless each of the Administrative Agent and, so long as no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing, the Borrower otherwise consents (in the case of an assignment of Term Loans, each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Loans or the Commitment assigned (it being understood that assignments under separate Facilities shall not be required to be made on a pro rata basis).

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 10.07(b)(i)(B) and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing at the time of such assignment determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if a “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date or (2) in respect of an assignment of all or a portion of the Term Loans only, such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that (x) consent for any affiliate of a Disqualified Institution that is not a Disqualified Institution may be withheld, (y) the Borrower shall be deemed to have consented to any assignment of all or a portion of the Term Loans unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice of a failure to respond to such request for assignment and (z) no consent of the Borrower shall be required for an assignment of all or a portion of the Loans pursuant to Section 10.07(h), (k) or (l);
(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; provided that no consent of the Administrative Agent shall be required for an assignment of all or a portion of the Loans pursuant to Section 10.07(h), (k) or (l);

(C) the consent of each applicable Issuing Bank at the time of such assignment (such consent not to be unreasonably withheld or delayed) shall be required; provided that no consent of the applicable Issuing Bank shall be required for any assignment not related to Revolving Commitments or Revolving Exposure; and

(D) [Reserved]

(E) with respect to assignments of any Commitments and Loans under the Revolving Facility, the consent of TPG VII Manta Holdings II, LP (such consent not to be unreasonably withheld or delayed) shall be required (so long as TPG VII Manta Holdings II, LP and its affiliates hold, directly or indirectly, at least a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower) unless an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing at the time of such assignment determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if a “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date (it being understood that TPG VII Manta Holdings II, LP shall be an express third party beneficiary of the provisions in this Section 10.07(b)(iii)(E)).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent). Other than in the case of assignments pursuant to Section 10.07(l), the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and all applicable tax forms.

(v) No Assignments to Certain Persons. No such assignment shall be made (A) to Holdings, the Borrower or any of the Borrower’s Subsidiaries except as permitted under Sections 2.05(1)(e) and 10.07(l), (B) subject to Sections 10.07(h), (k) and (l) below, to any Affiliate of the Borrower, (C) to a natural person, (D) to any Disqualified Institution or (E) to any Defaulting Lender.

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 sub participations, 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 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 in accordance with its Pro Rata Share. 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 clause (c) of this Section 10.07 (and, in the case of an
Affiliated Lender or a Person that, after giving effect to such assignment, would become an Affiliated Lender, to the requirements of clause (h) of this
Section 10.07), from and after the effective date specified in each Assignment and Assumption, other than in connection with an assignment pursuant to
Section 10.07(l), (x) 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 (y) 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, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the
effective date of such assignment), but shall in any event continue to be subject to Section 10.09. Upon request, and the surrender by the assigning
Lender of its Note, 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 Section 10.07(d).

(c) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent’s
Office a copy of each Assignment and Assumption delivered to it, each Affiliated Lender Assignment and Assumption delivered to it, each notice of
cancellation of any Loans delivered by the Borrower pursuant to subsections (h) or (l) below, and a register for the recordation of the names and
addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans, L/C Obligations (specifying
Unreimbursed Amounts), L/C Borrowings and amounts due under Section 2.03, 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 Agents and the Lenders shall treat each
Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding
notice to the contrary. The Register shall be available for inspection by the Borrower, any Agent and, with respect to its own Loans, any Lender, at any
reasonable time and from time to time upon reasonable prior notice. This Section 10.07(c) and Section 2.11 shall be construed so that all Loans are at all
times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations
(or any other relevant or successor provisions of the Code or of such Treasury regulations). Notwithstanding the foregoing, in no event shall the
Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is an Affiliated Lender, nor shall the Administrative Agent
be obligated to monitor the aggregate amount of the Term Loans or Incremental Term Loans held by Affiliated Lenders.

(d) 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, the Borrower and its Affiliates, a Defaulting Lender or a Disqualified Institution) (each, a “Participant”) in all or a
portion of such Lender’s rights or obligations under this Agreement (including all or a portion of its

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Commitment or the Loans (including such Lender’s participations in L/C Obligations) 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 Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; 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(1) (other than clauses (g), (h) and (i) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section 10.07, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Section 3.01 (including subsections (2), (3) and (4), as applicable) as though it were a Lender; provided that any forms required to be provided under Section 3.01(3) shall be provided solely to the participating Lender), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 10.07. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.10 as though it were a Lender; provided that such Participant shall agree to be subject to Section 2.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower’s prior written consent. Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations issued thereunder on which is entered the name and address of each Participant and the principal amounts (and related interest amounts) of each Participant’s interest in the Loans or other obligations under this Agreement (the “Participant Register”). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender and the Borrower 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; provided that no Lender shall have the obligation to disclose all or a portion of the Participant Register (including the identity of the Participant or any information relating to a Participant’s interest in the Loans or other obligations under this Agreement) to any Person except to the extent such disclosure is necessary to establish that any such commitments, loans, letters of credit or other obligations are in registered form for U.S. federal income tax purposes or such disclosure is otherwise required under Treasury Regulations Section 5f.103-1(c).

(f) 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 any security or assignment to secure obligations to a Federal Reserve Bank or any other central 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.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part

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of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) such SPC and the applicable Loan or any applicable part thereof shall be appropriately reflected in the Participant Register. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the Lender hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Any Lender may at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (x) Dutch auctions or other offers to purchase or take by assignment open to all Lenders on a pro rata basis in accordance with procedures determined by such Affiliated Lender in its sole discretion or (y) open market purchase on a non-pro rata basis, in each case subject to the following limitations:

(i) Affiliated Lenders will not (A) receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans or Commitments required to be delivered to Lenders pursuant to Article II or (B) make any challenge to the Administrative Agent’s or any other Lender’s attorney-client privilege on the basis of its status as a Lender;

(ii) [reserved];

(iii) each Lender (other than any other Affiliated Lender) that assigns any Loans to an Affiliated Lender pursuant to clause (y) above shall deliver to the Administrative Agent and the Borrower a customary Big Boy Letter;

(iv) the aggregate principal amount of Term Loans of any Class under this Agreement held by Affiliated Lenders at the time of any such purchase or assignment shall not exceed 25% of the aggregate principal amount of Term Loans of such Class outstanding at such time under this Agreement (such percentage, the “Affiliated Lender Cap”); provided that to the extent any assignment to an Affiliated Lender would result in the aggregate principal amount of all Term Loans of any Class held by Affiliated Lenders exceeding the Affiliated Lender Cap, the assignment of such excess amount will be void ab initio;
(v) as a condition to each assignment pursuant to this subsection (h), the Administrative Agent and the Borrower shall have been provided a notice in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender pursuant to which such Affiliated Lender (in its capacity as such) shall waive any right to bring any action in connection with such Loans against the Administrative Agent, in its capacity as such; and

(vi) the assigning Lender and the Affiliated Lender purchasing such Lender’s Term Loans shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit D-2 hereto (an “Affiliated Lender Assignment and Assumption”).

Notwithstanding anything to the contrary contained herein, any Affiliated Lender that has purchased Term Loans pursuant to this subsection (h) may, in its sole discretion, contribute, directly or indirectly, the principal amount of such Term Loans or any portion thereof, plus all accrued and unpaid interest thereon, to the Borrower for the purpose of cancelling and extinguishing such Term Loans. Upon the date of such contribution, assignment or transfer, (x) the aggregate outstanding principal amount of Term Loans shall reflect such cancellation and extinguishing of the Term Loans then held by the Borrower and (y) the Borrower shall promptly provide notice to the Administrative Agent of such contribution of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register.

Each Affiliated Lender agrees to notify the Administrative Agent and the Borrower promptly (and in any event within ten (10) Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent and the Borrower promptly (and in any event within ten (10) Business Days) if it becomes an Affiliated Lender. The Administrative Agent may conclusively rely upon any notice delivered pursuant to the immediately preceding sentence or pursuant to clause (v) of this subsection (h) and shall not have any liability for any losses suffered by any Person as a result of any purported assignment to or from an Affiliated Lender.

(i) Notwithstanding anything in Section 10.01 or the definition of “Required Lenders,” or “Required Facility Lenders” to the contrary, for purposes of determining whether the Required Lenders and Required Facility Lenders (in respect of a Class of Term Loans) have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 10.07(j), any plan of reorganization pursuant to the U.S. Bankruptcy Code, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, no Affiliated Lender shall have any right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action and, except with respect to any amendment, modification, waiver, consent or other action (x) in Section 10.01 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (y) that alters an Affiliated Lender’s pro rata share of any payments given to all Lenders, or (z) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender in the same Class, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph) (but, in any event, in connection with any amendment, modification, waiver, consent or other action, shall be entitled to any consent fee, calculated as if all of such Affiliated Lender’s Loans had voted in favor of any matter for which a consent fee or similar payment is offered).
(j) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender hereby agrees that, and each Affiliated Lender Assignment and Assumption shall provide a confirmation that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Term Loans held by such Affiliated Lender in any manner in the Administrative Agent’s sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Term Loans held by it as the Administrative Agent directs; provided that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Obligations held by such Affiliated Lender in a disproportionately adverse manner than the proposed treatment of similar Obligations held by Term Lenders that are not Affiliated Lenders.

(k) Although any Debt Fund Affiliate(s) shall be Eligible Assignees and shall not be subject to the provisions of Section 10.07(h), (i) or (j), any Lender may, at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, a Debt Fund Affiliate only through (x) Dutch auctions or other offers to purchase or take by assignment open to all Lenders on a pro rata basis in accordance with procedures of the type described in Section 2.05(1)(e) (for the avoidance of doubt, without requiring any representation as to the possession of material non-public information by such Affiliate) or (y) open market purchase on a non-pro rata basis. Notwithstanding anything in Section 10.01 or the definition of “Required Lenders” to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, all Term Loans, Revolving Commitments and Revolving Loans held by Debt Fund Affiliates, in the aggregate, may not account for more than 49.9% of the Term Loans, Revolving Commitments and Revolving Loans of Lenders included in determining whether the Required Lenders have consented to any action pursuant to Section 10.01.

(l) Any Lender may, so long as no Event of Default has occurred and is continuing, at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to Holdings, the Borrower or any Subsidiary of the Borrower through (x) Dutch auctions or other offers to purchase open to all Lenders on a pro rata basis in accordance with procedures of the type described in Section 2.05(1)(e) or (y) open market purchases on a non-pro rata basis; provided that:

   (i) (x) if the assignee is Holdings or a Subsidiary of the Borrower, upon such assignment, transfer or contribution, the applicable assignee shall automatically be deemed to have contributed or transferred the principal amount of such Term Loans, plus all accrued and unpaid interest thereon, to the Borrower; or (y) if the assignee is the Borrower (including through contribution or transfers set forth in clause (x)), (a) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to the Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer; (b) the aggregate outstanding principal amount of Term Loans of the remaining Lenders shall reflect such cancellation and extinguishing of the Term Loans then held by the Borrower and (c) the Borrower shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register;

   (ii) [reserved];
(iii) each Lender (other than an Affiliated Lender) that assigns any Loans to Holdings, the Borrower or any Subsidiary of the Borrower pursuant to clause (y) above shall deliver to the Administrative Agent and the Borrower a customary Big Boy Letter; and

(iv) purchases of Term Loans pursuant to this subsection (l) may not be funded with the proceeds of Revolving Loans.

(m) Notwithstanding anything to the contrary contained herein, without the consent of the Borrower or the Administrative Agent, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

(n) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans or Commitments, or disclosure of confidential information, to any Disqualified Institution.

SECTION 10.08 Resignation of Issuing Bank. Notwithstanding anything to the contrary contained herein, any Issuing Bank may, upon thirty (30) Business Days’ notice to the Borrower and the Lenders, resign as an Issuing Bank, so long as on or prior to the expiration of such 30-Business Day period with respect to such resignation, the relevant Issuing Bank shall have identified a successor Issuing Bank reasonably acceptable to the Borrower willing to accept its appointment as successor Issuing Bank. In the event of any such resignation of an Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders willing to accept such appointment a successor Issuing Bank hereunder; provided that no failure by the Borrower to appoint any such successor shall affect the resignation of the relevant Issuing Bank except as expressly provided above. If an Issuing Bank resigns as an Issuing Bank, it shall retain all the rights and obligations of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank 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(3)).

SECTION 10.09 Confidentiality. Each of the Agents, the Arrangers, the Lenders and each Issuing Bank agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, legal counsel, independent auditors, agents, trustees, advisors and representatives (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, with such Affiliate being responsible for such Person’s compliance with this Section 10.09; provided, however, that such Agent, Arranger, Lender or Issuing Bank, as applicable, shall be principally liable to the extent this Section 10.09 is violated by one or more of its Affiliates or any of its or their respective employees, directors or officers), (b) to the extent requested by any
regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners); provided, however, that each Agent, each Arranger, each Lender and each Issuing Bank agrees to notify the Borrower promptly thereof (except in connection with any request as part of a regulatory examination) to the extent it is legally permitted to do so, (c) to the extent required by applicable laws or regulations or by any subpoena or otherwise as required by applicable Law or regulation or as requested by a governmental authority; provided that such Agent, such Arranger, such Lender or such Issuing Bank, as applicable, agrees that it will (x) notify the Borrower as soon as practicable in the event of any such disclosure by such Person (except in connection with any request as part of a regulatory examination) unless such notification is prohibited by law, rule or regulation and (y) seek confidential treatment with respect to any such disclosure, (d) to any other party hereto, (e) subject to an agreement containing provisions at least as restrictive as those of this Section 10.09, to (i) subject to Section 10.07(1)(b)(x)(D), 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 (or its agent) invited to be an Additional Lender or (ii) with the prior consent of the Borrower, any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any of their Subsidiaries or any of their respective obligations; provided that such disclosure shall be made subject to the acknowledgment and acceptance by such prospective Lender, Participant or Eligible Assignee that such Information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as is otherwise reasonably acceptable to the Borrower, the Agents and the Arrangers, including as set forth in any confidential information memorandum or other marketing materials) in accordance with the standard syndication process of the Agents and the Arrangers or market standards for dissemination of such type of information which shall in any event require “click through” or other affirmative action on the part of the recipient to access such confidential information, (f) for purposes of establishing a “due diligence” defense, (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, (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, or (iii) service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and 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 by any Person of this Section 10.09 or any other confidentiality provision in favor of any Loan Party, (y) becomes available to any Agent, any Arranger, any Lender, any Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Agent, such Lender, such Issuing Bank or the applicable Affiliate to be subject to a confidentiality restriction in respect thereof in favor of Holdings, the Borrower or any Affiliate thereof or (z) is independently developed by the Agents, the Lenders, the Issuing Banks, the Arrangers or their respective Affiliates, in each case, so long as not based on information obtained in a manner that would otherwise violate this Section 10.09.

For purposes of this Section 10.09, “Information” means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary or Affiliate thereof or their respective businesses, other than any such information that is available to any Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that no information received from Holdings, the Borrower or any Subsidiary or Affiliate thereof after the date hereof shall be deemed nonconfidential on account of such information not being clearly identified at the time of delivery as being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 10.09 shall be considered to have complied with its obligation to do so in accordance with its customary procedures 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 Agent, each Arranger, each Lender and each Issuing Bank acknowledges that (a) the Information may include trade secrets, protected confidential information, or 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 such information and (c) it will handle such information in accordance with applicable Law, including United States Federal and state securities Laws and to preserve its trade secret or confidential character.

The respective obligations of the Agents, the Arrangers, the Lenders and any Issuing Bank under this Section 10.09 shall survive, to the extent applicable to such Person, (x) the payment in full of the Obligations and the termination of this Agreement, (y) any assignment of its rights and obligations under this Agreement and (z) the resignation or removal of any Agent.

SECTION 10.10 Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such Issuing Bank to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party then due and payable under this Agreement or any other Loan Document to such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document; 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 2.17 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 Issuing Banks, 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 and each Issuing Bank under this Section 10.10 are in addition to other rights and remedies (including other rights of setoff) that such Lender or such Issuing Bank may have. Each Lender and each Issuing Bank 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.

SECTION 10.11 Interest Rate Limitation. 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 any 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 an 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.

SECTION 10.12 Counterparts; Integration; Effectiveness. This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents 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 of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging (including in .pdf format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.13 Electronic Execution of Assignments and Certain Other Documents. The words “delivery,” “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other modifications, Committed Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 10.14 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto 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.

SECTION 10.15 Severability. 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.

SECTION 10.16 GOVERNING LAW.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE BORROWER, HOLDINGS, THE ADMINISTRATIVE AGENT AND EACH LENDER EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION
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 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. EACH PARTY HERETO AGREES THAT THE AGENTS AND
LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS
AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY
RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) THE BORROWER, HOLDINGS, THE ADMINISTRATIVE AGENT AND EACH LENDER EACH 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 10.16. 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.

SECTION 10.17 WAIVER OF RIGHT TO TRIAL BY JURY. 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 10.17.

SECTION 10.18 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the
Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall
be binding upon and inure to the benefit of the Borrower, each Agent, each Lender, each other party hereto and their respective successors and assigns.

SECTION 10.19 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for
any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of
setoff, rights on account of any banker’s lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise
commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the
Administrative Agent. The provision of this Section 10.19 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense
available to, any Loan Party.
SECTION 10.20 Use of Name, Logo, etc. Each Loan Party consents to the publication in the ordinary course by Administrative Agent or the Arrangers of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party’s name, product photographs, logo or trademark; provided that any such material shall be provided to the Borrower for its review a reasonable period of time in advance of publication. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and the Arrangers.

SECTION 10.21 USA PATRIOT Act. Each Lender that is subject to the USA PATRIOT Act 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, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA 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 USA PATRIOT Act.

SECTION 10.22 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.

SECTION 10.23 No Advisory or Fiduciary Responsibility. 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), each of the Borrower and Holdings acknowledges and agrees that (i) (A) the arranging and other services regarding this Agreement provided by the Agents, the Arrangers and the Lenders are arm’s-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each Agent, Arranger and 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, Holdings or any of their respective Affiliates, or any other Person and (B) none of the Agents, the Arrangers nor any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Arrangers, 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, Holdings and their respective Affiliates, and none of the Agents, the Arrangers nor any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby waives and releases any claims that it may have against the Agents, the Arrangers 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.
(a) The Lenders and the Issuing Banks hereby irrevocably agree that the Liens granted to the Administrative Agent or the Collateral Agent by the Loan Parties on any Collateral shall be automatically released (i) in full, as set forth in clause (b) below, (ii) upon the sale or other transfer of such Collateral (including as part of or in connection with any other sale or other transfer permitted hereunder (including any Receivables Financing Transaction)) to any Person other than another Loan Party, to the extent such sale, transfer or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Loan Party by a Person that is not a Loan Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 10.01), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guaranty (in accordance with the second succeeding sentence), (vi) as required by the Collateral Agent to effect any sale, transfer or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Collateral Documents and (vii) to the extent such Collateral otherwise becomes Excluded Assets. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents. Additionally, the Lenders and the Issuing Banks hereby irrevocably agree that the Guarantors shall be released from the Guaranties upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary, or otherwise becoming an Excluded Subsidiary. The Lenders and the Issuing Banks hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, consents, acknowledgements, and agreements necessary or desirable to evidence or confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender or Issuing Bank. Any representation, warranty or covenant contained in any Loan Document relating to any such released Collateral or Guarantor shall no longer be deemed to be repeated.

(b) Notwithstanding anything to the contrary contained herein or any other Loan Document, when the Termination Conditions are satisfied, upon request of the Borrower, the Administrative Agent or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to release its security interest in all Collateral, and to release all obligations under any Loan Document, whether or not on the date of such release there may be any (i) Hedging Obligations in respect of any Secured Hedge Agreements, (ii) Cash Management Obligations in respect of any Secured Cash Management Agreements, (iii) contingent obligations not then due and (iv) Outstanding Amount of L/C Obligations related to any Letter of Credit that has been Cash Collateralized, backstopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank or deemed reissued under another agreement reasonably acceptable to the applicable Issuing Bank. Any such release of Obligations shall be deemed subject to the provision that such Obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.
(c) Notwithstanding anything to the contrary contained herein or in any other Loan Document, upon request of the Borrower in connection with any Liens permitted by the Loan Documents, the Administrative Agent or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to subordinate the Lien on any Collateral to any Lien permitted under Section 7.01 to be senior to the Liens in favor of the Collateral Agent.

SECTION 10.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties hereto, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, 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 any EEA Resolution Authority.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MCAFEE, LLC, as the Borrower

By: 
   Name: 
   Title: 

MCAFEE FINANCE 2, LLC, as Holdings

By: 
   Name: 
   Title: 

[Signature Page to First Lien Credit Agreement]
MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, Collateral Agent, Issuing Bank, Revolving Lender and Term Lender

By:  
Name:  
Title:  

By:  
Name:  
Title:  

[Signature Page to First Lien Credit Agreement]
Exhibit 10.4

AMENDMENT NO. 3 TO FIRST LIEN CREDIT AGREEMENT

This AMENDMENT NO. 3 TO FIRST LIEN CREDIT AGREEMENT, dated as of June 13, 2019 (this “Amendment”), is entered into by and among McAfee, LLC, a Delaware limited liability company (the “Borrower”), the Guarantors party hereto, the Lenders party hereto, Morgan Stanley Senior Funding, Inc. (“MSSF”), as administrative agent (the “Administrative Agent”) and Bank of America, N.A., as 2019 Term B Euro Incremental Lender (as defined in Exhibit A) and 2019 Term B USD Incremental Lender (as defined in Exhibit A). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower, McAfee Finance 2, LLC, a Delaware limited liability company (“Holdings”), the Administrative Agent and the lenders from time to time party thereto are party to that certain First Lien Credit Agreement, dated as of September 29, 2017 (as amended, supplemented or otherwise modified prior to the date hereof, the “Credit Agreement”); capitalized terms not otherwise defined in this Amendment have the same meanings as specified in the Credit Agreement);

WHEREAS, Section 10.01 of the Credit Agreement provides that the relevant Loan Parties and the Required Lenders may amend the Credit Agreement and the other Loan Documents for certain purposes, including to permit additional extensions of credit to be included in the Credit Agreement;

WHEREAS, (i) pursuant to Section 2.14(1) of the Credit Agreement, the Borrower has delivered a request for a Term Loan Increase to the Administrative Agent in an aggregate principal Euro-denominated amount of €355,000,000 and (ii) the Borrower has requested that on the Amendment No. 3 Effective Date the financial institution signatory hereto as the 2019 Term B Euro Incremental Lender provide, pursuant to Section 2.14(4)(c) of the Credit Agreement, a 2019 Term B Euro Incremental Commitment (as defined in Exhibit A) under the Amended Credit Agreement, and make 2019 Term B Euro Incremental Loans (as defined in Exhibit A) as a Term Loan Increase of the Term B Euro Loans, which 2019 Term B Euro Incremental Loans will be of the same Class as the Term B Euro Loans, in an aggregate principal amount equal to €355,000,000 on the Amendment No. 3 Effective Date, the proceeds of which will be used by the Borrower to pay a dividend to certain equity holders of the Borrower, and each 2019 Term B Euro Incremental Lender is prepared to provide its 2019 Term B Euro Incremental Commitment and to make the 2019 Term B Euro Incremental Loans pursuant to the Amended Credit Agreement in the principal amount set forth opposite such 2019 Term B Euro Incremental Lender’s name under the heading “2019 Term B Euro Incremental Commitment” on Schedule 2.01(a) to the Amended Credit Agreement, in each case subject to the other terms and conditions set forth herein; and

WHEREAS, (i) pursuant to Section 2.14(1) of the Credit Agreement, the Borrower has delivered a request for a Term Loan Increase to the Administrative Agent in an aggregate principal USD-denominated amount of $300,000,000 and (ii) the Borrower has requested that on the Amendment No. 3 Effective Date the financial institution signatory hereto
as the 2019 Term B USD Incremental Lender provide, pursuant to Section 2.14(4)(c) of the Credit Agreement, a 2019 Term B USD Incremental Commitment (as defined in Exhibit A) under the Amended Credit Agreement, and make 2019 Term B USD Incremental Loans (as defined in Exhibit A) as a Term Loan Increase of the Term B USD Loans, which 2019 Term B USD Incremental Loans will be of the same Class as the Term B USD Loans, in an aggregate principal amount equal to $300,000,000 on the Amendment No. 3 Effective Date, the proceeds of which will be used by the Borrower to pay a dividend to certain equity holders of the Borrower, and each 2019 Term B USD Incremental Lender is prepared to provide its 2019 Term B USD Incremental Commitment and to make the 2019 Term B USD Incremental Loans pursuant to the Amended Credit Agreement in the principal amount set forth opposite such 2019 Term B USD Incremental Lender’s name under the heading “2019 Term B USD Incremental Commitment” on Schedule 2.01(a) to the Amended Credit Agreement, in each case subject to the other terms and conditions set forth herein; and

WHEREAS, each of BofA Securities, Inc. (or any of its designated affiliates, “BofA Securities”), Barclays Bank PLC (“Barclays”), Citigroup Global Markets Inc. (“CGMI”) on behalf of Citi, Deutsche Bank Securities Inc. (“DBSI”), Goldman Sachs Bank USA (“GS Bank”), JPMorgan Chase Bank, N.A. (“JPMorgan”), Mizuho Bank, Ltd. (“Mizuho”), MSSF, Royal Bank of Canada2 (“Royal Bank”), UBS Securities LLC (“UBSS”) has acted as joint lead arrangers and joint lead bookrunners in connection with this Amendment and TPG Capital BD (“TPG BD”, and together with the Arrangers, in such capacity, each an “Engagement Party”, and collectively the “Engagement Parties”) has acted as a co-manager in connection with this Amendment;

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Amendment. The Credit Agreement is, effective as of the Amendment No. 3 Effective Date, hereby 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 in the pages of the Credit Agreement attached as Exhibit A hereto (the “Amended Credit Agreement”).

1 “Citi” shall mean CGMI, Citibank, N.A., Citicorp USA, Inc., Citicorp North America, Inc. and/or any of their affiliates as any of them shall determine to be appropriate to provide the services contemplated herein.

2 RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.
Section 2. **Representations and Warranties, No Default.** The Borrower hereby represents and warrants that as of the Amendment No. 3 Effective Date, after giving effect to the amendments set forth in this Amendment, (i) no Default or Event of Default exists and is continuing and (ii) all representations and warranties of the Loan Parties contained in the Amended Credit Agreement and the other Loan Documents are true and correct in all material respects; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

Section 3. **Effectiveness.** Section 1 of this Amendment shall become effective on the date (such date, if any, the “Amendment No. 3 Effective Date”) that the following conditions have been satisfied or waived:

(i) **Consents.** The Administrative Agent shall have received executed signature pages hereto from each of the Lenders constituting the Required Lenders, the 2019 Term B Euro Incremental Lender, the 2019 Term B USD Incremental Lender and each Loan Party.

(ii) **Fees.** The Administrative Agent shall have received for the account of the Engagement Parties all fees required to be paid, and, to the extent invoiced at least two Business Days prior to the Amendment No. 3 Effective Date, all expenses required to be reimbursed, to the Engagement Parties in connection with this Amendment as separately agreed by the Borrower and the Engagement Parties.

(iii) **Legal Opinions.** The Administrative Agent shall have received a customary written opinion of Ropes & Gray LLP, counsel to the Loan Parties.

(iv) **Officer’s Certificate.** The Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower dated the Amendment No. 3 Effective Date certifying as to the representations and warranties set forth in Section 2.

(v) **Other Documents.** The Administrative Agent shall have received such certificates of good standing or status (to the extent that such concepts exist) from the applicable secretary of state (or equivalent authority) of the jurisdiction of organization of each Loan Party (in each case, to the extent such concept exists in the applicable jurisdiction), certificates of customary Board of Directors resolutions or other customary corporate authorizing action, incumbency certificates and/or other customary certificates of Responsible Officers of each Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment. The Administrative Agent, 2019 Term B USD Incremental Lender and 2019 Term B EUR Incremental Lender shall each have received customary consents to assignments of the Term B USD Loans and the Term B Euro Loans.
(vi) EUR Committed Loan Notice. The Administrative Agent and the 2019 Term B Euro Incremental Lender shall have received a Committed Loan Notice no later than 1:00 p.m. (New York time) at least one Business Day prior to the requested date of the Borrowing in respect of the 2019 Term B Euro Incremental Loans.

(vii) USD Committed Loan Notice. The Administrative Agent and the 2019 Term B USD Incremental Lender shall have received a Committed Loan Notice no later than 1:00 p.m. (New York time) at least one Business Day prior to the requested date of the Borrowing in respect of the 2019 Term B USD Incremental Loans.

SECTION 4. Costs and Expenses. The Borrower agrees to pay (a) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent (including the Attorney Costs of the Administrative Agent to the extent provided for in Section 10.04 of the Credit Agreement) in connection with the preparation, execution and delivery of this Amendment and any other instruments and documents to be delivered hereunder or in connection herewith, including all Attorney Costs of a single U.S. counsel to the Administrative Agent and (b) all reasonable and documented out-of-pocket expenses incurred by the 2019 Term B Euro Incremental Lender and 2019 Term B USD Incremental Lender to the extent separately agreed between the 2019 Term B Euro Incremental Lender, the 2019 Term B USD Incremental Lender and the Borrower on or prior to the date hereof.

SECTION 5. Execution in Counterparts; Effectiveness. This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging (including in.pdf format) means shall be effective as delivery of a manually executed counterpart of this Amendment.

SECTION 6. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Clauses (b) and (c) of Section 10.16 of the Credit Agreement are incorporated herein by reference, mutatis mutandis.

SECTION 7. Headings. The headings of this Amendment are included for convenience of reference only and shall not affect the interpretation of this Amendment.

SECTION 8. Effect of Amendment. Except as expressly set forth herein, (i) this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders, the Administrative Agent or any other Agent, in each case under the Credit Agreement or any other Loan Document, and (ii) shall not alter, modify or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other Loan Document. Each and every term, condition, obligation, covenant and agreement contained in the Credit Agreement as amended hereby, or any other Loan Document as amended hereby, is hereby ratified and re-affirmed in all respects and shall continue in full force and effect. This Amendment shall constitute
a Loan Document for purposes of the Credit Agreement and from and after the Amendment No. 3 Effective Date, all references to the Credit Agreement in any Loan Document and all references in the Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, shall, unless expressly provided otherwise, refer to the Credit Agreement as amended by this Amendment. Each of the Loan Parties hereby consents to this Amendment and confirms that all obligations of such Loan Party under the Loan Documents to which such Loan Party is a party shall continue to apply to the Credit Agreement as amended hereby. The parties hereto acknowledge and agree that the amendment of the Credit Agreement pursuant to this Amendment and all other Loan Documents amended and/or executed and delivered in connection herewith shall not constitute a novation of the Credit Agreement and the other Loan Documents as in effect prior to the Amendment No. 3 Effective Date.

SECTION 9. Reaffirmation. Each of the Loan Parties hereby consents to the amendment of the Credit Agreement described in Section 1 of this Amendment and hereby confirms its respective guarantees, pledges, grants of security interests, subordinations and other obligations, as applicable, under and subject to the terms of each of the Loan Documents to which it is party, and confirms, agrees and acknowledges that, notwithstanding the consummation of this Amendment, such guarantees, pledges, grants of security interests, subordinations and other obligations, and the terms of each of the Loan Documents to which it is a party, except as expressly modified by this Amendment, are not affected or impaired in any manner whatsoever and shall continue to be in full force and effect and shall also guarantee and secure all obligations as amended and reaffirmed pursuant to the Credit Agreement and this Amendment. Each of the Loan Parties confirms, acknowledges and agrees that the Lenders, the 2019 Term B Euro Incremental Lender providing the 2019 Term B Euro Incremental Loans and the 2019 Term B USD Incremental Lender providing the 2019 Term B USD Incremental Loans are “Lenders” and “Secured Parties” for all purposes under the Loan Documents. For the avoidance of doubt, each Loan Party hereby restates the provisions of Article II of the Security Agreement and agrees that all references in the Security Agreement to the “Secured Obligations” shall include the 2019 Term B Euro Incremental Loans and 2019 Term B USD Incremental Loans.

SECTION 10. WAIVER OF RIGHT OF TRIAL BY JURY. EACH PARTY TO THIS AMENDMENT 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 AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (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 AMENDMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.
SECTION 11. Waiver of Breakage Costs. Each Second Amendment Consenting Lender waives any right to compensation pursuant to Section 3.05 of the Credit Agreement that such Second Amendment Consenting Lender would otherwise have a right to pursuant to the transactions described in this Amendment to occur on or about the Amendment No. 3 Effective Date.
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the day and year first above written.

MCAFEE, LLC

By: /s/ Michael Berry
   Name: Michael Berry
   Title: Chief Financial Officer

GUARANTORS:

MCAFEE FINANCE 2, LLC
MCAFEE EMPLOYEE HOLDINGS, LLC
MCAFEE EXECUTIVE HOLDINGS, INC.
MCAFEE PUBLIC SECTOR LLC
MCAFEE ACQUISITION CORP.
SKYHIGH NETWORKS ACQUISITION CORP.
SKYHIGH NETWORKS HOLDINGS CORP.
SKYHIGH NETWORKS, LLC
MCAFEE CONSUMER AFFAIRS NORTH, LLC
TUNNELBEAR, LLC

By: /s/ Michael Berry
   Name: Michael Berry
   Title: Vice President

[Signature Page to Amendment No. 3 to First Lien Credit Agreement]
MORGAN STANLEY SENIOR FUNDING, INC.
as Administrative Agent

By: /s/ Brian Sanderson
Name: Brian Sanderson
Title: Authorized Signatory

[Signature Page to Amendment No. 3 to First Lien Credit Agreement]
BANK OF AMERICA, N.A., as the 2019 Term B
Euro Incremental Lender, the 2019 Term B USD
Incremental Lender

By: /s/ Michael Roane
Name: Michael Roane
Title: Vice President

[Signature Page to Amendment No. 3 to First Lien Credit Agreement]
FIRST LIEN CREDIT AGREEMENT

Dated as of September 29, 2017

among

MCAFEE, LLC,
as the Borrower,

MCAFEE FINANCE 2, LLC,
as Holdings,

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent, Collateral Agent and Issuing Bank,

and

THE OTHER LENDERS PARTY HERETO

Morgan Stanley Senior Funding, Inc.,
JPMorgan Chase Bank N.A.,
Goldman Sachs Bank USA,
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
BofA Securities, Inc.,
Barclays Bank PLC,
Citigroup Global Markets Inc.,
Deutsche Bank Securities Inc.,
RBC Capital Markets1,
UBS Securities LLC, and
Mizuho Bank, Ltd.,
as Joint Lead Arrangers and Joint Lead Bookrunners

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1 RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.
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FIRST LIEN CREDIT AGREEMENT

This FIRST LIEN CREDIT AGREEMENT (this “Agreement”) is entered into as of September 29, 2017 by and among McAfee, LLC, a Delaware limited liability company (the "Borrower"), McAfee Finance 2, LLC, a Delaware limited liability company, as Holdings, Morgan Stanley Senior Funding, Inc., as administrative agent (in such capacity, including any successor thereto, the “Administrative Agent”) under the Loan Documents, as collateral agent (in such capacity, including any successor thereto, the “Collateral Agent”) under the Loan Documents and as an Issuing Bank, and each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”).

PRELIMINARY STATEMENTS

The Borrower has requested that (a) the Lenders extend credit to the Borrower in the form of $2,555.0 million of Closing Date USD Term Loans, €507.0 million of Closing Date Euro Term Loans and $500.0 million of Revolving Commitments on the Closing Date as first lien secured credit facilities and (b) from time to time on and after the Closing Date, the Lenders lend to the Borrower and the Issuing Banks issue Letters of Credit for the account of the Borrower, each to provide working capital for, and for other general corporate purposes of, the Borrower and its Subsidiaries, pursuant to the Revolving Commitments hereunder and pursuant to the terms of, and subject to the conditions set forth in, this Agreement.

On the Closing Date, the Borrower will enter into the Second Lien Credit Agreement pursuant to which the Borrower will obtain $600.0 million in initial aggregate principal amount of second lien term loans (the “Second Lien Initial Term Loans”).

The proceeds of the Closing Date Term Loans and the Closing Date Revolving Borrowings, together with the proceeds of the Second Lien Initial Term Loans and cash on hand, will be used on the Closing Date to fund the Transactions.

The applicable Lenders have indicated their willingness to lend, and the applicable Issuing Banks have indicated their willingness to issue Letters of Credit, in each case on the terms and subject to the 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

SECTION 1.01 Defined Terms. As used in this Agreement (including the introductory paragraph hereof and the preliminary statements hereto), the following terms have the meanings set forth below:

“2019 Dividend” means a Restricted Payment made on the Third Amendment Effective Date in an amount not to exceed $680,836,027.09.

“2019 Term B Euro Incremental Commitment” means, with respect to the 2019 Term B Euro Lender, its commitment to make a 2019 Term B Euro Incremental Loan on the Third Amendment Effective Date in an amount equal to €355,000,000.
“2019 Term B Euro Incremental Lender” means Bank of America, N.A., in its capacity as such.

“2019 Term B Euro Incremental Loan” means a 2019 Term B Euro Incremental Loan made by the 2019 Term B Euro Incremental Lender on the Third Amendment Effective Date pursuant to Section 2.01(1)(i).

“2019 Term B USD Incremental Commitment” means, with respect to the 2019 Term B USD Incremental Lender, its commitment to make a 2019 Term B USD Incremental Loan on the Third Amendment Effective Date in an amount equal to $300,000,000.

“2019 Term B USD Incremental Lender” means Bank of America, N.A., in its capacity as such.

“2019 Term B USD Incremental Loan” means a 2019 Term B USD Incremental Loan made by the 2019 Term B USD Incremental Lender on the Third Amendment Effective Date pursuant to Section 2.01(1)(h).

“Acceptable Discount” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acceptable Non-USD Currency” means (i) Sterling and Euros and (ii) subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned) and each Lender under the applicable Revolving Facility, any other currency.

“Acceptable Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Acceptance and Prepayment Notice” means a notice of the Borrower’s acceptance of the Acceptable Discount in substantially the form of Exhibit M.

“Acceptance Date” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acquired Indebtedness” means, with respect to any specified Person,

1. Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person, and

2. Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Additional Lender” means, at any time, any bank, other financial institution or institutional lender or investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.14, (b) Other Loans pursuant to a Refinancing Amendment in accordance with Section 2.15 or (c) Replacement Loans pursuant to Section 10.01; provided that each Additional Lender shall be subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed, in each case solely to the extent that any such consent would be required from the Administrative Agent under Section 10.07(b)(iii)(B) for an assignment of Loans to such Additional Lender, and in the case of Incremental Revolving Commitments and Other Revolving Commitments and the Issuing Bank, such Default under Section 8.01(1) shall have occurred and be continuing, and shall continue to so apply to but excluding the date on which such Event of Default is cured or waived (and thereafter the pricing level otherwise determined in accordance with this definition shall apply).
“Appropriate Lender” means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class and (b) with respect to Letters of Credit, (i) the relevant Issuing Banks and (ii) the relevant Revolving Lenders.

“Approved Fund” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.


“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions of property or assets of the Borrower or any Restricted Subsidiary (each referred to in this definition as a “disposition”); or

(2) the issuance or sale of Equity Interests (other than Preferred Stock or Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.02 and directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable Law) of any Restricted Subsidiary (other than to the Borrower or another Restricted Subsidiary), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of:

   (i) Cash Equivalents or Investment Grade Securities,

   (ii) obsolete, damaged or worn out property or assets, any disposition of inventory or goods (or other assets) held for sale and property or assets no longer used or useful in the ordinary course,

   (iii) assets no longer economically practicable or commercially reasonable to maintain (as determined in good faith by the management of the Borrower),

   (iv) improvements made to leased real property to landlords pursuant to customary terms of leases entered into in the ordinary course of business and

   (v) assets for purposes of charitable contributions or similar gifts to the extent such assets are not material to the ability of the Borrower and its Restricted Subsidiaries, taken as a whole, to conduct its business in the ordinary course;
Interest Coverage Ratio, Consolidated EBITDA or Total Assets) permitted or prescribed with respect to any Lien, Indebtedness, Asset Sale, Investment, Restricted Payment, transaction, action, judgment or amount under any provision in this Agreement or any other Loan Document.

“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.

“Big Boy Letter” means a letter from a Lender acknowledging that (1) an assignee may have information regarding Holdings, the Borrower and any Subsidiary of the Borrower, their ability to perform the Obligations or any other material information that has not previously been disclosed to the Administrative Agent and the Lenders (“Excluded Information”), (2) the Excluded Information may not be available to such Lender, (3) such Lender has independently and without reliance on any other party made its own analysis and determined to assign Term Loans to such assignee pursuant to Section 10.07(h) or (l) notwithstanding its lack of knowledge of the Excluded Information and (4) such Lender waives and releases any claims it may have against the Administrative Agent, such assignee, Holdings, the Borrower and the Subsidiaries of the Borrower with respect to the nondisclosure of the Excluded Information; or otherwise in form and substance reasonably satisfactory to such assignee, the Administrative Agent and assigning Lender.

“Board of Directors” means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the Board of Directors of such entity, or, in either case, any committee thereof duly authorized to act on behalf of such Board of Directors. Unless otherwise provided, “Board of Directors” means the Board of Directors of the Borrower.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrower Offer of Specified Discount Prepayment” means any offer by any Borrower Party to make a voluntary prepayment of Loans at a specified discount to par pursuant to Section 2.05(1)(e)(B).

“Borrower Parties” means the collective reference to Holdings, the Borrower and each Subsidiary of the Borrower and “Borrower Party” means any of them.

“Borrower Solicitation of Discount Range Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Loans at a specified range of discounts to par pursuant to Section 2.05(1)(e)(C).

“Borrower Solicitation of Discounted Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Loans at a discount to par pursuant to Section 2.05(1)(e)(D).

“Borrowing” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurodollar Rate Loans or EURIBOR Rate Loans, having the same Interest Period.

“Broker-Dealer Regulated Subsidiary” means any Subsidiary of the Borrower that is registered as a broker-dealer under the Exchange Act or any other applicable Laws requiring such registration.
“Business Day” means any day that is not a Legal Holiday and (i) with respect to any interest rate settings as to a Eurodollar Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurodollar Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, any day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market and (ii) with respect to any interest rate settings as to a EURIBOR Rate Loan, any fundings, disbursements, settlements and payments in respect of any such EURIBOR Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such EURIBOR Rate Loan, any day on which dealings in deposits in Euros are conducted by and between banks in the European interbank market.

“Canadian Dollars” means the lawful currency of Canada.

“Capital Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Lease Obligations) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower and the Restricted Subsidiaries.

“Capital Stock” means:

1. in the case of a corporation, corporate stock or shares in the capital of such corporation;
2. in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
3. in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
4. any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into or exchangeable for Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP in accordance with Section 1.03 and, for the avoidance of doubt, shall not include any operating lease or other Non-Finance Lease Obligation.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

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

“Cash Collateral” has the meaning specified in the definition of “Cash Collateralize.”
(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Contract Consideration” has the meaning specified in clause (2)(k) of the definition of “Excess Cash Flow.”

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

“Controlled Investment Affiliate” means, as to any Person, any other Person, other than any Investor, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower or other companies.

“Converted Closing Date Euro Term Loan” means each Closing Date Euro Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date Euro Term Loans being converted to Term B Euro Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was €650,802,180.40).

“Converted Closing Date Term Loans” means the Converted Closing Date USD Term Loans and the Converted Closing Date Euro Term Loans.

“Converted Closing Date USD Term Loan” means each Closing Date USD Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date USD Term Loans being converted to Term B USD Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was $2,703,592,110.32).

“Convertible Indebtedness” means Indebtedness of the Borrower (which may be guaranteed by the Guarantors) permitted to be incurred hereunder that is either (a) convertible into common equity of the Borrower (and cash in lieu of fractional shares) or cash (in an amount determined by reference to the price of such common equity) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common equity of the Borrower or cash (in an amount determined by reference to the price of such common equity).

“Corrective Extension Amendment” has the meaning specified in Section 2.16(6).

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Agreement Refinanced Debt” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“Credit Agreement Refinancing Indebtedness” means (a) Permitted Equal Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt or (c) Permitted Unsecured Refinancing Debt; provided that, in each case, such Indebtedness is issued, incurred or otherwise
“Debt Fund Affiliate” means any Affiliate of an Investor that is a bona fide diversified debt fund that is not (a) a natural person or (b) Holdings, the Borrower or any Subsidiary of the Borrower.

“Debt Representative” means, with respect to any series of Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent or representative under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“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.

“Declined Proceeds” has the meaning specified in Section 2.05(2)(g).

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

“Default Rate” means (i) with respect to any amounts denominated in Dollars, an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans plus (c) 2.00% per annum; provided that with respect to the outstanding principal amount of any Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.02(3)) plus 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws and (ii) with respect to any amounts denominated in Euros, an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to Euro Term Loans (giving effect to Section 2.02(3)) plus 2.00% per annum, to the fullest extent permitted by applicable Laws.

“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 2.17(2), any Lender that (a) has refused (which refusal may be given verbally or in writing and has not been retracted) or failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of L/C Obligations, within one Business Day of the date required to be funded by it hereunder, (b) has failed to pay over to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, (c) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit, (d) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (e) has, or has a direct or indirect parent company that has, either (i) admitted in writing that it is insolvent or (ii) become subject to a Lender-Related Distress Event. Any determination by the Administrative Agent as to whether a Lender is a Defaulting Lender shall be conclusive absent manifest error.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a
Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP will thereafter be construed to mean IFRS (except as otherwise provided in this Agreement); provided, however, that any such election, once made, will be irrevocable; provided, further that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Borrower’s election to apply IFRS will remain as previously calculated or determined in accordance with GAAP. The Borrower will give notice of any such election made in accordance with this definition to the Administrative Agent. Notwithstanding any other provision contained herein, (i) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations and Attributable Indebtedness shall be determined in accordance with Section 1.03 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or the Loan Parties at “fair value”, as defined therein.

Notwithstanding the foregoing, if at any time any change occurs after the Closing Date in GAAP (or IFRS) or in the application thereof that, in each case, would affect the computation of any financial ratio or financial requirement, or compliance with any covenant, set forth in any Loan Document (including, but not limited to, the impact of Accounting Standards Update 2016-2, Revenue from Contracts with Customers (Topic 606) or similar revenue recognition policies promulgated after the Closing Date), and the Borrower shall so request (regardless of whether any such request is given before or after such change), the Administrative Agent, the Lenders and the Borrower will negotiate in good faith to amend (subject to the approval of the Required Lenders) such ratio, requirement or covenant to preserve the original intent thereof in light of such change in GAAP (or IFRS); provided that until so amended, (a) such ratio, requirement or covenant shall continue to be computed in accordance with GAAP (or IFRS) without giving effect to such change therein and (b) if reasonably requested by the Administrative Agent with respect to periods ending prior to the date that is one year after the effectiveness of such change, the Borrower shall provide to the Administrative Agent (for distribution to the Lenders), together with any financial statements to be delivered pursuant to Section 6.01, a summary reconciliation between calculations of any such ratios or requirements required to be included in the corresponding Compliance Certificate to be delivered pursuant to Section 6.02(4) made before and after giving effect to such change in GAAP (or IFRS). For the avoidance of doubt, subject to the requirements of the foregoing clause (b), the operation of this paragraph shall otherwise have no effect with respect to any financial statements required to be delivered pursuant to Section 6.01 unless the Borrower otherwise elects.

“General Debt Basket Reallocated Amount” means any amount that, at the option of the Borrower, has been reallocated from Section 7.02(b)(12)(b) to clause (A)(1) of the Available Incremental Amount, which shall be deemed to be a utilization of the Basket set forth in Section 7.02(b)(12)(b).

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, local, or otherwise, 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).

“Granting Lender” has the meaning specified in Section 10.07(g).
(d) representing the net obligations under any Hedging Obligations;

if and to the extent that any of the foregoing Indebtedness (other than obligations in respect of letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any Parent Company appearing upon the balance sheet of the Borrower solely by reason of push-down accounting under GAAP will be excluded;

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of this definition of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business or consistent with industry practice; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of this definition of a third Person secured by a Lien on any asset owned by such first Person, whether or not such Indebtedness is assumed by such first Person; provided that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination and (ii) the amount of such Indebtedness of such other Person; provided that notwithstanding the foregoing, Indebtedness will be deemed not to include:

(i) Contingent Obligations incurred in the ordinary course of business or consistent with industry practice,

(ii) reimbursement obligations under commercial letters of credit (provided that unreimbursed amounts under commercial letters of credit will be counted as Indebtedness three (3) Business Days after such amount is drawn),

(iii) obligations under or in respect of Qualified Securitization Facilities,

(iv) accrued expenses,

(v) deferred or prepaid revenues, and

(vi) any Non-Financing Lease Obligation, and

(vii) asset retirement obligations and obligations in respect of reclamation and workers compensation (including pensions and retiree medical care);

provided further that Indebtedness will be calculated without giving effect to the effects of Accounting Standards Codification Topic No. 815, Derivatives and Hedging, and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

"Indemnified Liabilities" has the meaning specified in Section 10.05.

"Indemnitees" has the meaning specified in Section 10.05.
Term Loans shall constitute Closing Date USD Term Loans for all purposes under this Agreement and the other Loan Documents.

“Intellectual Property Security Agreements” has the meaning specified in the Security Agreement.

“Intercompany Note” means the Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit Q executed by the Borrower and each Restricted Subsidiary of the Borrower party thereto.

“Intercreditor Agreement” means, as applicable, any First Lien/Second Lien Intercreditor Agreement and any Equal Priority Intercreditor Agreement.

“Interest Coverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period to (b) Consolidated Interest Expense of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Interim Payment Date” means, (a) as to any Loan of any Class other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the applicable Maturity Date of the Loans of such Class; provided that if any Interest Period for a Eurodollar Rate Loan or EURIBOR Rate 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; (b) as to any Base Rate Loan of any Class, the last Business Day of each March, June, September and December and the applicable Maturity Date of the Loans of such Class; and (c) with respect to all Closing Date Term Loans (including Converted Closing Date Term Loans), the Second Amendment Effective Date.

“Interest Period” means, as to each Eurodollar Rate Loan and EURIBOR Rate Loan, the period commencing on the date such Eurodollar Rate Loan or EURIBOR Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan or EURIBOR Rate Loan, as applicable, and ending on the date one, two, three or six months thereafter (or, with respect to the initial Interest Period for the Term B Loans, the period set forth in Sections 2.01(1)(e) and (f), or, with respect to the initial Interest Period for the 2019 Term B USD Incremental Loans and 2019 Term B Euro Incremental Loans, the period set forth in Sections 2.01(1)(b) and (1)), or to the extent consented to by each applicable Lender, twelve months, as selected by the Borrower in its Committed Loan Notice; provided that:

(1) 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 immediately preceding Business Day;

(2) 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

(3) no Interest Period shall extend beyond the applicable Maturity Date for the Class of Loans of which such Eurodollar Rate Loan or EURIBOR Rate Loan is a part.
Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that (a) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed $25.0 million and (b) no such net cash proceeds shall constitute Net Proceeds under this clause (1) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed $50.0 million (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds under this clause (1)); and

(2) (a) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary, any Permitted Equity Issuance by the Borrower or any Parent Company or any contribution to the common equity capital of the Borrower, the excess, if any, of (i) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (ii) all taxes paid or reasonably estimated to be payable, and all fees (including investment banking fees, attorneys’ fees, accountants’ fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses incurred, in each case by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (b) with respect to any Permitted Equity Issuance by any Parent Company, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

“Net Proceeds Percentage” has the meaning specified in Section 2.05(b)(2)(b)

“Non-Consenting Lender” has the meaning specified in Section 3.07.

“Non-Converted Closing Date Euro Term Loans” means each Closing Date Euro Term Loan (or portion thereof) other than a Converted Closing Date Euro Term Loan.

“Non-Converted Closing Date Term Loans” means the Non-Converted Closing Date USD Term Loans and the Non-Converted Closing Date Euro Term Loans.

“Non-Converted Closing Date USD Term Loans” means each Closing Date USD Term Loan (or portion thereof) other than a Converted Closing Date USD Term Loan.

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

“Non-Excluded Taxes” means all 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.

“Non-Extension Notice Date” has the meaning specified in Section 2.03(2)(c).

“Non-Financing Lease Obligation” means a lease obligation that is not required to be accounted for as a financing or capital lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease (including any lease that would not have been a capital lease under GAAP as of December 31, 2017) shall be considered a Non-Financing Lease Obligation.

“Non-Recourse Indebtedness” means Indebtedness that is non-recourse to the Borrower and the Restricted Subsidiaries.
(38) receipt of progress payments and advances from customers in the ordinary course of business or consistent with industry practice to the extent the same creates a Lien on the related inventory and proceeds thereof and Liens on property or assets under construction arising from progress or partial payments by a third party relating to such property or assets;

(39) Liens on all or any portion of the Collateral (but no other assets) to secure obligations in respect of (a) Indebtedness permitted to be incurred pursuant to Section 7.02; provided that after giving pro forma effect to the incurrence of the then proposed Indebtedness (and without netting any cash received from the incurrence of such proposed Indebtedness), (i) if such Indebtedness is secured on a (x) pari passu basis with the Liens that secure the First Lien Obligations under this Agreement ("Pari Passu Lien Debt"), the First Lien Net Leverage Ratio would be no greater than 4.25 to 1.00 or (y) junior basis to the Liens that secure the First Lien Obligations ("Junior Lien Debt"), the Secured Net Leverage Ratio would be no greater than 5.25 to 1.00, (ii) such Liens are in each case subject the applicable Intercreditor Agreement(s) and (iii) if such Liens secure syndicated Dollar-denominated or Euro-denominated term loans that are Pari Pass Lien Debt, then the Borrower shall comply with the "most favored nation" pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14 and (b) any Refinancing Indebtedness in respect of Pari Passu Lien Debt or Junior Lien Debt (but subject to the foregoing clause (iii));

(40) agreements to subordinate any interest of the Borrower or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business or consistent with industry practice;

(41) Liens arising pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation and Liability Act or similar provision of any Environmental Law;

(42) Liens disclosed by any title insurance reports or policies delivered on or prior to the Closing Date and any replacement, extension or renewal of any such Lien (to the extent the Indebtedness and other obligations secured by such replacement, extension or renewal Liens are permitted by this Agreement); provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;

(43) rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(44) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(45) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business or consistent with industry practice;

(46) zoning, building and other similar land use restrictions, including site plan agreements, development agreements and contract zoning agreements;
required by applicable Law to be publicly disclosed in connection with an issuance by Holdings or any of its Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (b) not material to make an investment decision with respect to securities of Holdings or any of its Subsidiaries (for purposes of United States federal and state securities laws), and (ii) at any time on and after Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal and state securities laws) with respect to Holdings or any of its Subsidiaries or any of their respective securities.

“Purchase Money Obligations” means any Indebtedness incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (other than Capital Stock), and whether acquired through the direct acquisition of such property or assets, or otherwise.

“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).

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10.0 million at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other Person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Stock.

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

“Qualified Securitization Facility” means any Securitization Facility (1) constituting a securitization financing facility that meets the following conditions: (a) the Board of Directors will have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the applicable Restricted Subsidiary or Securitization Subsidiary and (b) all sales or contributions of Securitization Assets and related assets to the applicable Person or Securitization Subsidiary are made at fair market value (as determined in good faith by the Borrower) or (2) constituting a receivables financing facility.

“Qualifying IPO” means the issuance by the Borrower or any Parent Company of its common Equity Interests that are listed on a national exchange or publicly offered (other than a public offering pursuant to a registration statement on Form S-8) (including pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act (whether alone or in connection with a secondary public offering)).

“Qualifying Lender” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Quarterly Financial Statements” means the unaudited consolidated balance sheets and related consolidated combined statements of operations and cash flows of the Borrower and its Subsidiaries for the commencing April 3, 2017 and ended July 1, 2017.
Loans shall constitute Term B Euro Loans for all purposes under this Agreement and the other Loan Documents.

“Term B Euro Loan” or “Term B Euro Loans” has the meaning specified in Section 2.01(1)(f), and shall also include each 2019 Term B Euro Incremental Loan.

“Term B Loan” means any Term B USD Loan and any Term B Euro Loan.

“Term B USD Loan” or “Term B USD Loans” has the meaning specified in Section 2.01(1)(e), and shall also include each 2019 Term B USD Incremental Loan.

“Term Borrowing” means a Borrowing of any Term Loans.

“Term Commitment” means, as to each Term Lender, its obligation to make a Term Loan to the Borrower hereunder, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Term Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to this Agreement and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to an Assignment and Assumption, (ii) an Incremental Amendment, (iii) a Refinancing Amendment, (iv) an Extension Amendment or (v) an amendment in respect of Replacement Loans. The amount of the Additional Term B USD Lender’s Additional Term B USD Commitment and the amount of the Additional Term B Euro Lender’s Additional Term B Euro Commitment as of the Second Amendment Effective Date are specified in the definition of “Additional Term B USD Commitment” and “Additional Term B Euro Commitment” respectively; and the amount of each Lender’s other Term Commitment shall be specified in the Assignment and Assumption (or Affiliated Lender Assignment and Assumption), Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment in respect of Replacement Loans pursuant to which such Lender shall have assumed its Commitment, as the case may be.

“Term Facility” means any Facility consisting of Term Loans of a single Class and/or Term Commitments with respect to such Class of Term Loans.

“Term Lender” means, at any time, any Lender that has a Term Commitment or a Term Loan at such time.

“Term Loan” means any Closing Date Term Loan, Term B Loan, Incremental Term Loan, Other Term Loan, Extended Term Loan or Replacement Loan, as the context may require.

“Term Loan Extension Request” has the meaning provided in Section 2.16(1).

“Term Loan Extension Series” has the meaning provided in Section 2.16(1).

“Term Loan Increase” has the meaning specified in Section 2.14(1).

“Term Note” means a promissory note of the Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B-1 or Exhibit B-2 hereto, evidencing the aggregate Indebtedness of the Borrower to such Term Lender resulting from the Term Loans made by such Term Lender.

“Termination Conditions” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations not then due and (ii) Obligations under Secured Hedge Agreements and Secured Cash Management Agreements) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless the
Outstanding Amount of the L/C Obligations related thereto has been Cash Collateralized on terms reasonably acceptable to the applicable Issuing Bank, backstopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank or deemed reissued under another agreement reasonably acceptable to the applicable Issuing Bank).

“Test Period” in effect at any time means (x) for purposes of (a) the definition of “Applicable Rate,” (b) Section 2.05(2)(a) and (c) the Financial Covenant (other than for the purpose of determining pro forma compliance with the Financial Covenant), the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which, subject to Section 1.07(1), financial statements for each quarter or fiscal year in such period have been or are required to be delivered pursuant to Section 6.01(1) or (2), as applicable and (y) for all other purposes in this Agreement, the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each such quarter or fiscal year in such period are internally available (as determined in good faith by the Borrower) (it being understood that for purposes of determining pro forma compliance with the Financial Covenant, if no Test Period with an applicable level cited in the Financial Covenant has passed, the applicable level shall be the level for the first Test Period cited in the Financial Covenant with an indicated level); provided that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 6.01(1) or (2), the Test Period in effect shall be the period of four consecutive full fiscal quarters of the Borrower ended prior to the Closing Date for which financial statements would have been required to be delivered hereunder had the Closing Date occurred prior to the end of such period.

“Third Amendment” means that certain Amendment No. 3 to First Lien Credit Agreement, dated as of the Third Amendment Effective Date, among the Borrower, the Lenders party thereto, the Administrative Agent, the 2019 Term B USD Incremental Lender party thereto and the 2019 Term B Euro Incremental Lender party thereto.

“Third Amendment Consenting Lender” means each Term Lender that provided the Administrative Agent with a counterpart to the Third Amendment executed by such Lender prior to the Third Amendment Effective Date.

“Third Amendment Effective Date” means the date on which all of the conditions contained in Section 3 of the Third Amendment have been satisfied or waived, which date, for the avoidance of doubt, is June 13, 2019.

“Threshold Amount” means $100.0 million.

“Total Assets” means, at any time, the total assets of the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the then most recent balance sheet of the Borrower or such other Person as may be available (as determined in good faith by the Borrower) (and, in the case of any determination relating to any Specified Transaction, on a pro forma basis including any property or assets being acquired in connection therewith).

“Total Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.
(d) in the case of an Initial Default for which (i) the Borrower failed to give notice to the Agent and the Lenders of such Initial Default in accordance with Section 6.03(1) of this Agreement and (ii) the Borrower had actual knowledge of such failure to give such notice.

(1) For purposes hereof, unless otherwise specifically indicated, the term “consolidated” with respect to any Person refers to such Person consolidated with its Restricted Subsidiaries and excludes from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person.

SECTION 1.03 Accounting Terms. 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, except as otherwise specifically prescribed herein. Notwithstanding any other provision contained herein, (a) 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, the Borrower or any of its Subsidiaries at “fair value,” as defined therein and (b) unless the Borrower has requested an amendment pursuant to the second paragraph of the definition of “GAAP” with respect to the treatment of operating leases and Capitalized Lease Obligations under GAAP (or IFRS) and until such amendment has become effective, all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the “ASU”) shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purposes of this Agreement (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as Capitalized Lease Obligations in the financial statements to be delivered pursuant to Section 6.01.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under 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).

SECTION 1.05 References to Agreements, Laws, etc. Unless otherwise expressly provided herein, (1) references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (2) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day and Timing of Payment and Performance. Unless otherwise specified, (1) all references herein to times of day shall be references to New York time (daylight or standard, as applicable) and (2) when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period”) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.07 Pro Forma and Other Calculations.

(1) Notwithstanding anything to the contrary herein, financial ratios and tests, including the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated in the manner prescribed by this Section 1.07;
(g) Immediately following the incurrence of the Term B Euro Loans incurred pursuant to clause (f) above, subject to the terms and conditions set forth in the Second Amendment, each Term B Euro Incremental Lender severally agrees to make to the Borrower on the Second Amendment Effective Date one or more Term B Euro Incremental Loans denominated in Euros in an aggregate principal amount equal to such Term B Euro Incremental Lender’s Term B Euro Incremental Commitment. Amounts borrowed under this Section 2.01(1)(g) and repaid or prepaid may not be reborrowed. The Term B Euro Incremental Loan shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the Second Amendment Effective Date, the Term B Euro Incremental Loans shall constitute Term B Euro Loans and be of the same Class as the Term B Euro Loans.

(h) Subject to the terms and conditions set forth in the Third Amendment, each 2019 Term B USD Incremental Lender severally agrees to make to the Borrower on the Third Amendment Effective Date one or more 2019 Term B USD Incremental Loans denominated in Dollars in an aggregate principal amount equal to such 2019 Term B USD Incremental Lender’s 2019 Term B USD Incremental Commitment. Amounts borrowed under this Section 2.01(1)(h) and repaid or prepaid may not be reborrowed. The 2019 Term B USD Incremental Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein. For the avoidance of doubt, from and after the Third Amendment Effective Date, the 2019 Term B USD Incremental Loans shall constitute Term B USD Loans and be of the same Class as the Term B USD Loans. Notwithstanding anything to the contrary contained herein, the 2019 Term B USD Incremental Loans will initially be Eurodollar Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Term B USD Loans immediately prior to the Third Amendment Effective Date and with a Eurodollar Rate equal to the rate per annum for such Interest Period applicable to the Term B USD Loans immediately prior to the Third Amendment Effective Date.

(i) Subject to the terms and conditions set forth in the Third Amendment, each 2019 Term B Euro Incremental Lender severally agrees to make to the Borrower on the Third Amendment Effective Date one or more 2019 Term B Euro Incremental Loans denominated in Euros in an aggregate principal amount equal to such 2019 Term B Euro Incremental Lender’s 2019 Term B Euro Incremental Commitment. Amounts borrowed under this Section 2.01(1)(i) and repaid or prepaid may not be reborrowed. The 2019 Term B Euro Incremental Loans shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the Third Amendment Effective Date, the 2019 Term B Euro Incremental Loans shall constitute Term B Euro Loans and be of the same Class as the Term B Euro Loans. Notwithstanding anything to the contrary contained herein, the 2019 Term B Euro Incremental Loans will initially be EURIBOR Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Term B Euro Loans immediately prior to the Third Amendment Effective Date and with an EURIBOR Rate equal to the rate per annum for such Interest Period applicable to the Term B Euro Loans immediately prior to the Third Amendment Effective Date.

(2) Revolving Borrowings. Subject to the terms and conditions set forth herein, each Revolving Lender severally agrees to make loans denominated in Dollars from its applicable Lending Office (each such loan, a “Revolving Loan”) to the Borrower from time to time, on any Business Day during the period from the Closing Date until the Maturity Date, in an aggregate principal
Additionally, notwithstanding anything else in this Agreement to the contrary, in the event that any Term Loan of any Lender would otherwise be repaid or prepaid from the proceeds of other Term Loans being funded on the date of such repayment or prepayment, if agreed to by the Borrower and such Lender and notified to the Administrative Agent prior to the date of the applicable repayment or prepayment, all or any portion of such Lender’s Term Loan that would have otherwise been repaid or prepaid in connection therewith may be converted on a “cashless roll” basis into a new Term Loan.

SECTION 2.06 Termination or Reduction of Commitments.

(1) Optional. The Borrower may, upon written notice by the Borrower to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; provided that

(a) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction,

(b) any such partial reduction shall be in an aggregate amount of $5.0 million or any whole multiple of $1.0 million in excess thereof or, if less, the entire amount thereof and

(c) if, after giving effect to any reduction of the Commitments, the L/C Sublimit exceeds the amount of the Revolving Facility, the L/C Sublimit shall be automatically reduced by the amount of such excess.

Except as provided above, the amount of any such Revolving Commitment reduction shall not be applied to the L/C Sublimit unless otherwise specified by the Borrower. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of any Commitments if such termination would have resulted from a refinancing of all of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed.

(2) Mandatory. The Additional Term B USD Commitment of the Additional Term B USD Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s Term B USD Loans to the Borrower pursuant to Section 2.01(1)(e). The Additional Term B Euro Commitment of the Additional Term B Euro Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Term B Euro Loans to the Borrower pursuant to Section 2.01(1)(f). The Term B Euro Incremental Commitment of the Term B Euro Incremental Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Term B Euro Incremental Loans to the Borrower pursuant to Section 2.01(1)(g). The 2019 Term B USD Incremental Commitment of the 2019 Term B USD Incremental Lender on the Third Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s 2019 Term B USD Incremental Loans to the Borrower pursuant to Section 2.01(1)(h). The 2019 Term B Euro Incremental Commitment of the 2019 Term B Euro Incremental Lender on the Third Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s 2019 Term B Euro Incremental Loans to the Borrower pursuant to Section 2.01(1)(i). The Revolving Commitment of each Revolving Lender shall automatically and permanently terminate on the Maturity Date for the applicable Revolving Facility.
Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Appropriate Lenders of any termination or reduction of unused portions of the L/C Sublimit or the unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced on a pro rata basis (determined on the basis of the aggregate Commitments under such Class) (other than the termination of the Commitment of any Lender as provided in Section 3.07). Any commitment fees accrued until the effective date of any termination of the Revolving Commitments shall be paid on the effective date of such termination.

SECTION 2.07 Repayment of Loans.

(1) Term B Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (a) on the last Business Day of each March, June, September and December, commencing with December 31, 2018, an aggregate principal amount (x) with respect to the Term B USD Loans, in Dollars equal to 0.25% of the aggregate principal amount of all Term B USD Term Loans outstanding on the Second Amendment Effective Date and (y) in Euros equal to 0.25% of the aggregate principal amount of all Term B Euro Loans outstanding on the Second Amendment Effective Date, $7,756,303.62 and (y) with respect to the Term B Euro Loans, in Euros equal to €2,743,965.25 (in each case, which payments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05) and (b) on the Maturity Date for the Term B Loans, the aggregate principal amount of all Term B Loans outstanding on such date. In connection with any Incremental Term Loans that constitute part of the same Class as the Term B USD Loans or Term B Euro Loans, as applicable, the Borrower and the Administrative Agent shall be permitted to adjust the rate of prepayment in respect of such Class such that the Term Lenders holding Term B USD Loans or Term B Euro Loans, as applicable, comprising part of such Class continue to receive a payment that is not less than the same Dollar amount that such Term Lenders would have received absent the incurrence of such Incremental Term Loans; provided, that if such Incremental Term Loans are to be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable, notwithstanding any other conditions specified in this Section 2.07(1), the amortization schedule for such “fungible” Incremental Term Loan may provide for amortization in such other percentage(s) to be agreed by the Borrower and the Administrative Agent to ensure that the Incremental Term Loans will be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable.

(2) Revolving Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for the applicable Revolving Facility the aggregate principal amount of all Revolving Loans under such Facility outstanding on such date.

(3) Non-Converted Closing Date Term Loans. The Borrower shall repay to the Administrative Agent for the ratable account of each Term Lender with Non-Converted Closing Date Term Loans, the full amount of Non-Converted Closing Date Term Loans on the Second Amendment Effective Date.

SECTION 2.08 Interest.

(1) Subject to the provisions of Section 2.08(2), (a) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period, plus the Applicable Rate, (b) each 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 and (c) each EURIBOR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the EURIBOR Rate for such Interest Period, plus the Applicable Rate.
(2) During the continuance of a Default under Section 8.01(1), the Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws; provided that no interest at the Revolving Commitments to the extent such consent, if any, would be required under Section 10.07(b) for an assignment of Loans or Revolving Commitments, as applicable, to such Additional Lender, (ii) with respect to Incremental Term Commitments, any Affiliated Lender providing an Incremental Term Commitment shall be subject to the same restrictions set forth in Section 10.07(h) as they would otherwise be subject to with respect to any purchase by or assignment to such Affiliated Lender of Term Loans and (iii) Affiliated Lenders may not provide Incremental Revolving Commitments.

(4) Effectiveness of Incremental Amendment. The effectiveness of any Incremental Amendment and the availability of any initial credit extensions thereunder shall be subject to the satisfaction on the date thereof (the “Incremental Facility Closing Date”) of each of the following conditions (subject to Section 1.07(10)):

(a) (x) no Event of Default shall exist after giving effect to such Incremental Commitments; provided that, with respect to any Incremental Amendment the primary purpose of which is to finance an acquisition or other Investment permitted by this Agreement, the requirement pursuant to this clause (4)(a)(x) shall be that no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) shall exist after giving effect to such Incremental Commitments, and (y) the representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Incremental Amendment (provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates); provided that, in connection with an acquisition or other Investment permitted hereunder, the conditions in clause (x) and in clause (y) shall only be required to the extent requested by the Persons providing more than 50% of the applicable Incremental Term Loans and Incremental Term Commitments or Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be (provided, further, that, in the case of an acquisition or other Investment with a purchase price in excess of $100.0 million, the conditions contained in the proviso to clause (x) with respect to no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) in clause (y) with respect to Specified Representations, in each case, shall be required whether or not requested by such Persons, unless waived in accordance with Section 10.01);

(b) each Incremental Term Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of this Section 2.14(4)) and each Incremental Revolving Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of Section 2.14(4));

(c) the aggregate principal amount of Incremental Term Loans and Incremental Revolving Commitments shall not, together with the aggregate principal amount of Permitted Incremental Equivalent Debt, exceed the sum of:

(A) (1) $500.0 million plus any General Debt Basket Reallocated Amount less the Second Lien Incremental Usage Amount (for the avoidance of doubt, it being agreed that as of the Third Amendment Effective Date, no Incremental Loans or Incremental Commitments have been incurred pursuant to this clause (1)) plus (2) the
(B) (x) in the case of any Incremental Loans or Incremental Commitments that effectively extend the Maturity Date of, or refinance, any Facility, an amount equal to the portion of the Facility to be replaced with (or refinanced by) such Incremental Loans or Incremental Commitments and (y) in the case of any Incremental Loans or Incremental Commitments that effectively replace any Commitment or Loan that is terminated or cancelled in accordance with Section 3.07, an amount equal to the portion of the relevant terminated or cancelled Commitment or Loan, plus

(C) solely to the extent not in duplication of prepayments, redemptions, repurchases or permanent commitment reductions described in Section 2.14(4)(c)(A)(2), the aggregate amount of (x) voluntary prepayments, redemptions or repurchases of Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) (including purchases of Term Loans or Permitted Incremental Equivalent Debt by Holdings, the Borrower or any of its Subsidiaries), (y) voluntary permanent commitment reductions in respect of Revolving Commitments or Permitted Incremental Equivalent Debt consisting of revolving credit commitments and (z) voluntary prepayments, redemptions or repurchases of any Credit Agreement Refinancing Indebtedness, Other Loans, Refinancing Indebtedness or other Indebtedness, in each case, previously applied to the prepayment, redemption or repurchase of any Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility), in the case of this clause (z), so long as such prepayment, redemption or repurchase was not previously included in clause (x) above; other than, in each case under clauses (x) and (z), from proceeds of long-term Indebtedness (other than revolving credit facilities) provided, that for the avoidance of doubt, this clause (C) shall not give credit to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans, plus

(D) an unlimited amount, so long as in the case of this clause (D) only,

(x) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), either (I) the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed 4.25 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the First Lien Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred) (it being agreed that the 2019 Term B USD Incremental Loans and 2019 Term B Euro Incremental Loans shall be deemed to be incurred pursuant to this clause (4)(c)(D)(x)).
in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement, either (I) the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed \(5.25\) to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Secured Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred) and

in the case of Incremental Loans or Incremental Revolving Commitments that are unsecured, (i) the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed \(6.00\) to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (ii) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other Investment permitted under this Agreement, the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Total Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred);

(y) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement, either (I) the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed \(5.25\) to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Secured Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred) and

in the case of Incremental Loans or Incremental Revolving Commitments that are unsecured, (i) the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed \(6.00\) to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (ii) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other Investment permitted under this Agreement, the Total Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Total Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred);

(the amount available under clauses (A) through (D), the “Available Incremental Amount”). The Borrower may elect to use clause (D) of the Available Incremental Amount regardless of whether the Borrower has capacity under clauses (A), (B) or (C) of the Available Incremental Amount. Further, the Borrower may elect to use clause (D) of the Available Incremental Amount prior to using clauses (A), (B) or (C) of the Available Incremental Amount, and if both clause (D) and clauses (A), (B) or (C) of the Available Incremental Amount are available and the Borrower does not make an election, then the Borrower will be deemed to have elected to use clause (D) of the Available Incremental Amount. In addition, any Indebtedness originally designated as incurred pursuant to clauses (A), (B) or (C) of the Available Incremental Amount shall be automatically reclassified as incurred under clause (D) of the
SECTION 2.18 Loan Repricing Protection. In the event that, on or prior to the date that is six months after the Second/Third Amendment Effective Date, the Borrower (a) makes any prepayment or as may be required by applicable Laws (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to satisfy the Collateral and Guarantee Requirement.

(2) As promptly as practicable, and in any event no later than one hundred and twenty (120) days after the Closing Date or such later date as the Administrative Agent reasonably agrees to in writing, including to reasonably accommodate circumstances unforeseen on the Closing Date, (a) deliver the documents or take the actions required pursuant to sub clauses (i) through (v) of Section 6.11(2)(b) hereof with respect to any Material Real Properties listed in Schedule 1.01(2) and (b) deliver the documents or take the actions specified in Schedule 6.13(2), in each case except to the extent otherwise agreed by the Collateral Agent pursuant to its authority as set forth in the definition of the term “Collateral and Guarantee Requirement.”

SECTION 6.14 Use of Proceeds. The proceeds of (a) the Closing Date Term Loans made on the Closing Date, together with the proceeds of the Second Lien Initial Term Loans, any Revolving Loans drawn on the Closing Date (to the extent permitted under this Agreement) and cash on hand, will be used to fund the Transactions, (b) any Revolving Loans will be used for working capital and general corporate purposes and for any other purpose not prohibited by the Loan Documents; provided that the Closing Date Revolving Facility shall not be utilized to finance the Parent Distribution, (c) the Initial Incremental Term Loans will be used solely (i) to finance certain acquisitions and investments, including all or a portion of the purchase price for Skyhigh Networks, Inc., (ii) to pay fees, costs and expenses related to such acquisitions and investments and the transactions contemplated by the First Amendment and any other transaction occurring on the First Amendment Effective Date and (iii) for other general corporate purposes not prohibited by this Agreement, (d) the Term B Loans made on the Second Amendment Effective Date will be used (i) to refinance the Closing Date Term Loans on the Second Amendment Effective Date and (ii) to pay fees, costs and expenses in connection therewith and (e) the 2019 Term B Euro Incremental Loan and 2019 Term B USD Incremental Loan made on the Third Amendment Effective Date will be used (i) to pay the 2019 Dividend and (ii) to pay fees, costs and expenses in connection therewith.

SECTION 6.15 Maintenance of Ratings. Use commercially reasonable efforts to maintain (1) a public corporate credit rating (but not any specific rating) from S&P and a public corporate family rating (but not any specific rating) from Moody’s, in each case in respect of the Borrower, and (2) a public rating (but not any specific rating) in respect of each Term Facility comprising the Term B Loans as of the Second/Third Amendment Effective Date from each of S&P and Moody’s.

Article VII

Negative Covenants

So long as the Termination Conditions are not satisfied:

SECTION 7.01 Liens. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly, create, incur or assume any Lien (except any Permitted Lien(s)) that secures obligations under any Indebtedness or any related guarantee of Indebtedness on any asset or property of the Borrower or any Restricted Subsidiary, or any income or profits therefrom.
The expansion of Liens by virtue of accretion or amortization of original issue discount, the payment of dividends in the form of Indebtedness, and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 7.01.

SECTION 7.02 Indebtedness.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly:

(i) create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness), or

(ii) issue any shares of Disqualified Stock or permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; provided that the Borrower may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, in each case, if (any Indebtedness, Disqualified Stock or Preferred Stock incurred or issued pursuant to following clauses (A), (B) and (C), “Permitted Ratio Debt”):

(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 4.25 to 1.00;

(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 5.25 to 1.00; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 6.00 to 1.00,

in each case, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such Test Period;

provided further that (I) Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under this Section 7.02(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to this Section 187
incurred or otherwise obtained) (i) the greater of (I) $200.0 million and (II) 25.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus, without duplication, (ii) in the event of any extension, replacement, refinancing, renewal or defeasance of any such Indebtedness, Disqualified Stock or Preferred Stock, an amount equal to (x) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased plus (y) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Indebtedness, Disqualified Stock or Preferred Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Disqualified Stock or Preferred Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such Indebtedness, Disqualified Stock or Preferred Stock, minus (iii) any General Debt Basket Reallocated Amount;

(13) the incurrence or issuance by the Borrower of Refinancing Indebtedness or the incurrence or issuance by a Restricted Subsidiary of Refinancing Indebtedness that serves to Refinance any Indebtedness (including any Designated Revolving Commitments) permitted under Section 7.02(a) and clauses (b)(3) and (12)(a) above, this clause (13) and clauses (14) and (30), or any successive Refinancing Indebtedness with respect to any of the foregoing;

(14) (a) the incurrence or issuance of:

(x) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary, incurred or issued to finance an acquisition or investment (or other purchase of assets), or

(y) Indebtedness, Disqualified Stock or Preferred Stock (I) of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement or (II) that is assumed by the Borrower or any Restricted Subsidiary in connection with such acquisition or investment (or other purchase of assets),

in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), not to exceed (i) the greater of $270.0 million and 35.0% of Consolidated EBITDA plus (ii) an unlimited amount so long as in the case of this clause (ii) only, either:

(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) \(4.75\) to 1.00 and (II) the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness;

(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting
any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) $255.75 to 1.00 and (II) the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) $295.00 to 1.00 and (II) the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness or the issuance of such Disqualified Stock or Preferred Stock;

provided that (x) with respect to such Indebtedness, Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under clause (14)(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to clause (14)(a), together with any principal amounts incurred, assumed or issued by such Restricted Subsidiaries under Section 7.02(a) and any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), in each case then outstanding, would exceed (as of the date of such indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (i) $500.0 million and (ii) 65.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), (y) such Indebtedness (I) shall not mature earlier than the Original Term Loan Maturity Date and (II) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Term B Loans on the date of incurrence of such Indebtedness and (z) if any such Indebtedness under clause (i) or clause (ii)(A) consists of syndicated Dollar-denominated or Euro-denominated term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14;

(b) so long as not created in contemplation of such acquisition or investment, (i) Indebtedness or Disqualified Stock that is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition or investment (or other purchase of assets) and (ii) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement, in each case in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), not to exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is assigned or acquired) (A) the greater of $115.0 million and 15.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus (B) an unlimited amount of Indebtedness, Disqualified Stock or Preferred Stock so long as, after giving pro forma effect to the assumption or acquisition of such Indebtedness, Disqualified Stock or Preferred stock and such acquisition or investment (or other purchase of assets), the
(D) make any Restricted Investment;

(all such payments and other actions set forth in clauses (A) through (D) above being collectively referred to as “Restricted Payments”), unless, at the time of and immediately after giving effect to such Restricted Payment:

(1) in the case of a Restricted Payment described in clauses (A) and (B) above utilizing clause 3(a) or (g) below, no Event of Default under Section 8.01(1) or Section 8.01(6) will have occurred and be continuing or would occur as a consequence thereof;

(2) [reserved];

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments (including the fair market value of any non-cash amount) made by the Borrower and its Restricted Subsidiaries after the Closing Third Amendment Effective Date (excluding Restricted Payments permitted by 7.05(b) other than clause (1) thereof), is less than the sum of (without duplication):

(a) 50.0% of the Consolidated Net Income of the Borrower and the Restricted Subsidiaries for the period (taken as one accounting period) commencing on April 3, 2017 to the end of the most recently ended fiscal quarter for which internal financial statements of the Borrower are available (as determined in good faith by the Borrower) preceding such Restricted Payment or, in the case such Consolidated Net Income for such period is a deficit, minus 100.0% of such deficit; plus

(b) 100.0% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Borrower and its Restricted Subsidiaries since the Closing Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 7.02(b)(12)(a)) from the issue or sale of:

(i) (A) Equity Interests of the Borrower, including Treasury Capital Stock (as defined below), but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(I) Equity Interests to any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates, Immediate Family Members or any permitted transferees thereof) of the Borrower, its Subsidiaries or any Parent Company after the Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with Section 7.05(b)(4); and

(II) Designated Preferred Stock; and

(B) Equity Interests of Parent Companies, to the extent the proceeds of any such issuance or consideration for any such sale are contributed to the Borrower (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts)
provided that in the case of each of clauses (a), (b) and (c) of this clause (6), for the most recently ended Test Period preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Borrower would have had a Interest Coverage Ratio of at least 2.00 to 1.00;

(7) (a) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable by any future, present or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or permitted transferees) of the Borrower, any Restricted Subsidiary or any Parent Company,

(b) any repurchases or withholdings of Equity Interests in connection with the exercise of stock options, warrants or similar rights if such Equity Interests represent a portion of the exercise price of, or withholding obligations with respect to, such options, warrants or similar rights or required withholding or similar taxes and

(c) loans or advances to officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Restricted Subsidiary or any Parent Company in connection with such Person’s purchase of Equity Interests of the Borrower or any Parent Company; provided that no cash is actually advanced pursuant to this clause (c) other than to pay taxes due in connection with such purchase, unless immediately repaid;

(8) the declaration and payment of dividends on the Borrower’s common equity (or the payment of dividends on any Parent Company to fund a payment of dividends on such company’s common equity), following the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, in an aggregate amount per annum not to exceed 6.0% of Market Capitalization;

(9) Restricted Payments in an amount that does not exceed the aggregate amount of Excluded Contributions;

(10) Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (10) after the Third Amendment Effective Date not to exceed (as of the date any such Restricted Payment is made) $100.0 million; provided that if this clause (10) is utilized to make a Restricted Investment, the amount deemed to be utilized under this clause (10) will be the amount of such Restricted Investment at any time outstanding (with the fair market value of such Investment being measured at the time made and without giving effect to subsequent changes in value, but subject to adjustment as set forth in the definition of “Investment”);

(11) distributions or payments of Securitization Fees;

(12) any Restricted Payment made in connection with the Transactions and the fees and expenses related thereto;

(13) the repurchase, redemption, defeasance, acquisition or retirement for value of any Junior Indebtedness from Excluded Proceeds (except to the extent utilized to make Restricted Payments pursuant to clause (1) of Section 7.05(a));

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(14) the declaration and payment of dividends or distributions by the Borrower or any Restricted Subsidiary to, or the making of loans or advances to, the Borrower or any Parent Company in amounts required for any Parent Company to pay in each case without duplication:

(a) franchise, excise and similar taxes and other fees and expenses, required to maintain their corporate or other legal existence;

(b) for any taxable period (or portion thereof) for which the Borrower or any of its Restricted Subsidiaries are members of a consolidated, combined, unitary or similar income tax group for U.S. federal or applicable foreign, state or local income tax purposes of which a Parent Company is the common parent (a “Tax Group”), to pay the portion of any U.S. federal, foreign, state or local income Taxes (as applicable) of such Tax Group for such taxable period that are attributable to the taxable income of the Borrower and/or the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries); provided that for each taxable period, (A) the amount of such payments made in respect of such taxable period in the aggregate will not exceed the amount that the Borrower and the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries), as applicable, would have been required to pay in respect of such taxable income as stand-alone taxpayers or a stand-alone Tax Group and (B) the amount of such payments made in respect of an Unrestricted Subsidiary will be permitted only to the extent that cash distributions were made by an Unrestricted Subsidiary to the Borrower or any Restricted Subsidiary for such purpose;

(c) for any taxable period (or portion thereof) for which the Borrower and any Parent Company is a partnership or disregarded entity for U.S. federal income tax purposes (amounts permitted to be distributed, loaned or advanced pursuant to this clause (c), “Tax Distributions”): cash distributions from the Borrower at such times and in such amounts necessary to permit each Parent Company to make cash distributions to each direct or indirect member of the Parent Company in accordance with the terms of its relevant operating agreement, in an aggregate amount not to exceed the sum of (I) any non-income Taxes payable by such member with respect to the Borrower and (II) the product of (A) the taxable income of the Borrower allocable to such member for such period (assuming the Borrower for this purpose is a regarded entity for U.S. federal income tax purposes), determined by taking into account any basis step-up in the assets of the Borrower or any of its Subsidiaries resulting from the Transactions (other than any basis adjustment arising under section 743 of the Code), and (B) the maximum combined effective tax rate applicable to any direct or indirect equity owner of the Borrower or Parent Company for such taxable period (taking into account the Medicare Contribution Tax on net investment income tax, the character of the taxable income in question (e.g. long-term capital gain, qualified dividend income, etc.) and the deductibility of state and local income taxes for U.S. federal income tax purposes (and any applicable limitations thereon, including the limitations in Sections 67 and 68 of the Code) and adjusted to the extent necessary to calculate federal, state and local tax liability separately so as to take into account the limitations under Section 163 of the Code and the calculation under the applicable state and local tax laws of taxable income and taxable losses and the extent to which such losses may offset such income) increased if necessary to apply alternative minimum tax rates and rules in years in which the alternative minimum tax applies (or would apply based on the assumptions stated herein) to the relevant distributee if the distributee were an individual or a corporation, assuming each distributee’s sole asset is its direct or indirect interest in the Borrower); provided that the amount of any Tax complies with the terms of this Agreement or any other transaction that complies with the terms of this Agreement;
(20) the payment of dividends, other distributions and other amounts by the Borrower to, or the making of loans to, any Parent Company in the amount required for such parent to, if applicable, pay amounts equal to amounts required for any Parent Company, if applicable, to pay interest or principal (including AHYDO Payments) on Indebtedness, the proceeds of which have been permanently contributed to the Borrower or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower or any Restricted Subsidiary incurred in accordance with this Agreement; provided that the aggregate amount of such dividends, distributions, loans and other amounts shall not exceed the amount of cash actually contributed to the Borrower for the incurrence of such Indebtedness;

(21) the making of cash payments in connection with any conversion of Convertible Indebtedness of the Borrower or any Restricted Subsidiary in an aggregate amount since the date of this Agreement not to exceed the sum of (a) the principal amount of such Convertible Indebtedness plus (b) any payments received by the Borrower or any Restricted Subsidiary pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transaction;

(22) any payments in connection with (a) a Permitted Bond Hedge Transaction and (b) the settlement of any related Permitted Warrant Transaction (i) by delivery of shares of the Borrower’s common equity upon settlement thereof or (ii) by (A) set-off against the related Permitted Bond Hedge Transaction or (B) payment of an early termination amount thereof in common equity upon any early termination thereof;

(23) the refinancing of any Junior Indebtedness with the Net Proceeds of, or in exchange for, any Refinancing Indebtedness;

(24) the prepayment of Second Lien Term Loans on the Second Amendment Effective Date in an aggregate principal amount not to exceed $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith);

(25) the prepayment of Second Lien Term Loans in an aggregate principal amount taken together with all other Restricted Payments made pursuant to this clause (25) not to exceed (as of the date any such Restricted Payment is made) $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith).

(26) the 2019 Dividend.

provided that at the time of, and after giving effect to, any Restricted Payment pursuant to clause (17) in respect of Restricted Payments described in clauses (A) or (B) of the definition thereof, no Event of Default will have occurred and be continuing or would occur as a consequence thereof. For purposes of clauses (7) and (14) above, taxes will include all interest and penalties with respect thereto and all additions thereto.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date the Restricted Payment is made, or at the Borrower’s election, the date a commitment is made to make such Restricted Payment, of the assets or securities proposed to be transferred or issued by the Borrower or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.
(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, 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 any EEA Resolution Authority.

SECTION 10.26 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedge Agreement or any other agreement or instrument in 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 hereunder shall in no event affect the rights of any Covered Party under a Supported QFC or any QFC Credit Support.

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SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

of
 FOUNDATION TECHNOLOGY WORLDWIDE LLC

Dated as of [•], 2020

THE UNITS AND OTHER INTERESTS IN FOUNDATION TECHNOLOGY WORLDWIDE LLC HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT, THE SECURITIES LAWS OF ANY STATE, OR ANY OTHER APPLICABLE SECURITIES LAWS, AND HAVE BEEN OR ARE BEING ISSUED IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. SUCH INTERESTS MAY BE ACQUIRED FOR INVESTMENT ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR OTHERWISE TRANSFERRED OR DISPOSED OF AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE SECURITIES LAWS OF ANY STATE AND ANY OTHER APPLICABLE SECURITIES LAWS; (II) THE TERMS AND CONDITIONS OF THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT; AND (III) ANY OTHER TERMS AND CONDITIONS AGREED TO IN WRITING BETWEEN THE MANAGING MEMBER AND ANY HOLDER OF SUCH UNITS AND OTHER INTERESTS.
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SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this “Agreement”) of FOUNDATION TECHNOLOGY WORLDWIDE LLC, a Delaware limited liability company (the “Company”), dated as of [•], 2020 (the “Restatement Date”), by and among the Company and the Members (as defined below).

W I T N E S S E T H:

WHEREAS, the Company was formed as a limited liability company under the Delaware Act (as defined below) pursuant to a certificate of formation (as amended, the “Certificate”) which was executed and filed with the Secretary of State of the State of Delaware on July 14, 2016;

WHEREAS, prior to the effectiveness of this Agreement, the Company was subject to that certain Amended and Restated Limited Liability Company Agreement of the Company, dated as of April 3, 2017 (the “A&R LLCA”, as amended by Amendment No.1, dated August 29, 2017, Amendment No. 3, dated March 30, 2020, and the Amendment No. 4 (as defined below), the “Prior Agreement”);

WHEREAS, on [__], 2020, the Company adopted Amendment No. 4 to the A&R LLCA, dated as of the date hereof (the “Amendment No.4”), and the transactions contemplated by the Amendment No. 4 shall be deemed to have taken place immediately prior to the effectiveness of this Agreement;

WHEREAS, McAfee Corp., a Delaware corporation (“PubCo”), a holding company that holds, and will hold, as its sole material assets direct or indirect (through one or more Subsidiaries) equity interests in the Company, has entered into an underwriting agreement (i) to issue and sell to the several underwriters named therein shares of its Class A Common Stock and (ii) to make a public offering of such shares of Class A Common Stock (collectively, the “IPO”);

WHEREAS, in connection with the IPO, the Company has been party to a series of transactions with PubCo and various other parties pursuant to which, among other things, (i) the Company distributed 100% of the shares of McAfee Acquisition Corp. (“MAC”) to its members in accordance with the Prior Agreement, following the successive distribution of those shares from McAfee, LLC to the Company (the “MAC Distribution”), and (ii) PubCo acquired (directly or indirectly) interests in and become a Member of the Company; and

WHEREAS, the Members and the Company are amending and restating the Prior Agreement to provide for, among other things, the management of the business and affairs of the Company, the allocation of profits and losses among the Members, the respective rights and obligations of the Members to each other and to the Company and certain other matters described herein.
NOW, THEREFORE, in consideration of the mutual covenants and agreements made herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree to amend and restate the Prior Agreement in its entirety as follows:

ARTICLE I
DEFINITIONS AND USAGE

Section 1.01 Definitions.
(a) The following terms shall have the following meanings for the purposes of this Agreement:

“**A&R LLCA**” has the meaning set forth in the recitals.

“**Additional Member**” means any Person admitted as a Member of the Company pursuant to Section 3.02 in connection with the issuance of new Units to such Person after the Restatement Date.

“**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in any of such Member’s Capital Accounts as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) credit to such Capital Account any amounts that such Member is deemed to be obligated to restore pursuant to the penultimate sentence in Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(i)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6).

The foregoing definition of “Adjusted Capital Account Deficit” is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“**Affiliate**” means, with respect to any specified Person, (a) any Person that directly or through one or more intermediaries controls or is controlled by or is under common control with the specified Person, (b) any Person who is a general partner, managing member, managing director, manager, officer, director or principal of the specified Person or (c) in the event that the specified Person is a natural Person, a Member of the Immediate Family of such Person; provided that the Company and each Subsidiary of the Company shall be deemed not to be an Affiliate of the TPG Member, any Person that controls the TPG Member or any Person with whom the Company or any such Subsidiary would otherwise be Affiliated through Affiliation with the TPG Member or any Person that controls the TPG Member; provided, further, that the Company and each Subsidiary of the Company shall be deemed not to be an Affiliate of the Intel Member, any Person that controls the Intel Member or any Person with whom the Company or any such Subsidiary would otherwise be Affiliated through Affiliation with the Intel Member or any Person that controls the Intel Member; provided, further, that the Company and each Subsidiary of the Company shall be deemed not to be an Affiliate of the TB Member, any Person that controls the TB Member or any Person with whom the Company or any such Subsidiary would otherwise be
Affiliated through Affiliation with the TB Member or any Person that controls the TB Member. “Affiliated” and “Affiliation” shall have correlative meanings. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Affiliate Indemnitors” has the meaning set forth in Section 11.02(a)(ii)(A).

“Agreement” has the meaning set forth in the preamble.

“Amendment No. 4” has the meaning set forth in the recitals.

“Assignee” has the meaning set forth in Section 8.01(c).

“Assignor” has the meaning set forth in Section 8.01(b).

“Award Agreement” means one or more agreements, notices or other governing documents (including adjustment agreements or notices, subscription agreements, Equity Incentive Plans and investment plans) between a Service Provider Member and/or any of his, her or its Affiliates, as applicable, on the one hand, and the Company, on the other hand (in each case, as amended from time to time), governing the issuance or other terms of any Units (or any interests which were converted into or exchanged for such Units).

“Awardee” has the meaning set forth in Section 8.01(c).

“Assignee” has the meaning set forth in Section 8.01(b).

“Black-Out Period” means any “black-out” or similar period under PubCo’s policies covering trading in PubCo’s securities by employees (including any Trading Policy) to which the applicable Redeeming Member is subject (or will be subject at such time as such Redeeming Member owns Class A Common Stock), which period restricts the ability of such Redeeming Member to immediately resell shares of Class A Common Stock to be delivered to such Redeeming Member in connection with a Share Settlement.

“Business Day” means any day excluding Saturday, Sunday or any day which is a legal holiday under the Laws of the State of California or the State of New York or is a day on which banking institutions in the State of California or the State of New York are closed.

“Capital Account” means the capital account established and maintained for each Member pursuant to Section 5.02.

“Capital Contribution” means, with respect to any Member, the amount of money and the initial Carrying Value of any Property (other than money) contributed to the Company with respect to any Units held or purchased by such Member.

“Carrying Value” means, with respect to any Property (other than money), such Property’s adjusted basis for U.S. federal income tax purposes, except as follows:
(a) the initial Carrying Value of any such Property contributed by a Member to the Company shall be the fair market value of such Property at the time of contribution, as determined by the Managing Member; and

(b) the Carrying Values of all such assets may, as determined by the Managing Member, be adjusted to equal their respective fair market values at the following times: (i) immediately prior to the contribution of more than a de minimis amount of money or other property to the Company by a new or existing Member as consideration for an interest in the Company; (ii) immediately prior to the distribution by the Company to a Member of more than a de minimis amount of property (other than cash) in exchange for all or a portion of such Member’s interest in the Company; (iii) immediately prior to the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); and (iv) in connection with a grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a Member capacity or by a new Member acting in a Member capacity or in anticipation of becoming a Member; provided, however, that adjustments pursuant to clauses (i), (ii) or (iv) of this paragraph need not be made if the Managing Member, with the consent of each of the TPG Member and the Intel Member, reasonably determines that such adjustments are not necessary or appropriate to reflect the relative economic interests of the Members and that the absence of such adjustments does not adversely and disproportionately affect any Member.

In the case of any asset of the Company that has a Carrying Value that differs from its adjusted tax basis, the Carrying Value shall be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Loss.

“Cash Settlement” means, with respect to any applicable Redemption, immediately available funds in U.S. dollars in an amount equal to the number of Redeemed Units subject thereto, multiplied by the Class A Unit Redemption Price.

“Certificate” has the meaning set forth in the recitals.

“Change of Control” has the meaning set forth in the Tax Receivable Agreement.

“Change of Control Exchange Date” has the meaning set forth in Section 10.01(a).

“Class A Common Stock” means Class A common stock, $0.001 par value per share, of PubCo.

“Class A Unit” means a limited liability company interest in the Company, designated herein as a “Class A Unit”.

“Class A Unit Redemption Price” means, with respect to any Redemption, the price for a share of Class A Common Stock (or any class of stock into which it has been converted) on the Stock Exchange, as reported on bloomberg.com or such other reliable source as determined by the Managing Member in good faith, at the close of trading on the last full Trading Day immediately prior to the Redemption, subject to appropriate and equitable adjustment for any stock splits, reverse splits, stock dividends or similar events affecting the Class A Common Stock. In the event the shares of Class A Common Stock are not publicly traded at the time of a Redemption, then the Managing Member shall determine the Class A Unit Redemption Price in good faith.
“Class B Common Stock” means Class B common stock, $0.001 par value per share, of PubCo.


“Company” has the meaning set forth in the preamble.

“Company Minimum Gain” means “partnership minimum gain” as defined in Treasury Regulation Sections 1.704-2(b)(2) and 1.704-2(d).

“Company Representative” has, with respect to taxable periods during the effectiveness of the Partnership Tax Audit Rules to the Company, the meaning assigned to the term “partnership representative” in Section 6223 of the Code and any Treasury Regulations or other administrative or judicial pronouncements promulgated thereunder and, with respect to taxable periods before the effectiveness of the Partnership Tax Audit Rules to the Company, the meaning assigned to the term “tax matters partner” as defined in Code Section 6231(a)(7) prior to its amendment by Title XI of the Bipartisan Budget Act of 2015, in each case as appointed pursuant to Section 6.01(a).

“Contribution Agreements” means those certain Contribution and Exchange Agreements entered on or around the date hereof, in accordance with the Restructuring Agreement, pursuant to which shares of MAC are contributed directly or indirectly to PubCo.

“Contribution Redemption” has the meaning set forth in Section 9.01(c).

“Covered Persons” has the meaning set forth in Section 11.02(a)(iii).

“Delaware Act” means the Delaware Limited Liability Company Act, as amended from time to time.

“Depreciation” means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Carrying Value of an asset differs from its adjusted basis for U.S. federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount that bears the same ratio to such beginning Carrying Value as the U.S. federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for U.S. federal income tax purposes of an asset at the beginning of such Fiscal Year is zero (0), Depreciation shall be determined with reference to such beginning Carrying Value using any reasonable method selected by the Managing Member.

“Determination” has the meaning set forth in Section 3.03(d)(iv).

“DGCL” means the Delaware General Corporation Law, as amended from time to time.
“Direct Redemption” has the meaning set forth in Section 9.01(c).

“Dissolution Event” has the meaning set forth in Section 12.01(c).

“Economic PubCo Security” has the meaning set forth in Section 4.01(a).

“Election Notice” has the meaning set forth in Section 9.01(a).

“Equity Incentive Plan” means any equity incentive or similar plan, agreement or arrangement adopted or entered into by the Company or PubCo that is effective on or after the date hereof, including, the McAfee 2017 Management Incentive Plan and the McAfee 2020 Omnibus Incentive Plan, in each case, as from time to time amended and in effect.

“Equity Securities” means (a) with respect to a partnership, limited liability company or similar Person, any and all units, interests, rights to purchase, warrants, options or other equivalents of, or other ownership interests in, any such Person as well as debt or equity instruments convertible, exchangeable or exercisable into any such units, interests, rights or other ownership interests and (b) with respect to a corporation, any and all shares, interests, participation or other equivalents (however designated) of corporate stock, including all common stock and preferred stock, or warrants, options or other rights to acquire any of the foregoing, including any debt or equity instrument convertible, exchangeable or exercisable into any of the foregoing.

“Exchange” has the meaning set forth in Section 9.02.


“Exchange Date” has the meaning set forth in Section 9.02.

“Exchange Notice” has the meaning set forth in Section 9.02.

“Exchange Right” has the meaning set forth in Section 9.02.

“Exchange Management Incentive Units” has the meaning set forth in Section 9.02.

“Exchanging Member” has the meaning set forth in Section 9.02.

“Exempted Person” means (i) the TPG Member, TPG, each of their respective partners, shareholders, members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents and each of the partners, shareholders, members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents of each of the foregoing, excluding in each case the PubCo and the Company and any of their respective Subsidiaries and any such Person that would qualify as an Exempted Person solely by reason of its Affiliation or service relationship with the Company, or any of its respective Subsidiaries, (ii) Intel and each of its shareholders, members, Affiliates, directors and officers, excluding in each case PubCo and the Company and any of their respective Subsidiaries and any such Person that would qualify as an Exempted Person solely by reason of its Affiliation or service relationship with the Company, or any of its respective Subsidiaries and (iii) the TB Member, TB, each of their respective partners, shareholders,
members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents and each of the partners, shareholders, members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents of each of the foregoing, excluding in each case PubCo and the Company and any of its respective Subsidiaries and any such Person that would qualify as an Exempted Person solely by reason of its Affiliation or service relationship with the Company, or any of its respective Subsidiaries; provided, that no Person who is an employee of PubCo, the Company or any of their respective Subsidiaries shall be an Exempted Person.

“Fair Market Value” means, as of any date, as to any Unit, the fair market value of such Unit as reasonably determined in good faith by the Managing Member as of the applicable reference date and which shall be calculated by reference to the closing sale price of a share of Class A Common Stock as of the applicable reference date (or, if the applicable reference date is not a Trading Day, the last Trading Day preceding the applicable reference date).

“Fiscal Year” means the fiscal year of the Company, which shall be a 52- or 53-week fiscal year ending on the last Saturday of December (unless otherwise determined by the Managing Member). Where the context requires (i.e., in connection with tax compliance matters), references to “Fiscal Year” shall refer to the taxable year of the Company, which shall be the same period as described in the preceding sentence to the extent permitted by law.

“Governmental Authority” means any national, federal, state or local, whether domestic or foreign, government, governmental entity, quasi-governmental entity, court, tribunal, mediator, arbitrator or arbitral body, or any governmental bureau, or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing and the SEC, any non-U.S. regulatory agency and any other regulatory authority or body (including any state or provincial securities authority and any self-regulatory organization) with jurisdiction over the Company or any of its Subsidiaries.

“Indemnified Person” has the meaning set forth in Section 11.02(a)(i).

“Initial Capital Account Balance” means, with respect to any Member, the positive Capital Account balance of such Member as of the closing of the IPO, the amount of which is set forth on the Member Schedule.

“Intel” means Intel Corporation, a Delaware corporation, and its successors.

“Intel Member” means, collectively, Intel Americas, Inc., and any of its Subsidiaries or Affiliates or any of its or their respective successors.

“Interest” means, with respect to any Person as of any time, such Person’s membership interest in the Company as represented by the ownership of Units in accordance with the terms of this Agreement, which includes the number of Units such Person holds and such Person’s Capital Account balance.

“IPO” has the meaning set forth in the recitals.
“Law” means any foreign or domestic, national, federal, territorial, state or local law (including common law), statute, treaty, regulation, ordinance, rule, order, or permit, in each case having the force and effect of law, issued, enacted, adopted, promulgated, implemented or otherwise put in effect by or under the authority of any Governmental Authority, or any similar form of binding decision or approval of, or binding determination by, or binding interpretation or administration of any of the foregoing by, any Governmental Authority.

“Lock-Up Securities” has the meaning set forth in Section 8.04.

“Liquidation” means a liquidation or winding up of the Company.

“MAC” has the meaning set forth in the recitals.

“MAC Distribution” has the meaning set forth in the recitals.

“Management Incentive Units” means any Units issued by the Company that are designated as “Management Incentive Units.”

“Management Incentive Unit Return Threshold” has the meaning set forth in Section 3.01(c).

“Managing Member” means (i) PubCo so long as PubCo has not withdrawn as the Managing Member pursuant to Section 7.02 and (ii) any successor thereof appointed as Managing Member in accordance with Section 7.02.

“Member” means any Person named as a Member of the Company on Schedule A (the “Member Schedule”) and the books and records of the Company, as the same may be amended from time to time to reflect any Person admitted as an Additional Member or a Substitute Member, for so long as such Person continues to be a Member of the Company.

“Member Nonrecourse Debt” has the same meaning as the term “partner nonrecourse debt” in Treasury Regulations Section 1.704-2(b)(4).

“Member Nonrecourse Debt Minimum Gain” means an amount with respect to each “partner nonrecourse debt” (as defined in Treasury Regulation Section 1.704-2(b)(4)) equal to the Company Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulation Section 1.752-1(a)(2)) determined in accordance with Treasury Regulation Section 1.704-2(i)(3).

“Member Nonrecourse Deductions” has the same meaning as the term “partner nonrecourse deductions” in Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

“Member of the Immediate Family” means, with respect to any natural Person, (a) each parent, spouse (but not including a former spouse or a spouse from whom such Unit Holder is legally separated) or child (including those adopted) of such individual and (b) each trustee, solely in his or her capacity as trustee and so long as such trustee is reasonably satisfactory to the Managing Member, for a trust naming only one or more of the Persons listed in sub-clause (a) as beneficiaries.
“Net Income” and “Net Loss” means, for each Fiscal Year, an amount equal to the Company’s taxable income or loss for such Fiscal Year, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments (without duplication):

(a) any income of the Company that is exempt from U.S. federal income tax and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition of “Net Income” and “Net Loss” shall be added to such taxable income or loss;

(b) any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated expenditures as described in Section 705(a)(2)(B) of the Code pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(l), and not otherwise taken into account in computing Net Income and Net Loss pursuant to this definition of “Net Income” and “Net Loss,” shall be subtracted from such taxable income or loss;

(c) gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for U.S. federal income tax purposes shall be computed by reference to the Carrying Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Carrying Value;

(d) in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year, computed in accordance with the definition of Depreciation;

(e) to the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) of the Code is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member’s interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Net Income or Net Loss;

(f) if the Carrying Value of any Company asset is adjusted in accordance with clause (b) of the definition of Carrying Value, the amount of such adjustment shall be taken into account in the taxable year of such adjustment as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss; and

(g) notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Section 5.04(b) shall not be taken into account in computing Net Income and Net Loss.

The amounts of the items of Company income, gain, loss, or deduction available to be specially allocated pursuant to Section 5.04(b) shall be determined by applying rules analogous to those set forth in subparagraphs (a) through (e) above.
“New Class A Units” means, with respect to any Exchanged Management Incentive Unit, a number of Class A Units equal to the quotient of (a) the difference between the Fair Market Value on the date of the Exchange and the then-unsatisfied Management Incentive Unit Return Threshold applicable to such Exchanged Management Incentive Unit, divided by (b) the Fair Market Value on the date of the Exchange; provided, that if the number of New Class A Units determined by the foregoing calculation is a negative number, it shall be deemed to be zero (0).

“Non-Employee Directors” has the meaning set forth in Section 9.03(b).

“Nonrecourse Deductions” has the meaning set forth in Treasury Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

“Notice” has the meaning set forth in Section 5.03(e)(ii).

“Officers” has the meaning set forth in Section 7.05(a).

“Partnership Tax Audit Rules” means Sections 6221 through 6241 of the Code, as amended by Title XI of the Bipartisan Budget Act of 2015, together with any final or temporary Treasury Regulations, Revenue Rulings, and case law interpreting Sections 6221 through 6241 of the Code, as so amended (and any analogous provision of state or local tax law).

“Percentage Interest” means, with respect to any Member, a fractional amount, expressed as a percentage: (i) the numerator of which is the aggregate number of Units owned of record by such Member and (ii) the denominator of which is the aggregate number of Units issued and outstanding, in each case, determined as if all Management Incentive Units were exchanged for New Class A Units. The sum of the outstanding Percentage Interests of all Members shall at all times equal 100%.

“Permitted Loan” means any bona fide purpose (margin) or non-purpose loan.

“Permitted Pledge Transfer” means (i) any pledge, mortgage or hypothecation of Units by the TPG Member, the Intel Member or the TB Member in connection with a Permitted Loan and (ii) any Transfer by the TPG Member, the Intel Member or the TB Member to the extent that all of the net proceeds of such sale are solely used to satisfy a bona fide margin call (i.e., posted as collateral) pursuant to a Permitted Loan, or repay a Permitted Loan to the extent necessary to satisfy a bona fide margin call on such Permitted Loan or avoid a bona fide margin call on such Permitted Loan, or in connection with a foreclosure or event of default under a Permitted Loan.

“Permitted Transferee” has the meaning set forth in Section 8.02.

“Person” means an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Authority.

“Prior Agreement” has the meaning set forth in the recitals.
“Profits Interest” means an interest in the Company that is intended to be classified as a profits interest within the meaning of Internal Revenue Service Revenue Procedures 93-27 and 2001-43 (or the corresponding requirements of any subsequent guidance promulgated by the Internal Revenue Service or other Law) for U.S. federal income tax purposes, including Management Incentive Units.

“Property” means an interest of any kind in any real or personal (or mixed) property, including cash, and any improvements thereto, and shall include both tangible and intangible property.

“PubCo” has the meaning set forth in the recitals.

“PubCo Approved Change of Control” means any Change of Control of PubCo that meets the following conditions: (i) such Change of Control was approved by the board of directors of PubCo prior to such Change of Control, (ii) the terms of such Change of Control provide for the consideration for the Units (or shares of Class A Common Stock into which such Units are or may be exchanged) in such Change of Control to consist solely of (A) common equity securities of an issuer listed on a national securities exchange in the United States and/or (B) cash, and (iii) if such common equity securities, if any, would be Registrable Securities (as defined in the Registration Rights Agreement) of such issuer for any stockholder party to the Registration Rights Agreement, the issuer of such listed equity securities has become a party thereto as a successor to PubCo effective upon closing of such Change of Control.

“PubCo Approved Recap Transaction” has the meaning set forth in Section 10.01(a).

“Record Date” means, with respect to any distribution pursuant to Article V, the Business Day specified by the Managing Member for purposes of determining the outstanding Units entitled to participate in such distribution.

“Redeeming Member” has the meaning set forth in Section 9.01(a).

“Redemption” has the meaning set forth in Section 9.01(a).

“Redemption Date” has the meaning set forth in Section 9.01(a).

“Redemption Notice” has the meaning set forth in Section 9.01(a).

“Redemption Right” has the meaning set forth in Section 9.01(a).

“Registration Rights Agreement” means that certain Registration Rights Agreement, dated on or about the date hereof, by and among PubCo and the other Persons party thereto or that may become parties thereto from time to time, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

“Regulatory Allocations” has the meaning set forth in Section 5.04(c).

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“Relative Percentage Interest” means, with respect to any Member relative to another Member or group of Members, a fractional amount, expressed as a percentage, the numerator of which is the Percentage Interest of such Member; and the denominator of which is (x) the Percentage Interest of such Member plus (y) the aggregate Percentage Interest of such other Member or group of Members.

“Restatement Date” has the meaning set forth in the recitals.

“Restricted Period” has the meaning set forth in Section 8.04.

“Restrictive Covenant” means any restrictive covenants related to confidentiality, non-competition, non-solicitation, no-hire, non-disparagement and/or assignment of intellectual property rights for the benefit of the Company, PubCo or any of their respective Affiliates.

“Restructuring” means the consummation of the transactions contemplated by the Restructuring Agreement.

“Restructuring Agreement” means, that certain Master Restructuring Agreement, dated as of the date hereof, by and among the Company, PubCo and other parties thereto, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

“Revenue Procedure” has the meaning set forth in Section 5.03(e)(ii).

“Rule 144” means Rule 144 under the Securities Act (or any successor provision).

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Service Provider Member” means any Member that holds Units that were issued in connection with the performance of services as an employee or other service provider to PubCo, the Company or any of their respective Subsidiaries (including, for the avoidance of doubt, Class A Units that were purchased pursuant to the terms of an Award Agreement with an employee or other service provider), whether or not such Member continues to provide services on or after the date hereof.

“Share Settlement” means, with respect to any applicable Redemption, a number of shares of Class A Common Stock equal to the number of Redeemed Units, subject to appropriate and equitable adjustment for any stock splits, reverse splits, stock dividends or similar events affecting the Class A Common Stock.

“Special TRA Payment” has the meaning set forth in the Amendment No. 4.

“Stock Exchange” means the Nasdaq Stock Market or other stock exchange on which common equity securities of PubCo are listed for trading from time to time.

“Stockholders Agreement” means the Stockholders Agreement, dated as of the date hereof, by and among PubCo and the other Persons party thereto or that may become parties thereto from time to time, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.
“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of limited liability company, partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director, general partner or board of managers of such limited liability company, partnership, association or other business entity. For purposes hereof, references to a “Subsidiary” of any Person shall be given effect only at such times that such Person has one or more Subsidiaries.

“Substitute Member” means any Person admitted as a Member of the Company pursuant to Section 8.03 in connection with the Transfer of then-existing Units to such Person.

“Tax Distribution” means a distribution made by the Company pursuant to Section 5.03(d)(i).

“Tax Distribution Amount” means, for a Member for a Fiscal Year, the amount determined by the Managing Member to be sufficient such that such amount is at least equal to the amount of the Member’s U.S. federal, state and local income tax liability with respect to the net amount of taxable income and gain allocated to the Member for such fiscal period (or as a result of any capital shifts or guaranteed payments for the use of capital), determined by assuming (without regard to the Member’s actual tax liability) that such income or gain, as applicable, is taxable to the Member, with respect to Class A Units or Management Incentive Units, at the Tax Rate, (i) assuming each Member’s sole asset is its Interest, (ii) without regard to any tax deductions or basis adjustments of any Member arising under Section 743 of the Code and the Treasury Regulations thereunder, (iii) in the discretion of the Managing Member, assuming the Company is a “United States shareholder” (within the meaning of Section 957 of the Code) treated as owning the equity interests of any Subsidiary that is a “controlled foreign corporation” (within the meaning of Section 957 of the Code), and (iv) taking into account the deductibility, if any, of state and local taxes (subject to the limitations in Sections 67 and 68 of the Code) and adjusted to the extent necessary to calculate federal, state and local tax liability separately so as to take into account the limitations under Section 163 of the Code and the calculation under the applicable state and local tax Laws of taxable income and taxable losses (and the extent to which such losses may offset such income). The Tax Distribution Amount with regard to a Member for a Fiscal Year shall also be increased without duplication by the amount of any liability (calculated using the assumptions in this definition) arising from an election by the Company or any of its Subsidiaries pursuant to Section 6226 of the Code or any analogous election under state or local tax Laws. The Tax Distribution Amount with respect to the Managing Member and its wholly-owned Subsidiaries, in the aggregate, for a Fiscal Year shall in no event be less than an amount that will enable the Managing Member and its wholly-owned Subsidiaries to meet their tax obligations.
“Tax Rate” means the highest marginal U.S. federal income tax rate then in effect (including any tax on “net investment income”), and a state and local income tax rate equal to the highest marginal rate then in effect for an individual, or (if higher) a corporation, that is a resident of San Francisco, California, increased if necessary to apply alternative minimum tax rates and rules in years in which the alternative minimum tax applies (or would apply based on the assumptions stated herein) to either an individual or a corporation.

“Tax Receivable Agreement” means that certain Tax Receivable Agreement, dated as or around the date hereof, by and among PubCo, the Company and the other Persons party thereto, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

“TB” means Thoma Bravo, L.P.

“TB Affiliated Fund” means each corporation, trust, limited liability company, general or limited partnership or other entity controlling or under common control with the TB Member.

“TB Member” means collectively, Thoma Bravo Fund XII AIV, L.P., a Delaware limited partnership, Thoma Bravo Executive Fund XII AIV, L.P., a Delaware limited partnership, Thoma Bravo Executive Fund XII-A AIV, L.P., a Delaware limited partnership, and Thoma Bravo Partners XII AIV, L.P., a Delaware limited partnership.

“Termination of Service” with respect to a Service Provider Member means the date he or she ceases to be an employee or other service provider of PubCo, the Company and their respective Subsidiaries. The Managing Member, in its sole discretion, shall determine the effect of all matters and questions relating to any Termination of Service, including whether a Termination of Service has occurred and all questions of whether particular leaves of absence constitutes a Termination of Service. For purposes of this Agreement, unless the Managing Member expressly determines otherwise, a Service Provider Member’s employee-employer relationship or consultancy relationship with PubCo, the Company and their respective Subsidiaries shall be deemed to be terminated in the event that the Subsidiary employing or contracting him or her ceases to remain a Subsidiary of PubCo or the Company, as applicable, following any merger, sale of stock or other corporate transaction or event (including a spin-off).

“TPG” means TPG Global, LLC.

“TPG Affiliated Fund” means each corporation, trust, limited liability company, general or limited partnership or other entity controlling or under common control with the TPG Member.

“TPG Member” means, collectively, TPG VII Manta Holdings II, L.P., a Delaware limited partnership, and TPG VII Manta AIV Co-Invest, L.P., a Delaware limited partnership.

“Trading Day” means a day on which the Stock Exchange is open for the transaction of business (unless such trading shall have been suspended for the entire day).
“Trading Policy” means any exchange and/or insider trading policy established by PubCo with respect to employees or other service providers of PubCo, the Company or any of their respective Subsidiaries, as may be amended from time to time.

“Transaction Documents” means the Registration Rights Agreement, Restructuring Agreement, Stockholders Agreement, Tax Receivable Agreement and any applicable Award Agreement(s).

“Transfer” means, when used as a noun, any direct or indirect, voluntary or involuntary, sale, disposition, hypothecation, mortgage, gift, pledge, assignment, attachment, or any other transfer (including the creation of any derivative or synthetic interest, including a participation or other similar interest or any lien or encumbrance) and, when used as a verb, voluntarily (whether in fulfillment of contractual obligation or otherwise) to directly or indirectly sell, dispose, hypothecate, mortgage, gift, pledge, assign, attach, or otherwise transfer (including by creating any derivative or synthetic interest or any lien or encumbrance) or any other similar participation or interest, in any case, whether by operation of Law or otherwise, and shall include any transaction that is treated as a “transfer” within the meaning of Treasury Regulations Section 1.7704-1; and “Transferred,” “Transferee” and “Transferor” shall each have a correlative meaning; provided, that “Transfer” shall be deemed not to include any issuance or other transfer of Equity Securities issued by PubCo for so long as PubCo is treated as a corporation for U.S. federal income tax purposes.

“Transferor Member” has the meaning set forth in Section 5.02(b).

“Treasury Regulations” means the regulations promulgated under the Code.

“Unit Holder” means a Person in regard to such Person’s interest in a Unit (or portion thereof) or Units, as applicable.

“Units” means Class A Units, Management Incentive Units or any other type, class or series of limited liability company interests in the Company designated by the Company after the date hereof in accordance with this Agreement; provided, that any type, class or series of Units shall have the designations, preferences and/or special rights set forth or referenced in this Agreement, and the limited liability company interests of the Company represented by such type, class or series of Units shall be determined in accordance with such designations, preferences and/or special rights.

“Unvested” means, on any date of determination and with respect to any Class A Unit, Management Incentive Unit or other Unit, that such Unit is not “vested” in accordance with the Award Agreement(s) or other documents governing such Unit.

“Withholding Advances” has the meaning set forth in Section 5.06(b).

Section 1.02 Other Definitional and Interpretative Provisions. The definitions in Section 1.01 shall apply equally to both 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 “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular
provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections and Schedules are to Articles, Sections and Schedules of this Agreement unless otherwise specified. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. The terms “clause(s)” and “subparagraph(s)” shall be used herein interchangeably. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. Unless otherwise expressly provided herein, any agreement or instrument defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement or instrument as from time to time amended, modified, supplemented or restated, including by waiver or consent, and references to all attachments thereto and instruments incorporated therein. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. Unless otherwise expressly provided herein, any statute defined or referred to herein or in any agreement or instrument that is referred to herein means such statute as from time to time amended, modified, supplemented or restated, including by succession of comparable successor statutes and any rules or regulations promulgated thereunder. Unless otherwise expressly provided herein, when any approval, consent or other matter requires any action or approval of any group of Members, including any holders of any class of Units, such approval, consent or other matter shall require the approval of a majority in interest of such group of Members. Except to the extent otherwise expressly provided herein, all references to any Member shall be deemed to refer solely to such Person in its capacity as such Member and not in any other capacity.

ARTICLE II

THE COMPANY

Section 2.01 Continuation of the Company. The Members hereby agree to continue the Company as a limited liability company pursuant to the Delaware Act, upon the terms and subject to the conditions set forth in this Agreement. The authorized officer or representative, as an “authorized person” within the meaning of the Delaware Act, shall file and record any amendments and/or restatements to the Certificate and such other certificates and documents (and any amendments or restatements thereof) as may be required under the Laws of the State of Delaware and of any other jurisdiction in which the Company may conduct business. The authorized officer or representative shall, on request, provide the Managing Member, the TPG Member, the Intel Member and the TB Member with copies of each such document as filed and recorded. The Members hereby agree that the Company and its Subsidiaries shall be governed by the terms and conditions of this Agreement and, except as provided herein, the Delaware Act.

Section 2.02 Name. The name of the Company shall be Foundation Technology Worldwide LLC. The Managing Member may change the name of the Company in its sole discretion and shall have the authority to execute, acknowledge, deliver, file and record such further certificates, amendments, instruments and documents, and to do all such other acts and things, as may be required by Law or necessary or advisable to effect such change.
Section 2.03 Term. The term of the Company began on July 14, 2016, the date the Certificate was filed with the Secretary of State of the State of Delaware, and the Company shall have perpetual existence unless sooner dissolved and its affairs wound up as provided in Article XII.

Section 2.04 Registered Agent and Registered Office. The registered office required to be maintained by the Company in the State of Delaware pursuant to the Delaware Act will initially be the office and the agent so designated on the Certificate. The Company may, upon compliance with the applicable provisions of the Delaware Act, change its registered office or registered agent from time to time in the determination of the Managing Member.

Section 2.05 Purposes. Subject to the limitations contained elsewhere in this Agreement, the Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Delaware Act and engaging in any and all activities necessary, advisable, convenient or incidental thereto. The Company shall have all powers permitted under applicable Laws to do any and all things deemed by the Managing Member to be necessary or desirable in furtherance of the purposes of the Company.

Section 2.06 Powers of the Company. The Company will possess and may exercise all of the powers and privileges granted by the Delaware Act or by any other Law together with such powers and privileges as are necessary, advisable, incidental or convenient to, or in furtherance of the conduct, promotion or attainment of the business purposes or activities of the Company.

Section 2.07 Partnership Tax Status. The Members intend that the Company shall be treated as a partnership for federal, state and local tax purposes to the extent such treatment is available, and agree to take (or refrain from taking) such actions as may be necessary to receive and maintain such treatment and refrain from taking any actions inconsistent therewith.

Section 2.08 Regulation of Internal Affairs. The internal affairs of the Company and the conduct of its business shall be regulated by this Agreement, and to the extent not provided for herein, shall be determined by the Managing Member.

Section 2.09 Ownership of Property. Legal title to all Property conveyed to, or held by, the Company or its Subsidiaries shall reside in the Company or its Subsidiaries, as applicable, and shall be conveyed only in the name of the Company or its Subsidiaries, as applicable, and no Member or any other Person, individually, shall have any ownership of such Property.
ARTICLE III

UNITS; MEMBERS; BOOKS AND RECORDS; REPORTS

Section 3.01 Units; Admission of Members.

(a) Each Member’s ownership interest in the Company shall be represented by Units, which may be divided into one or more types, classes or series, or subseries of any type, class or series, with each type, class or series, or subseries thereof, having the rights and privileges, set forth in this Agreement.

(b) The Managing Member shall have the right to authorize and cause the Company to issue an unlimited number of Class A Units. The Company may only issue additional Management Incentive Units to the extent such issuance is approved in writing by the Managing Member, the TPG Member and the Intel Member. The number and type of Units issued to each Member shall be set forth opposite such Member’s name on the Member Schedule. The Member Schedule shall be maintained by the Managing Member on behalf of the Company in accordance with this Agreement. When any Units or other Equity Securities of the Company are issued, repurchased, redeemed, converted or Transferred in accordance with this Agreement, the Member Schedule shall be amended by the Managing Member to reflect such issuance, repurchase, redemption, conversion or Transfer, the admission of Additional Members or Substitute Members and the resulting Percentage Interest of each Member. The Managing Member may from time to time redact the Member Schedule in its sole discretion and no Person other than the Managing Member, the TPG Member, the Intel Member and the TB Member shall have a right to review the unredacted Member Schedule, unless otherwise required by applicable Law. Following the date hereof, no Person shall be admitted as a Member and no additional Units shall be issued except as expressly provided herein. Fractional Units are hereby expressly permitted.

(c) The Class A Units and Management Incentive Units may be subject to vesting and other terms and conditions as set forth in an Award Agreement (or Award Agreements). Each Management Incentive Unit shall be subject to a return threshold (the “Management Incentive Unit Return Threshold”), which shall be, for each Management Incentive Unit that is intended to constitute a Profits Interest for U.S. federal income tax purposes, an amount not less than the amount determined by the Managing Member to be necessary to cause such Management Incentive Unit to constitute a Profits Interest, as set forth on the Member Schedule. Each Management Incentive Unit that is intended to constitute a Profits Interest shall have an initial Capital Account at the time of its issuance equal to zero dollars ($0.00).

(d) The Managing Member may cause the Company to authorize and issue from time to time such other Units or other Equity Securities of any type, class or series, in each case, having the designations, preferences and/or special rights as may be determined by the Managing Member. Such other Units or other Equity Securities may be issued pursuant to such agreements as the Managing Member shall approve in its discretion. Whenever any such other Units or other Equity Securities are authorized and issued, the Member Schedule and this Agreement shall be amended by the Managing Member to reflect such additional issuances and the resulting dilution, which shall be borne pro rata by all Members based on their Class A Units and Management Incentive Units (taking into account the applicable unsatisfied Management Incentive Unit Return Thresholds).

(e) Unvested Class A Units and Unvested Management Incentive Units shall be subject to the terms of this Agreement and any applicable Award Agreement(s). Unvested Class A Units and Unvested Management Incentive Units that fail to vest and are forfeited by the applicable Member shall be cancelled by the Company (and shares of Class B Common Stock held by the applicable Member shall be cancelled, in each case for no consideration) and shall not be entitled to any distributions pursuant to Section 5.03.
Section 3.02 Additional Members.

(a) No Person to whom any Units are issued pursuant to this Agreement shall be admitted as a Member hereunder or acquire any rights hereunder, including any voting rights or the right to receive distributions and allocations in respect of the issued Units, unless (i) such Units are issued in compliance with the provisions of this Agreement and (ii) such recipient shall have executed and delivered to the Company such instruments as the Managing Member deems necessary or desirable, in its reasonable discretion, to effectuate the admission of such recipient as a Member and to confirm the agreement of such recipient to be bound by all the terms and provisions of this Agreement. Upon complying with the immediately preceding sentence, without the need for any further action of any Person, a recipient shall be deemed admitted to the Company as a Member.

Section 3.03 Tax and Accounting Information.

(a) Accounting Decisions and Reliance on Others. All decisions as to accounting matters, except as otherwise specifically set forth herein, shall be made by the Managing Member in accordance with Law and with accounting methods followed for U.S. federal income tax purposes. In making such decisions, the Managing Member may rely upon the advice of the independent accountants of the Company.

(b) Records and Accounting Maintained. For financial reporting purposes, unless otherwise determined by PubCo’s audit committee, the books and records of the Company shall be kept on the accrual method of accounting applied in a consistent manner and shall reflect all Company transactions. For tax purposes, the books and records of the Company shall be kept on the accrual method. The Fiscal Year of the Company shall be used for financial reporting and, to the extent permitted by applicable law, for U.S. federal income tax purposes.

(c) Financial Reports.

(i) The books and records of the Company shall be audited as of the end of each Fiscal Year by the same accounting firm that audits the books and records of PubCo (or, if such firm declines to perform such audit, by an accounting firm selected by the Managing Member).

(ii) In the event that neither PubCo nor the Company is required to file an annual report on Form 10-K or quarterly report on Form 10-Q, the Company shall deliver, or cause to be delivered, the following to each of the Intel Member, TB Member and TPG Member:

(A) not later than ninety (90) days after the end of each Fiscal Year of the Company, a copy of the audited consolidated balance sheet of the Company and its Subsidiaries as of the end of such Fiscal Year and the related statements of operations and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous year, all in reasonable detail; and
(B) not later than forty-five (45) days or such later time as permitted under applicable securities law after the end of each of the first three fiscal quarters of each Fiscal Year, the unaudited consolidated balance sheet of the Company and its Subsidiaries, and the related statements of operations and cash flows for such quarter and for the period commencing on the first day of the Fiscal Year and ending on the last day of such quarter.

(d) Tax Returns.

(i) The Company shall cause to be prepared and timely filed all federal, state, local and foreign tax returns (including information returns) of the Company and its Subsidiaries which are required to be filed. Upon written request of the TPG Member, the Intel Member or the TB Member, for a purpose reasonably related to such Member’s interest in the Company, the Company shall furnish to such Member a copy of such tax return.

(ii) The Company shall furnish to the Managing Member, the TPG Member, the Intel Member and the TB Member (a) as soon as reasonably practicable after the end of each Fiscal Year, all information concerning the Company and its Subsidiaries reasonably required for the preparation of tax returns of such Members (or any beneficial owner(s) of such Member), including a report (including Schedule K-1) indicating such Member’s share of the Company’s taxable income, gain, credits, losses and deductions for such year, in sufficient detail to enable such Member to prepare its federal, state and other tax returns; provided, that the Managing Member shall (i) cause the Company to deliver to such Member a draft Schedule K-1 within ninety (90) days after the end of each Fiscal Year and (ii) use commercially reasonable efforts to provide estimates of such other information, which estimates the Managing Member in good faith believes to be reasonable, (b) as soon as reasonably practicable after the close of the relevant fiscal period, such information concerning the Company as is required to enable such Member (or any beneficial owner of such Member) to pay estimated taxes and (c) as soon as reasonably practicable after a request by such Member, such other information concerning the Company and its Subsidiaries that is reasonably requested by such Member for compliance with its tax obligations (or the tax obligations of any beneficial owner(s) of such Member) or for tax planning purposes. These rights with respect to the Managing Member, the TPG Member, the Intel Member and the TB Member shall survive such Member becoming a former Member.

(iii) The Company shall provide each Member other than the Managing Member, the TPG Member, the Intel Member and the TB Member, as soon as reasonably practicable after the end of each fiscal year a Schedule K-1, indicating such Member’s share of the Company’s taxable income, gain, credits, losses and deductions for such year, in sufficient detail to enable such Member to prepare its federal, state and other tax return; provided, that the Managing Member shall cause the Company to deliver to such Member a draft Schedule K-1 within ninety (90) days after the end of each Fiscal Year.
(iv) Notwithstanding anything to the contrary in this Agreement, PubCo shall, and shall cause each of its Subsidiaries (including the Company) to, file its tax returns in accordance with the tax treatment described in Section 8.10 of the Subscription Agreement, dated as of September 8, 2016, by and among the Company, Intel Corporation and TPG VII Manta Holdings L.P. and to not take any position inconsistent with such tax treatment in any tax audit or similar proceeding or exam (except upon a contrary Determination, as defined in the Tax Receivable Agreement).

(e) Inconsistent Positions. Unless a Member provides prior written notice to the Company, such Member will not take a position on such Member’s U.S. federal income tax return, in any claim for refund or in any administrative or legal proceedings that is inconsistent with this Agreement or with any information return filed by the Company.

Section 3.04 Books and Records. The Company shall keep full and accurate books of account and other records of the Company at its principal place of business. No Member (other than the Managing Member, the TPG Member and the Intel Member) shall have any right (except as otherwise explicitly accorded to a Member hereunder or under any other applicable agreement) to inspect the books and records of PubCo, the Company or any of its Subsidiaries, and each Member (other than the Managing Member, the TPG Member and the Intel Member) hereby waives its rights under Section 18-305(a) of the Delaware Act to the greatest extent permitted by applicable Law.

ARTICLE IV
COMPANY OWNERSHIP; RESTRICTIONS ON COMPANY UNITS

Section 4.01 Company Ownership.

(a) Except in connection with Redemptions or Exchanges in accordance with Article IX, pursuant to the Restructuring Agreement (and the transactions contemplated thereby), or as otherwise determined by the Managing Member with the approval of the TPG Member and the Intel Member, if at any time PubCo issues a share of Class A Common Stock or any other Equity Security of PubCo entitled to any economic rights (including in the IPO) (an “Economic PubCo Security”), (i) the Company shall issue to PubCo (or a wholly-owned Subsidiary of PubCo that PubCo designates) an equal number (or such other number as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities) of Class A Units (if PubCo issues shares of Class A Common Stock) or such other Equity Securities (if PubCo issues Economic PubCo Securities other than a share of Class A Common Stock) corresponding to the Economic PubCo Security, with substantially the same rights to dividends and distributions (including distributions on liquidation) and other economic rights as those of such Economic PubCo Security and (ii) in exchange for the issuances in the foregoing clause (i), the net proceeds or contributed proceeds or other assets received by PubCo with respect to the corresponding issuance of Class A Common Stock or other Economic PubCo Securities, if any, shall be concurrently contributed by PubCo directly or indirectly to the Company, it being understood that, if PubCo or any of its Subsidiaries acquires the equity of any entity treated as a domestic corporation for U.S. federal income tax purposes, PubCo or such Subsidiary, as applicable, will, subject to non-Tax commercial objectives (other than reducing
payment obligations under the Tax Receivable Agreement), use its reasonable best efforts to restructure such acquired entity so that, for U.S. federal income tax purposes, the operating assets and liabilities of such entity are contributed, for U.S. federal income tax purposes, to the Company in a manner that minimizes the amount of equity interests in domestic corporations, for U.S. federal income tax purposes, that the Company owns, directly or indirectly.

(b) Notwithstanding Section 4.01(a), this Article IV shall not apply (i) to the issuance and distribution to holders of shares of PubCo Common Stock of rights to purchase Equity Securities of PubCo under a “poison pill” or similar shareholders rights plan (it being understood that upon a Redemption involving a Share Settlement or an Exchange under Article IX, the shares of Class A Common Stock and/or Class B Common Stock, as the case may be, issued therein will be issued together with a corresponding right) or (ii) to the issuance under any Equity Incentive Plan, the McAfee Employee Stock Purchase Plan or any other employee benefit plan sponsored or maintained by PubCo, of any Equity Securities, warrants, restricted stock units, options or other rights to acquire Equity Securities of PubCo or rights or property that are not themselves capital stock of PubCo but may be converted into or settled in Equity Securities of PubCo, but shall in each of the foregoing cases apply to the issuance of capital stock of PubCo upon the exercise or settlement of such warrants, restricted stock units, options, rights or property.

(c) Notwithstanding anything to the contrary herein, in the event that shares of unvested Class A Common Stock issued to holders of Management Incentive Units in connection with their direct or indirect contribution of equity of MAC to PubCo are canceled, (a) the number of Class A Units owned by PubCo and its wholly-owned Subsidiaries shall not be reduced and (b) the number of Class A Units owned by PubCo and its wholly-owned Subsidiaries shall not be increased to reflect the issuance of additional shares of Class A Common Stock pursuant to the Contribution Agreements.

Section 4.02 Restrictions on Units.

(a) Except as expressly permitted by Section 4.01 or as otherwise determined by the Managing Member with the consent of each of the TPG Member and the Intel Member, the Company may not issue any additional Class A Units or any other Equity Securities to PubCo or any of its Subsidiaries, unless substantially simultaneously therewith PubCo issues, including in connection with a stock dividend, or sells an equal number (or such other number as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities) of shares of Class A Common Stock or other Equity Securities of PubCo with substantially the same rights to dividends and distributions (including distributions upon liquidation of PubCo) and other economic rights as the Equity Securities issued by the Company.

(b) Except as otherwise determined by the Managing Member with the consent of each of the TPG Member and the Intel Member, (i) neither PubCo nor any of its Subsidiaries may redeem, repurchase or otherwise acquire any shares of Class A Common Stock unless substantially simultaneously therewith the Company redeems, repurchases or otherwise acquires from PubCo (or such Subsidiary, as applicable) an equal number of Class A Units for the same price per security and (ii) neither PubCo nor any of its Subsidiaries may redeem or repurchase any other Equity Securities of PubCo unless substantially simultaneously therewith, the Company
redeems or repurchases from PubCo (or such Subsidiary, as applicable) an equal number (or such other number as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities of the Company of a corresponding class or series with substantially the same rights to dividends and distributions (including distributions upon liquidation) or other economic rights as those of such Equity Securities of PubCo for the same price per security (or such other price as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities). Except as otherwise determined by the Managing Member with the consent of each of the TPG Member and the Intel Member or as provided in Section 4.03 below, the Company may not redeem, repurchase or otherwise acquire Class A Units or other Equity Securities of the Company from PubCo or any of its Subsidiaries, unless substantially simultaneously therewith PubCo redeems, repurchases or otherwise acquires an equal number (or such other number as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities) of shares of Class A Common Stock or other applicable Equity Securities of PubCo with substantially the same rights to dividends and distributions (including distributions upon liquidation of PubCo) and other economic rights as the Equity Securities issued by the Company for a corresponding price per security (or such other price as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Equity Securities) from holders thereof.

Notwithstanding the immediately preceding sentence, to the extent that any consideration payable by PubCo in connection with the redemption or repurchase of any shares or other Equity Securities of PubCo is or consists (in whole or in part) of shares or such other Equity Securities (including, for the avoidance of doubt, in connection with the net exercise of an option or warrant, the net settlement of a restricted stock unit or net withholding with respect to restricted stock), then redemption or repurchase of the corresponding Equity Securities of the Company shall be effected in an equivalent manner.

(c) Except as otherwise determined by the Managing Member with the approval of the TPG Member and the Intel Member (or pursuant to the Restructuring Agreement), if at any time an Economic PubCo Security is forfeited (e.g., due to the forfeiture of a restricted Economic PubCo Security in connection with a termination of employment or other service or the failure to meet applicable performance conditions), PubCo (or a Subsidiary of PubCo that PubCo designates) shall automatically forfeit an equal number (or such other number as determined by the Managing Member in good faith to reflect the respective economic entitlements of the applicable Economic PubCo Security) of Class A Units (if restricted shares of Class A Common Stock are forfeited) or such other Equity Securities (if other restricted Economic PubCo Securities are forfeited) simultaneously with the forfeiture of the applicable Economic PubCo Security.

(d) Except as otherwise determined by the Managing Member with the consent of each of the TPG Member and the Intel Member, (i) the Company shall not in any manner affect any subdivision (by any stock or Unit split, stock or Unit dividend or distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse stock or Unit split, reclassification, reorganization, recapitalization or otherwise) of the outstanding Equity Securities of the Company unless accompanied by a substantively identical subdivision or combination, as applicable, of the outstanding Equity Securities of PubCo, with corresponding changes made with respect to any other exchangeable or convertible securities, and (ii) PubCo shall not in any manner affect any subdivision (by any stock split, stock dividend or distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse stock
split, reclassification, reorganization, recapitalization or otherwise) of the outstanding Class A Common Stock unless accompanied by a substantively identical subdivision or combination, as applicable, of the outstanding Equity Securities of the Company, with corresponding changes made with respect to any other exchangeable or convertible securities. Notwithstanding any other provision of this Section 4.02, but subject to Section 4.02(e), PubCo shall be permitted to pay a dividend to its shareholders consisting of a number of shares of Class A Common Stock or other Equity Securities equal to the number of Class A Units (or Equity Securities, as applicable) the Company issues to PubCo or any of PubCo's wholly owned Subsidiaries in exchange for a contribution of cash or other property by such Persons to the Company where the Managing Member reasonably determines that such cash or other property is not attributable to proceeds received by PubCo from an issuance of Equity Securities of PubCo (with (i) the number of Class A Units issued by the Company to PubCo or its Subsidiaries equal to the quotient obtained by dividing (x) the amount of cash and the fair market value (as reasonably determined by the Managing Member) of other property contributed by such Persons to the Company by (y) the last closing sale price of a share of Class A Common Stock on the Trading Day immediately preceding the date of the contribution, or such other amount of Class A Units as approved by the TPG Member and the Intel Member, and (ii) the number of other Equity Securities issued by the Company to PubCo or its Subsidiaries calculated by the Managing Member in good faith and approved by the TPG Member and the Intel Member).

(e) Notwithstanding any other provision of this Agreement, except as contemplated by the Restructuring Agreement or with respect to cash balances of any entity PubCo acquires pursuant thereto, which cash PubCo shall use to directly or indirectly acquire Equity Securities of the Company, if PubCo acquires or holds cash in excess of any monetary obligations it reasonably anticipates (including as a result of the receipt of distributions pursuant to Section 5.03(d) for any period in excess of PubCo's (x) actual tax liabilities and (y) current obligations under the Tax Receivable Agreement, for such period), PubCo may not use such excess cash amount to acquire Equity Securities in the Company without the prior written consent of the TPG Member and the Intel Member.

Section 4.03 Call Rights/Mandatory Redemption Rights.

(a) Company Call Option/Mandatory Redemption Rights. Upon the Termination of Service of any Service Provider Member for any reason (including by reason of death, disability, retirement or voluntary resignation) other than a Termination of Service for “Cause” (as defined in the applicable Award Agreement) or a voluntary Termination of Service by the Service Provider Member at a time when the Company or any of its Affiliates could terminate the Service Provider Member for “Cause”), subject to any limitations set forth in an applicable Award Agreement, the Company may, within one hundred eighty days (180) days following the later to occur of (x) such Termination of Service or (y) the date that is six (6) months plus one (1) day following the latest date on which any of the Service Provider Member’s Units vested, repurchase the vested portion thereof (whether or not held by the Service Provider Member or a direct or indirect Transferee of such vested portion) for cash or a note payable (or in any other medium provided for in an applicable Award Agreement) at their Fair Market Value determined on the date that notice of the repurchase is provided to the Service Provider Member or may require the Service Provider Member to redeem such Units in accordance with the applicable provisions of Article IX on the date that a notice of mandatory redemption is provided.
In addition, subject to any limitations set forth in an applicable Award Agreement, in the event that the Service Provider Member commences employment or a service relationship that is competitive with the Company or any of its Affiliates, other than an Affiliate of the Company, that is not in violation of the Restrictive Covenants, the Company may, within one hundred eighty (180) days following the later to occur of (a) the date on which the Company obtained actual knowledge of the commencement of such employment or other service relationship or (b) the date that is six (6) months plus one (1) day following the latest date on which any of the Service Provider Member’s Units vested, repurchase the vested portion thereof (whether or not held by Service Provider Member or a direct or indirect Transferee of such vested portion) for cash at their Fair Market Value determined on the date that notice of the repurchase is provided to the Service Provider Member or may require the Service Provider Member to redeem such Units in accordance with the applicable provisions of Article IX on the date that a notice of mandatory redemption is provided. Such repurchase or mandatory redemption shall be closed promptly after the Company provides written notice of its desire to repurchase the vested portion of the applicable Units or cause such vested portion to be redeemed. Each Service Provider Member agrees, at any time after the granting of a Unit, to execute, and to cause any Permitted Transferee to execute, any documents (including a power of attorney) determined by the Managing Member in good faith to be necessary or appropriate to give effect to the Company’s repurchase right or mandatory redemption right described in this Section 4.03(a).

(b) **Forfeiture.** For avoidance of doubt, subject to any limitations set forth in an applicable Award Agreement, upon a Termination of Service for “Cause” (as defined in the applicable Award Agreement) (or a voluntary termination by the Service Provider Member at a time when the Company or any of its Affiliates could terminate the Service Provider Member for “Cause”) or upon the material violation of an applicable Restrictive Covenant, which breach, to the extent such breach is susceptible to cure, is not cured within thirty (30) days after such Service Provider Member receives written notice from the Company of the same, the Service Provider Member’s Unit(s) (including all portions thereof) (whether or not held by the Service Provider Member or a direct or indirect Transferee of such Unit(s)) shall be immediately forfeited for no consideration. For the avoidance of doubt, upon a Termination of Service or termination of “Employment” of a Service Provider Member, all Unvested portions of any Units granted to or in respect of such Service Provider Member (whether or not held by such Service Provider Member, a direct or indirect Transferee of such Unit(s) or any other Person) shall be forfeited pursuant to the applicable Award Agreement.

(c) **Coordination.** For purposes of this Section 4.03 any reference in an applicable Award Agreement to Section 13 of the Prior Agreement dated prior to the date hereof shall be deemed to refer to this Section 4.03 from and after the Restatement Date.
ARTICLE V
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS;
DISTRIBUTIONS; ALLOCATIONS

Section 5.01 Capital Contributions.
(a) From and after the date hereof, no Member shall have any obligation to the Company, to any other Member or to any creditor of the Company to make any further Capital Contribution, except as expressly provided in this Agreement.
(b) Except as expressly provided herein, no Member, in its capacity as a Member, shall have the right to receive any Property of the Company.

Section 5.02 Capital Accounts.
(a) Maintenance of Capital Accounts. The Company shall maintain a separate Capital Account for each Member on the books of the Company in accordance with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv) and, to the extent consistent with such provisions, the following provisions:
(i) Each Member listed on the Member Schedule shall be credited with the Initial Capital Account Balance set forth on the Member Schedule. The Member Schedule shall be amended by the Managing Member after the closing of the IPO and from time to time to reflect adjustments to the Members’ Capital Accounts made in accordance with Section 5.02(a)(ii), Section 5.02(a)(iii), Section 5.02(a)(iv), Section 5.02(c) or otherwise.
(ii) To each Member’s Capital Account there shall be credited: (A) such Member’s Capital Contributions, (B) such Member’s distributive share of Net Income and any item in the nature of income or gain that is allocated pursuant to Section 5.04 and (C) the amount of any Company liabilities assumed by such Member or that are secured by any Property distributed to such Member.
(iii) To each Member’s Capital Account there shall be debited: (A) the amount of money and the Carrying Value of any Property distributed to such Member pursuant to any provision of this Agreement, (B) such Member’s distributive share of Net Loss and any items in the nature of expenses or losses that are allocated to such Member pursuant to Section 5.04 and (C) the amount of any liabilities of such Member assumed by the Company or that are secured by any Property contributed by such Member to the Company.
(iv) In determining the amount of any liability for purposes of subparagraphs (ii) and (iii) above there shall be taken into account Section 752(c) of the Code and any other applicable provisions of the Code and the Treasury Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event that the Managing Member shall reasonably determine that it is prudent to modify the manner in which the Capital Accounts or any debits or credits thereto are maintained (including debits or credits relating to liabilities that are secured by contributed or distributed Property or that are assumed by the Company or the Members), the Managing Member may make such modification so long as such modification will not have any effect on the amounts distributed to any Person pursuant to Article XII upon the dissolution of the Company. The Managing Member also shall (i) make any adjustments that are necessary or appropriate to maintain equality between Capital Accounts of the Members and the amount of capital reflected on the Company’s balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulations Section 1.704-1(b).
Succession to Capital Accounts. In the event any Person becomes a Substitute Member in accordance with the provisions of this Agreement, such Substitute Member shall succeed to the Capital Account of the former Member (the “Transferor Member”) to the extent such Capital Account relates to the Transferred Units.

Adjustments of Capital Accounts. The Company shall revalue the Capital Accounts of the Members in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f) at the following times: (i) immediately prior to the contribution of more than a de minimis amount of money or other property to the Company by a new or existing Member as consideration for one or more Units; (ii) immediately prior to the distribution by the Company to a Member of more than a de minimis amount of property as consideration for one or more Units; (iii) immediately prior to the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); (iv) in connection with the issuance by the Company of more than a de minimis amount of Units as consideration for the provision of services to or for the benefit of the Company (as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(f)(5)(iii)); and (v) upon the contribution of cash to the Company and to McAfee Finance 2, LLC in connection with the IPO; provided, however, that adjustments pursuant to clauses (i), (ii) and (iv) above need not be made if the Managing Member, with the consent of each of the TPG Member and the Intel Member, reasonably determines that such adjustments are not necessary or appropriate to reflect the relative economic interests of the Members and that the absence of such adjustments does not adversely and disproportionately affect any Member.

No Member shall be entitled to withdraw capital or receive distributions except as specifically provided herein. A Member shall have no obligation to the Company, to any other Member or to any creditor of the Company to restore any negative balance in the Capital Account of such Member. Except as expressly provided elsewhere herein, no interest shall be paid on the balance in any Member’s Capital Account.

Whenever it is necessary for purposes of this Agreement to determine a Member’s Capital Account on a per Unit basis, such amount shall be determined by dividing the Capital Account of such Member attributable to the applicable class of Units held of record by such Member by the number of Units of such class held of record by such Member, with appropriate adjustments if necessary to reflect the economic differences between Units.

Section 5.03 Amounts and Priority of Distributions.

(a) Distributions Generally. Except as otherwise provided in Article XII, distributions shall be made to the Members as set forth in this Section 5.03, at such times and in such amounts as the Managing Member, in its sole discretion, shall determine.
(b) Distributions to the Members.

(i) Subject to Section 5.03(d), any applicable agreement to which the Company or any of its Subsidiaries is a party governing the terms of third-party indebtedness for borrowed money, and the retention and establishment of reserves, or payment to the relevant parties of such funds as the Managing Member deems necessary or desirable in its sole discretion with respect to the reasonable needs and obligations of the Company, the net cash flow of the Company may be distributed to the Members at such times as may be determined by the Managing Member from time to time in its sole discretion. Except as specifically set forth herein and subject to Section 5.03(b)(i), Section 5.03(d) and Section 5.03(e), all distributions as of any date shall be distributed ratably among the holders of Class A Units and Management Incentive Units, based on the number of Class A Units or Management Incentive Units, as applicable, owned by such holders; provided, that, subject to Section 5.03(e), for purposes of this Section 5.01(b) and notwithstanding anything to the contrary set forth herein, a holder of a Management Incentive Unit (or portion thereof) shall be eligible to participate in distributions (A) only to the extent that the per Unit amount distributed by the Company (after the date of issuance of such Management Incentive Unit) in respect of each Class A Unit that is not a Management Incentive Unit and that was outstanding on the date of issuance of such Management Incentive Unit, excluding Tax Distributions, exceeds the then-unsatisfied Management Incentive Unit Return Threshold applicable to such Management Incentive Unit and (B) solely from the excess described in the preceding clause (A).

(ii) Notwithstanding anything contained herein to the contrary, (i) all distributions (other than Tax Distributions and the MAC Distribution) otherwise payable in respect of any Unvested Class A Unit or Unvested Management Incentive Unit to any holder thereof will be held back and distributed to such holder of such Unvested Class A Unit or Unvested Management Incentive Unit, as applicable, if and when such Unvested Class A Unit or Unvested Management Incentive Unit vests; provided, that, if any condition to the vesting of such Unvested Class A Unit or Unvested Management Incentive Unit becomes incapable of being satisfied, then any amounts that have not been distributed with respect to such Unvested Class A Unit or Unvested Management Incentive Unit, as applicable, may be distributed to all other Unit Holders in accordance with Section 5.03(b)(i) as if such distribution were a new distribution pursuant to Section 5.03(b)(i); and provided further that any shares of capital stock of MAC received in connection with the MAC Distribution by a holder of Units that, as of immediately prior to the MAC Distribution, were not vested shall be subject to the same vesting conditions as the Units in respect of which they were distributed. Furthermore, in the event that any holder of Class A Units or Management Incentive Units is obligated to return to the Company any distributions made in respect of such Class A Units or Management Incentive Units, including by reason of the violation of any Restrictive Covenant, such returned amounts may be distributed to the other holders of Units in accordance with Section 5.03(b)(i) as if such distribution were a new distribution pursuant to Section 5.03(b)(i). For all purposes under this Agreement (including U.S. federal, state and local income tax purposes) each Member who holds any Unvested Class A Unit or Unvested Management Incentive Unit will be treated as the owner of the unvested portion of the applicable Unvested Class A Unit or Management Incentive Unit and will be entitled to allocations of Net Income and Net Loss (and any items of income, gain, loss, deduction or credit) with respect thereto.

(c) Distributions in Kind. Any distributions in kind shall be made at such times and in such amounts as the Managing Member, in its sole discretion, shall determine based on their fair market value as determined by the Managing Member in the same proportions as if distributed in accordance with Section 5.03(b). If cash and property are to be distributed in kind simultaneously, the Company shall distribute such cash and property in kind in the same proportion to each Member. In connection with the MAC Distribution, the Company shall be treated as having made a distribution equal to the aggregate fair market value (as determined by the Company in its sole discretion) of the shares of MAC distributed in the MAC Distribution.
(d) **Tax Distributions.**

(i) To the extent the Company has available cash for distribution by the Company under the Delaware Act and subject to any applicable agreement to which the Company or any of its Subsidiaries is a party governing the terms of third party indebtedness for borrowed money, and subject to the retention and establishment of reserves, or payment to third parties, of such funds as the Managing Member deems necessary or desirable in its sole discretion with respect to the reasonable needs and obligations of the Company or any of its Subsidiaries, the Managing Member shall cause the Company to make each Fiscal Year, on a quarterly basis by the 10th (or next succeeding Business Day) of each of March, June, September and December (or other dates as may be appropriate in light of tax and estimated tax payment requirements), distributions to each Member that aggregate to such Member’s Tax Distribution Amount for such Fiscal Year. A final accounting for Tax Distributions shall be made for each taxable year after the taxable income or loss of the Company has been determined for such taxable year, and the Company shall promptly thereafter make supplemental Tax Distributions (or future Tax Distributions will be reduced) to reflect any difference between estimates previously used in calculating Tax Distributions and the relevant actual amounts recognized. If, following an audit or examination, there is an adjustment (including in connection with a “push-out” election under Section 6226 of the Code and any analogous election under state or local tax Laws) that would affect the calculation of the Company’s taxable income or taxable loss for a given period or portion thereof (or result in additional tax liabilities to a Member pursuant to Section 6226 of the Code or any analogous election under state or local tax Laws), or in the event that the Company files an amended tax return (or administrative adjustment request) which has such effect, then, subject to the availability of cash and any restrictions set forth in any credit agreements or other debt documents to which the Company is a party, and subject to the retention and establishment of reserves, or payment to third parties, of such funds as the Managing Member deems necessary or desirable in its sole discretion with respect to the reasonable needs and obligations of the Company or any of its Subsidiaries, the Company shall promptly recalculate each Member’s Tax Distribution and Tax Distribution Amount for the applicable period and, subject to Section 9.01(d), make additional Tax Distributions (increased by an additional amount estimated to be sufficient to cover any interest or penalties) to give effect to such adjustment or amended tax return (or administrative adjustment request). Notwithstanding the foregoing, to the extent a Member otherwise would, on any given date, be entitled to receive less than its ratable portion, based on the number of Class A Units or Management Incentive Units, as applicable, owned by such Member, of the aggregate Tax Distributions to be paid pursuant to this Section 5.03(d) on such date to the holders of Class A Units and Management Incentive Units, the Tax Distributions to such Member shall, subject to Section 9.01(d), be increased to ensure that all Tax Distributions made pursuant to this Section 5.03(d) are made ratably among the Members based on the number of Class A Units or Management Incentive Units, as applicable, owned by the Members as of such date. If on the date on which a Tax Distribution is to be made there are not sufficient available funds in the Company (or any of its Subsidiaries that are not foreign corporations for U.S. federal income tax purposes) to distribute the full amount of the relevant Tax Distributions otherwise to be made or any credit agreements or other debt documents to which the Company (or any of its
Subsidiaries) is a party not to permit the Company to receive from its Subsidiaries or distribute to each Member the full amount of the Tax Distributions otherwise to be made to each such Member, distributions pursuant to this Section 5.03(d) shall, subject to Section 5.03(f)(v) and Section 9.01(d), be made ratably among the Members based on the number of Class A Units or Management Incentive Units, as applicable, owned by such Members as of such date to the extent of the available funds.

(ii) For the avoidance of doubt, Tax Distributions shall not be treated as advances of amounts otherwise distributable to any Member pursuant to this Section 5.03 or Section 12.02(b)(i), and accordingly shall not be applied against or reduce the next amounts that would otherwise be payable to such Member pursuant to such provisions or otherwise.

(e) Limitations in Respect of Profits Interests.

(i) It is the intention of the Members that distributions with respect to each Profits Interest be limited to the extent necessary so that each Profits Interest qualifies at the time of grant as a “profits interest” for U.S. federal income tax purposes, and this Agreement shall be interpreted accordingly. In the event that distributions to which a Member would otherwise be entitled are inconsistent with the first sentence of this Section 5.03(e)(i), the Managing Member is authorized to adjust future distributions to the Members in whatever manner it deems appropriate (to the extent consistent with the intended treatment of each Profits Interest as a “profits interest” for U.S. federal income tax purposes) so that, after such adjustments are made, each Member receives, to the maximum extent possible, an amount of distributions equal to the amount of distributions such Member would have received were such sentence not part of this Agreement. Additionally, the Company intends to treat a Member holding a Profits Interest as the owner of such Interest for tax reporting purposes from the date it is granted, and the Company intends to file its IRS Form 1065, and the Company intends to issue appropriate Schedule K-1s, if any, to such Member, allocating to such Member its distributive share of all items of income, gain, loss, deduction and credit associated with such Management Incentive Unit (or portion thereof) as if no time-based vesting restrictions applied. Each holder of Management Incentive Units agrees to take into account such distributive share in computing its U.S. federal income tax liability for the entire period during which it holds any Management Incentive Unit (or portion thereof). The Company and each Member agree not to claim a deduction (as wages, compensation or otherwise) for U.S. federal, state and local income tax purposes the fair market value of any Profits Interest issued to a holder of Management Incentive Units, either at the time of grant of the Unit or at the time the Unit becomes substantially vested. The undertakings contained in this Section 5.03(e)(i) shall be construed in accordance with the treatment of each Profits Interest as a “profits interest” for U.S. federal income tax purposes. Each recipient of a Profits Interest whether issued on or after the date hereof that is subject to vesting agrees to timely and properly file an election under Section 83(b) of the Code with respect to each Profits Interest and provide the Company with a copy of such election. Each holder of Profits Interests acknowledges and agrees that such holder will consult with such holder’s tax advisor to determine the tax consequences of filing an election under Section 83(b) of the Code. Each such holder acknowledges that it is the sole responsibility of such holder, and not the Company, to file a timely election under Section 83(b) of the Code even if such holder requests the Company or its representatives to make such filing on behalf of such holder.

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(ii) By executing this Agreement, each Member authorizes the Company, at the election of the Managing Member, to elect to have the “Safe Harbor” described in the proposed Revenue Procedure (“Revenue Procedure”) set forth in the IRS Notice 2005-43 (the “Notice”) apply to any Interest Transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company or any Subsidiary of the Company. For purposes of making such “Safe Harbor” election, the Managing Member is hereby designated as the “partner who has responsibility for U.S. federal income tax reporting” by the Company and, accordingly, execution of such “Safe Harbor” election by the Managing Member shall constitute execution of a “Safe Harbor Election” in accordance with Section 3.03 of the Notice. The Company and each Member hereby agree to comply with all requirements of the “Safe Harbor” described in the Notice, to the extent such requirements are imposed in the Revenue Procedure, including the requirement that each Member shall prepare and file all U.S. federal income tax returns reporting the income tax effects of each interest in the Company issued by the Company covered by the “Safe Harbor” in a manner consistent with the requirements of the Revenue Procedure.

(iii) Each Member authorizes the Managing Member to amend this Section 5.03(e) to the extent necessary and advisable in the determination of the Managing Member to comply with the requirements of the Revenue Procedure as issued; provided, that such amendment is not adverse to such Member (as compared with the after-tax consequences that would result if the provisions of the Notice applied to all Interests in the Company Transferred to a service provider by the Company in connection with services provided to the Company or any Subsidiary of the Company). A Member’s obligations to comply with the requirements of this Section 5.03(e) shall survive such Member’s ceasing to be a Member of the Company and/or the winding up and dissolution of the Company, and, for purposes of this Section 5.03(e), the Company shall be treated as continuing in existence.

(f) Managing Member Distributions. Notwithstanding the provisions of Section 5.03(b), the Managing Member may authorize that, to the extent expenses or other obligations of the Managing Member and its wholly owned Subsidiaries are related to its role as the Managing Member or the business and affairs of the Managing Member and its wholly-owned Subsidiaries are related to its role as the Managing Member or the business and affairs of the Managing Member and its wholly-owned Subsidiaries that are conducted through the Company or any of the Company’s direct or indirect Subsidiaries, cash (and, for the avoidance of doubt, only cash) distributions may be made to the Managing Member or its wholly-owned Subsidiaries, as applicable (which distributions shall be made without pro rata distributions to the other Members), in amounts required for the Managing Member and its wholly-owned Subsidiaries to pay (v) the Special TRA Payment (and the aggregate amount of any Special TRA Payment that the Managing Member makes shall reduce the next succeeding Tax Distributions to the Managing Member and its wholly-owned Subsidiaries), (w) operating, administrative and other similar costs incurred by the Managing Member and its wholly-owned Subsidiaries, to the extent the proceeds are used or will be used by the Managing Member and its wholly-owned Subsidiaries to pay expenses described in this Section 5.03(f) (in either case only to the extent economically equivalent indebtedness or Equity Securities of the Company were not issued to the Managing Member or its wholly-owned Subsidiaries), and payments pursuant to any legal, tax, accounting and other professional fees and expenses (but, for the avoidance of doubt, excluding any tax liabilities of the Managing Member and its wholly-owned Subsidiaries), (x) any judgments, settlements, penalties, fines or other costs and expenses in respect of any claims against, or any litigation or proceedings involving, the
Managing Member and its wholly-owned Subsidiaries, (y) fees and expenses (including any underwriters’ discounts and commissions) related to any securities offering, investment or acquisition transaction (whether or not successful) authorized by the Managing Member and its wholly-owned Subsidiaries and (z) other fees and expenses in connection with the maintenance of the existence of the Managing Member and its wholly-owned Subsidiaries. For the avoidance of doubt, distributions made under this Section 5.03(f) may not be used to pay or facilitate dividends or distributions on the common stock of PubCo or pursuant to the Tax Receivable Agreement without the consent of each of the TPG Member and the Intel Member and must be used solely for the express purposes set forth under the immediately preceding sentence.

Section 5.04 Allocations.

(a) Net Income and Net Loss. Except as otherwise provided in this Agreement, and after giving effect to the special allocations set forth in Section 5.04(b), Section 5.04(c) and Section 5.04(d), Net Income and Net Loss (and, to the extent necessary, individual items of income, gain, loss, deduction or credit) of the Company shall be allocated among the Members in a manner such that the Capital Account of each Member, immediately after making such allocation, is, as nearly as possible, equal to (i) the distributions that would be made to such Member pursuant to Section 5.03(b) if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Value, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability), and the net assets of the Company were distributed, in accordance with Section 5.03(b), to the Members immediately after making such allocation (assuming, solely for this purpose that all Unvested Units were fully vested in respect of time-based vesting conditions), minus (ii) such Member’s share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets.

(b) Special Allocations. The following special allocations shall be made in the following order:

(i) Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations Section 1.704-2(f), notwithstanding any other provision of this Article V, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member’s share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). Allocations pursuant to the immediately preceding sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.04(b)(i) is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.
(ii) **Member Minimum Gain Chargeback.** Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this Article V, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member’s share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.04(b)(ii) is intended to comply with the minimum gain chargeback requirement in Treasury Regulations Section 1.704-2(j)(4) and shall be interpreted consistently therewith.

(iii) **Qualified Income Offset.** In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or Section 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of the Member as promptly as possible; provided, that an allocation pursuant to this Section 5.04(b)(iii) shall be made only if and to the extent that the Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.04(b)(iii) were not in the Agreement.

(iv) **Nonrecourse Deductions.** Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Members in a manner determined by the Managing Member consistent with Treasury Regulations Sections 1.704-2(b) and 1.704-2(c).

(v) **Member Nonrecourse Deductions.** Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(j)(1).

(vi) **Section 754 Adjustments.** (A) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or 743(b) of the Code is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member’s interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of such asset) or loss (if the adjustment decreases the basis of such asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income and Net Loss; and (B) to the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member’s interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to such Members in accordance with their interests in the Company in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.
(c) Curative Allocations. The allocations set forth in Section 5.04(b)(i) through Section 5.04(b)(vi) and Section 5.04(d) (the “Regulatory Allocations”) are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 5.04(c). Therefore, notwithstanding any other provision of this Article V (other than the Regulatory Allocations), the Managing Member shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member’s Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Section 5.04.

(d) Loss Limitation. Net Loss (or individual items of loss or deduction) allocated pursuant to Section 5.04 hereof shall not exceed the maximum amount of Net Loss (or individual items of loss or deduction) that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Net Loss (or individual items of loss or deduction) pursuant to Section 5.04 hereof, the limitation set forth in this Section 5.04(d) shall be applied on a Member by Member basis and Net Loss (or individual items of loss or deduction) not allocable to any Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Member’s Capital Accounts so as to allocate the maximum permissible Net Loss to each Member under Treasury Regulations Section 1.704-1(b)(2)(ii)(d). Any reallocation of Net Loss pursuant to this Section 5.04(d) shall be subject to chargeback pursuant to the curative allocation provision of Section 5.04(c).

Section 5.05 Other Allocation Rules.

(a) Interim Allocations Due to Percentage Adjustment. If a Percentage Interest of Units is the subject of a Transfer or the Members’ interests in the Company change pursuant to the terms of the Agreement during any Fiscal Year, the amount of Net Income and Net Loss (or items thereof) to be allocated to the Members for such entire Fiscal Year shall be allocated to the portion of such Fiscal Year which precedes the date of such Transfer or change (and if there shall have been a prior Transfer or change in such Fiscal Year, which commences on the date of such prior Transfer or change) and to the portion of such Fiscal Year which occurs on and after the date of such Transfer or change (and if there shall be a subsequent Transfer or change in such Fiscal Year, which precedes the date of such subsequent Transfer or change), and the amounts of the items so allocated to each such portion shall be credited or charged to the Members in accordance with Section 5.04 as in effect during each such portion of the Fiscal Year in question. Such allocation shall be in accordance with Section 706 of the Code and the regulations thereunder and made without regard to the date, amount or receipt of any distributions that may have been made with respect to the Transferred Percentage Interest to the extent consistent with Section 706.
(b) **Tax Allocations: Code Section 704(c).** In accordance with Section 704(c) of the Code and the Treasury Regulations thereunder, income, gain, loss, and deduction with respect to any Property contributed to the capital of the Company, and allocations that are “reverse Section 704(c) allocations” described in Treasury Regulations 1.704-3(a)(6) shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such Property to the Company for U.S. federal income tax purposes and its initial Carrying Value or its Carrying Value determined pursuant to Treasury Regulation 1.704-1(b)(2)(iv)(f) (computed in accordance with the definition of Carrying Value) using the traditional allocation method under Treasury Regulation 1.704-3(b), except as otherwise agreed by each of the Managing Member, the TPG Member and the Intel Member. Any elections or other decisions relating to such allocations shall be made by the Managing Member in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 5.05(b), Section 704(c) of the Code (and the principles thereof), Treasury Regulation 1.704-1(b)(4)(i), and Treasury Regulation 1.704-3(a)(6) are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member’s Capital Account or share of Net Income, Net Loss, other items, or distributions (other than by reason of affecting Tax Distributions) pursuant to any provision of this Agreement.

Section 5.06 **Tax Withholding; Withholding Advances.**

(a) **Tax Withholding.**

(i) If requested by the Managing Member, each Member shall, if reasonably able to do so, deliver to the Managing Member: (A) an affidavit in form satisfactory to the Company that the applicable Member (or its regarded owner for U.S. federal income tax purposes, as the case may be) is not subject to withholding under the provisions of any federal, state, local, foreign or other Law; (B) any certificate that the Company may reasonably request with respect to any such Laws; and/or (C) any other form or instrument reasonably requested by the Company relating to any Member’s status under such Law. In the event that a Member (or its regarded owner for U.S. federal income tax purposes, as the case may be) fails or is unable to deliver to the Company an affidavit described in subclause (A) of this clause (i), for the avoidance of doubt, the Company may withhold amounts from such Member in accordance with Section 5.06(b).

(ii) After receipt of a written request of any Member, the Company shall provide such information to such Member and take such other action as may be reasonably necessary to assist such Member in making any necessary filings, applications or elections to obtain any available exemption from, or any available refund of, any withholding imposed by any foreign taxing authority with respect to amounts distributable or items of income allocable to such Member hereunder to the extent not adverse to the Company or any Member. In addition, the Company shall, at the request of TPG or Intel or the reasonable request of any other Member, make or cause to be made (or cause the Company to make) any such filings, applications
or elections; provided, that any such requesting Member shall cooperate with the Company, with respect to any such filing, application or election to the extent reasonably determined by the Company and that any filing fees, taxes or other out-of-pocket expenses reasonably incurred and related thereto shall be paid and borne by such requesting Member or, if there is more than one requesting Member, by such requesting Members in accordance with their Relative Percentage Interests.

(b) Withholding Advances. To the extent PubCo or the Company or any of their Subsidiaries is required by Law to withhold or to make tax payments on behalf of or with respect to any Member (e.g., in connection with allocations of income or with the delivery of consideration in connection with a Redemption or Exchange, backup withholding, Section 1441 of the Code, Section 1445 of the Code, or Section 1446 of the Code or, in each case, similar provisions of state, local or other tax Law with respect to allocations or distributions to Persons who are not U.S. persons for U.S. federal income tax purposes) ("Withholding Advances"), PubCo, the Company, or such Subsidiary, as the case may be, may withhold such amounts and make such tax payments as so required. "Withholding Advances" shall not include any "imputed underpayment" within the meaning of the Code or similar provisions of state or local tax Law or any related liability.

(c) Repayment of Withholding Advances. All Withholding Advances made (or to be made) on behalf of a Member, plus interest thereon at a rate equal to 10% per annum, shall (i) be paid on demand by the Member on whose behalf such Withholding Advances were made (it being understood that no such payment shall increase such Member’s Capital Account except to the extent that the Withholding Advances previously reduced such Member’s Capital Account), or (ii) with the consent of the Managing Member be repaid by reducing the amount of the current or next succeeding distribution or distributions that would otherwise have been made to such Member or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Member. Whenever repayment of a Withholding Advance by a Member is made as described in clause (ii) of this Section 5.06(c), for all other purposes of this Agreement such Member shall be treated as having received all distributions (whether before or upon any Dissolution Event) unreduced by the amount of such Withholding Advance and interest thereon.

(d) Withholding Advances — Reimbursement of Liabilities. Each Member hereby agrees to reimburse the Company for any liability with respect to Withholding Advances (including interest thereon) required or made on behalf of or with respect to such Member (including penalties imposed with respect thereto). The obligations of a Member with respect to the repayment and reimbursement of Withholding Advances will survive the termination, liquidation, winding up and dissolution of the Company and will survive the partial or complete Transfer or redemption of a Member’s interests in the Company.

Section 5.07 Tax Proceedings. In representing the Company before any taxing authorities and courts in tax matters affecting the Company and the Members in their capacity as such, the Company Representative shall, to the extent practicable and permitted under the circumstances, keep the Members promptly informed of any such administrative and judicial proceedings; provided, that, (x) with respect to any tax year for which the TPG Member is a Member, the TPG Member shall (to the extent permitted by applicable Law) be entitled to
participate with the Company Representative in any tax matters that would reasonably be expected to adversely affect the TPG Member or a TPG Affiliated Fund (or any beneficial owners of the TPG Member or a TPG Affiliated Fund) in any material respect, (y) with respect to any tax year for which the Intel Member is a Member, the Intel Member shall (to the extent permitted by applicable Law) be entitled to participate with the Company Representative in any tax matters that would reasonably be expected to adversely affect the Intel Member (or Intel) in any material respect, and (z) with respect to any tax year for which the TB Member is a Member, the TB Member shall (to the extent permitted by applicable Law) be entitled to participate with the Company Representative in any U.S. federal income tax audits of a partnership tax return of the Company that would reasonably be expected to disproportionately and adversely affect the TB Member or a TB Affiliated Fund (or any beneficial owners of the TB Member or a TB Affiliated Fund) in any material respect. The Company shall not make any tax election or adopt any method of tax allocation in a manner inconsistent with past practice that would materially affect the Company Representative without the TPG Member’s prior written consent, and the Company shall not make any tax election or adopt any method of tax allocation in a manner inconsistent with past practice that would materially affect the Intel Member without the Intel Member’s prior written consent. Nothing in this Section 5.07 shall prevent the Company (or any of its Subsidiaries) from making an election pursuant to Section 754 of the Code (or analogous provisions of state or local Law), and the Company shall make and maintain at all times, and shall cause each of its Subsidiaries that is treated as a partnership for U.S. federal income tax purposes to make and maintain at all times, a valid election pursuant to Section 754 of the Code (and analogous provisions of state or local Law).

ARTICLE VI
CERTAIN TAX MATTERS

Section 6.01 Company Representative.

(a) The Managing Member is authorized and appointed to act as the Company Representative and in any similar capacity under state or local Law; provided, that the Managing Member may appoint and replace the Company Representative. The Company Representative shall designate a “designated individual” in accordance with Treasury Regulations Section 301.6223-1(b)(3)(i). The Company and the Members (including any Member designated as the Company Representative prior to the date hereof) shall cooperate fully with each other and shall use reasonable best efforts to cause the Managing Member (or any Person subsequently designated) to become the Company Representative with respect to any taxable period of the Company with respect to which the statute of limitations has not yet expired, including (as applicable) by filing certifications pursuant to Treasury Regulations Section 301.6231(a)(7)-1(d).

(b) The Company Representative may retain, at the Company’s expense, such outside counsel, accountants and other professional consultants as it may reasonably deem necessary in the course of fulfilling its obligations as the Company Representative. The Company Representative is authorized to take, and shall determine in its sole discretion whether or not the Company will take, such actions and execute and file all statements and forms on behalf of the Company that are approved by the Managing Member and are permitted or required by the applicable provisions of the Partnership Tax Audit Rules; provided that, except with the consent
of the TPG Member and the Intel Member, a “push-out” election under Section 6226 of the Code and any analogous election under state or local tax
Law shall be made with respect to the Company and each of its Subsidiaries, in each case where such election is available. If the Company does not
make a “push-out” election pursuant to the preceding sentence, any “imputed underpayment” shall be treated as an expense of the Company. Each
Member agrees to cooperate with the Company Representative and to use commercially reasonable efforts to do or refrain from doing any or all things
requested by the Company Representative (including paying any and all resulting taxes, additions to tax, penalties and interest in a timely fashion) in
connection with any examination of the Company’s affairs by any federal, state, or local tax authorities, including resulting administrative and judicial
proceedings; provided, however, that, notwithstanding anything to the contrary contained in this Agreement, neither the Company nor the Managing
Member shall require any Member (i) to file any amended tax return (or administrative adjustment request) in connection with or pursuant to the
Partnership Tax Audit Rules or otherwise, except as required by Law, or (ii) to pay any adjustment pursuant to Section 6225(c)(2)(B) of the Code or, in
each case, any analogous provision under state or local tax law without the prior written consent of each of the TPG Member and the Intel Member.

(c) To the extent permitted by Law, the Company Representative shall cause the Company to elect the application of the Partnership Tax
Audit Rules for any pre-2018 taxable year, except if each of the TPG Member and the Intel Member agree otherwise.

Section 6.02 Assets Held Through Corporations. Except with the consent of the TPG Member and the Intel Member, each of the Company and the
Managing Member shall, subject to non-Tax commercial objectives (other than reduction of payment obligations under the Tax Receivable Agreement)
and except to the extent consistent with past practice in respect of assets principally used or held for use in the conduct of a trade or business outside of
the United States, use its reasonable best efforts to minimize, or cause the Company to minimize, as applicable, the portion of the assets of the Company
and each of its Subsidiaries that are held directly or indirectly by or through entities that are treated as corporations for U.S. federal income tax purposes.

Section 6.03 Transfers of Property to Corporations. Neither the Company nor any of its Subsidiaries shall contribute or otherwise Transfer any
assets that constitute Property of such Transferor entity to a domestic or foreign entity treated as a corporation for U.S. federal income tax purposes,
without the consent of each of the TPG Member and Intel Member, except that (a) the Company and its Subsidiaries through which the Company owns
equity in McAfee HoldCo Corp. may contribute cash to McAfee HoldCo Corp. for it to retain a 0.2% equity interest in McAfee Finance 2, LLC and
(ii) the Company and its Subsidiaries may Transfer assets principally used or held for use in the conduct of a trade or business outside the United States
to an entity that is a foreign corporation for U.S. federal income tax purposes for valid commercial objectives (other than for U.S. tax objectives or to
reduce payment obligations under the Tax Receivable Agreement).
Section 6.04 Section 83(b) Elections.

(a) Each Member who acquires Units that are subject to a “substantial risk of forfeiture” within the meaning of Code Section 83 at the time of such acquisition shall consult with such Member’s tax advisor to determine the tax consequences of such acquisition and the advisability of filing an election under Code Section 83(b) with respect to such Units. Each Member who acquires Units that are intended to constitute Profits Interests (including Management Incentive Units) and at the time of such acquisition are subject to a “substantial risk of forfeiture” within the meaning of Code Section 83 shall make a timely election under Code Section 83 with respect to such Units. It is the sole responsibility of a Member, and not the Company, to file the election under Code Section 83(b) even if such Member requests the Company or any of its representatives to assist in making such filing. Each Member who files an election under Code Section 83(b) with respect to Units (including each Member who is required to file such an election under Section 6.04(a)) shall provide a copy of such election and proof of filing of such election to the Company on or before the due date for the filing of such election.

(b) The Company is authorized to follow the proposed Treasury regulations that were issued on May 24, 2005 regarding the issuance of partnership equity for services (including Prop. Treas. Reg. §§1.83-3, 1.83-6, 1.704-1, 1.706-3, 1.721-1 and 1.761-1), as such regulations may be subsequently amended, upon the issuance of a Company interest for services rendered or to be rendered to or for the benefit of the Company or a Subsidiary of the Company, until final Treasury regulations regarding such matters are issued.

ARTICLE VII
MANAGEMENT OF THE COMPANY

Section 7.01 Management by the Managing Member. Except as otherwise specifically set forth in this Agreement, the Managing Member shall be deemed to be a “manager” for purposes of the Delaware Act. Except as expressly provided in this Agreement or the Delaware Act, the day-to-day business and affairs of the Company and its Subsidiaries shall be managed, operated and controlled exclusively by the Managing Member in accordance with the terms of this Agreement, and no other Members shall have management authority or rights over the Company or its Subsidiaries. The Managing Member is, to the extent of its rights and powers set forth in this Agreement, an agent of the Company for the purpose of the Company’s and its Subsidiaries’ business, and the actions of the Managing Member taken in accordance with such rights and powers, shall bind the Company (and no other Members shall have such right). Except as expressly provided in this Agreement, the Managing Member shall have all necessary powers to carry out the purposes, business, and objectives of the Company and its Subsidiaries. The Managing Member may delegate to Members, employees, officers or agents of the Company or any Subsidiary in its discretion (i) the authority to sign agreements and other documents on behalf of the Company or any Subsidiary and (ii) such of the powers as are granted to the Managing Member hereunder as it deems appropriate. The Managing Member shall have the exclusive power and authority, on behalf of the Company to take such actions not inconsistent with this Agreement as the Managing Member deems necessary or appropriate to carry on the business and purposes of the Company and its Subsidiaries.

Section 7.02 Withdrawal of the Managing Member. PubCo may withdraw as the Managing Member and appoint as its successor at any time upon written notice to the Company (i) any wholly-owned Subsidiary of PubCo, (ii) any Person into which PubCo is merged or consolidated or (iii) any Transferee of all or substantially all of the assets of PubCo, which
withdrawal and replacement shall be effective upon the delivery of such notice. No appointment of a Person as Managing Member shall be effective unless PubCo and the new Managing Member provide all other Members with contractual rights, directly enforceable by such other Members against the new Managing Member, to cause the new Managing Member to comply with all the Managing Member’s obligations under this Agreement.

Section 7.03 Decisions by the Members.

(a) Other than the Managing Member and except as set forth in this Agreement, the Members shall take no part in the management of the Company’s business, shall transact no business for the Company and shall have no power to act for or to assume any obligations or responsibility on behalf of, or to bind the Company; provided, however, that the Company may engage any Member or principal, partner, member, shareholder or interest holder thereof as an employee, independent contractor or consultant to the Company, in which event the duties and liabilities of such Person with respect to the Company as an employee, independent contractor or consultant, as applicable, shall be governed by the terms of such engagement with the Company.

(b) Except as expressly provided herein, neither the Members nor any class of Members shall have the power or authority to vote, approve or consent to any matter or action taken by the Company (or by PubCo, as Managing Member).

Section 7.04 Fiduciary Duties. (i) The Managing Member shall, in its capacity as Managing Member, and not in any other capacity, have the same fiduciary duties to the Company and the Members as a member of the board of directors of a Delaware corporation (assuming such corporation had in its certificate of incorporation a provision eliminating the liabilities of directors and officers to the maximum extent permitted by Section 102(b)(7) of the DGCL); and (ii) each Officer shall, in their capacity as such, and not in any other capacity, have the same fiduciary duties to the Company and the Members as an officer of a Delaware corporation (assuming such corporation had in its certificate of incorporation a provision eliminating the liabilities of directors and officers to the maximum extent permitted by Section 102(b)(7) of the DGCL). Notwithstanding the immediately preceding sentence, the doctrine of corporate opportunity and any analogous doctrine shall not apply to any Exempted Person.

Section 7.05 Officers.

(a) Appointment of Officers. The Managing Member may appoint individuals as officers (“Officers”) of the Company, which may include such officers as the Managing Member determines are necessary or appropriate. No Officer need be a Member. An individual may be appointed to more than one office.

(b) Authority of Officers. The Officers shall have the duties, rights, powers and authority as may be prescribed by the Managing Member from time to time.

(c) Removal, Resignation and Filling of Vacancy of Officers. Unless otherwise set forth in the employment agreement of the applicable Officer, the Managing Member may remove any Officer, for any reason or for no reason, at any time. Any Officer may resign at any time by giving written notice to the Secretary or, if there is no Secretary, to the Managing
Member, without prejudice to the rights, if any, of the Company under any contract to which such Officer is a party, and such resignation shall take effect at the date of the receipt of that notice or any later time specified in that notice; provided, that, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any such resignation shall be without prejudice to the rights, if any, of the Company or such Officer under this Agreement. A vacancy in any office because of death, resignation, removal or otherwise shall be filled by the Managing Member.

Section 7.06 PubCo. Except with the consent of the TPG Member and the Intel Member, PubCo shall not and shall not cause any of its Subsidiaries to operate or conduct any business other than through the Company and its Subsidiaries.

ARTICLE VIII
TRANSFERS OF INTERESTS

Section 8.01 Restricted Transfer.

(a) No Member will directly or indirectly Transfer any Unit or Units (including all or any portion of any Management Incentive Unit) or all or any part of the economic or other rights that comprise such Member’s interest in the Company except (i) Transfers to a Permitted Transferee in compliance with this Article VIII, (ii) with the prior written consent of the Managing Member, (iii) a Permitted Pledge Transfer or (iv) solely in the case of a limited partner in an investment fund that indirectly holds Units, indirect Transfers of Units by such limited partner in connection with the Transfer of its interest in the applicable investment fund. Any attempted Transfer not in compliance with the terms of this Article VIII will be null and void and the Company will not in any way give effect to any such Transfer. In addition to the foregoing, no Member will, and each Member will cause its Affiliates not to, circumvent the provisions of this Agreement by Transferring (or permitting the Transfer of) its securities or any entity whose primary purpose is to hold (directly or indirectly) Units unless such Transfer is otherwise in compliance with the terms of this Article VIII.

(b) Any Member who assigns any Units or other interest represented by such Units in the Company (any such Member, an “Assignor”) in accordance with this Article VIII will cease to be a Member of the Company with respect to such Units or other interest represented by such Units and will no longer have any rights or privileges of a Member with respect to such Units or such portion of its interest represented by such Units (but will still be bound by this Agreement in accordance with this Article VIII, subject to Section 8.03), including the power and right to vote (in proportion to the extent of the interest Transferred) on any matter submitted to the Members, and, for voting purposes, such interest will not be counted as outstanding in proportion to the extent of the interest Transferred unless and until the Transferee is admitted as a Member in accordance with Section 8.03.

(c) Subject to the terms of this Article VIII, any Person who acquires in any manner whatsoever any Interest (any such Person, an “Assignee”), irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, will be deemed by the acceptance of the benefits of the acquisition thereof to have agreed to be subject to and bound by all of the terms, conditions and obligations (but will be entitled to none of the rights or benefits) of this Agreement that any Transferee of such Interest of such Person was subject to or by which such Transferor was bound.
(d) Notwithstanding any other provision of this Agreement to the contrary, except as otherwise agreed by each of the Managing Member, the Intel Member and the TPG Member, no Member shall Transfer all or any part of its Units or any right or economic interest pertaining thereto if such Transfer, in the reasonable discretion of the Managing Member, would cause the Company to (i) be classified as a “publicly traded partnership” as that term is defined in Section 7704 of the Code and Regulations promulgated thereunder or (ii) fail to qualify for the safe harbor contained in Treasury Regulations Section 1.7704-1(h), it being understood that the Company is not expected to qualify for such safe harbor for the 2020 taxable year. Without limiting any of the foregoing, and notwithstanding any other provision of this Agreement to the contrary, no Member shall Transfer all or any part of its Units or any right or economic interest pertaining thereto during the 2020 taxable year of the Company unless such Transfer either (x) qualifies as a block transfer under Treasury Regulations Section 1.7704-1(e)(2), or (y) is disregarded pursuant to Treasury Regulations Sections 1.7704-1(e)(1)(i) or (ii). Any purported Transfer in contravention of this Section 8.01(d) will be null and void ab initio.

(e) For the avoidance of doubt, in addition to any restrictions on Transfer set forth in this Article VIII that may apply to such Transfer, any Transfer of Units by any Member shall be subject to the restrictions on Transfer applicable thereto pursuant to any Award Agreement or other policy, agreement or arrangement with or of PubCo, the Company or any of their Affiliates applicable to such Member.

Section 8.02 Permitted Transfers. Subject to Section 8.01(d) and Section 8.01(e), from and after the IPO, the following Transfers shall be permitted (any such Transfer, a “Permitted Transfer” and, the applicable Transferee, a “Permitted Transferee”):

(a) Affiliates and Members of the Immediate Family. Subject to Section 8.03, a Member who is an individual will be entitled to Transfer all or any portion of such Member’s Units to one or more Members of the Immediate Family of such Member, or to a trust or other estate planning vehicle for the benefit of such Member or one or more of the Members of the Immediate Family of such Member, so long as the Person controlling such trust or other estate planning vehicle is the Transferring Member; provided, however, that no such Transfer will be effective until the holders of the beneficial interests of such Transferee will have delivered to the Company a written acknowledgement and agreement in form and substance reasonably satisfactory to the Company that they will not Transfer any such beneficial interests or permit such Transferee to issue any such beneficial interests except to the extent such Transfer or issuance (treating such issuance as a Transfer by such holders) would be permitted under this Section 8.02 if the beneficial interests were Units; provided, further, that such Member will retain voting control of such Transferred Units (to the extent such Units have voting rights hereunder), whether by proxy or other arrangement. In no event will all or any portion of a Member’s Units Transferred to a minor or an incompetent except in trust or pursuant to the Uniform Gifts to Minors Act. Subject to compliance with the requirements set forth in this Agreement, (A) each of the TPG Member and its Affiliates, the Intel Member and its Affiliates and the TB Member and its Affiliates, as applicable, will be entitled to Transfer all or any portion of such Member’s Interest to its Affiliates
(including, in the case of the TB Member and the TPG Member, a TB Affiliated Fund and a TPG Affiliated Fund, respectively); and (B) the direct and indirect owners of the TB Member and the TPG Member and their respective Affiliates will be entitled to Transfer to their respective Affiliates all or any portion of their indirect interests in the Company so long as Affiliates of TB or TPG, respectively, continue to control the applicable vehicles through which such owners hold their investment in the Company.

(b) Upon Death. Subject to Section 8.03 and compliance with the requirements set forth in this Agreement, upon the death of any Member who is a natural Person, such Member’s Interest may be Transferred by the will or other instrument taking effect at death of such Member or by applicable Laws of descent and distribution to such Member’s estate, executors, administrators and personal representatives, and then to such Member’s heirs, legatees or distributees, whether or not such recipients are Members of the Immediate Family of such Member.

(c) To the Company. Subject to compliance with the requirements set forth in this Agreement, each Member will be entitled to Transfer all or any portion of such Member’s Units to the Company.

(d) Exchanges. Any Transfer pursuant to the terms of Article IX or Section 4.03; and

(e) Certain Company Transactions. Any Transfer contemplated by Section 10.01 in connection with a PubCo Approved Change of Control or PubCo Approved Recap Transaction.

Section 8.03 Transfer Requirements. Subject to the provisions of Section 8.01, no Assignee (including a Permitted Transferee) will be admitted to the Company as a Member unless the following conditions are satisfied:

(a) In the case of a Transfer to a Permitted Transferee or pursuant to Section 8.01, a duly executed written instrument of Transfer is provided to the Managing Member, specifying the Units being Transferred and setting forth the intention of the Member effecting the Transfer that the Transferee succeed to a portion or all of such Member’s Units as a Member;

(b) If requested by the Managing Member, an opinion of responsible counsel (who may be counsel for the Company) is provided to it, reasonably satisfactory in form and substance to the Managing Member to the effect that:

(i) such Transfer would not violate the Securities Act or any state securities or blue sky Laws applicable to the Company or the Units to be Transferred;

(ii) such Transfer would not cause the Company to be considered a publicly traded partnership under Section 7704(b) of the Code; and

...
(iii) such Transfer would not cause the Company to lose its status as a partnership for U.S. federal income tax purposes, it being understood that the opinions described in clauses (ii) and (iii) above shall only be required to the extent that the Managing Member shall reasonably determine that such Transfer may otherwise raise a material risk that the Company would be considered a publicly traded partnership under Section 7704(b) of the Code or lose its status as a partnership for U.S. federal income tax purposes, as the case may be.

(c) In the case of a Transfer to a Permitted Transferee or pursuant to Section 8.01, the Member effecting the Transfer and the Transferee execute any other instruments that the Managing Member deems reasonably necessary or desirable for admission of the Transferee, including the written acceptance by the Transferee of this Agreement and such Transferee’s agreement to be bound by and comply with the provisions hereof, and the Member effecting the Transfer and the Transferee provide the Managing Member any information necessary to comply with the requirements of Section 743(e) of the Code, if applicable; and

(d) Other than in connection with a Transfer pursuant to Section 8.02 or unless waived by the Managing Member, the Member effecting the Transfer or the Transferee pays to the Company a transfer fee in an amount sufficient to cover the reasonable out-of-pocket expenses incurred by the Company in connection with the admission of the Transferee and provides to the Company any information necessary for the Company to make required basis adjustments and comply with tax reporting requirements.

Section 8.04 Market Standoff. Each Member hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the IPO and ending on the date that is one hundred eighty (180) days following the date of the final prospectus (the “Restricted Period”), (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Class A Common Stock, Class A Units or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Class A Common Stock (whether such shares or any such securities are then owned by the Member or are thereafter acquired) (collectively, the “Lock-Up Securities”) or (ii) enter into any swap or other arrangement or transaction that transfers to another Person, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (i) or (ii) above to be settled by delivery of the Lock-Up Securities, in cash or otherwise; provided, that the foregoing clauses (i) and (ii) shall be subject to the terms and conditions, including any carve-outs for permitted transfers, contained in any lock-up agreement executed by the Unit Holders of a majority of the Units in connection with the IPO (each, a “Lock-up Agreement”); provided, further, that the restrictions contained in this Section 8.04 shall not apply to any Member that has entered into a Lock-Up Agreement, and such Member shall be bound by the terms and provisions of such Lock-Up Agreement in lieu hereof.

Section 8.05 Certain Transfer Restrictions.

(a) The TPG Member and its Affiliates and the TB Member and its Affiliates shall not knowingly Transfer, directly or indirectly, all or any portion of its Interest to any of the Persons set forth on Schedule 8.05(a). This Section 8.05(a) shall automatically terminate at such time as the TPG Member and its Affiliates or the TB Member and its Affiliates, as the case may be, hold less than 5% of the outstanding Units of the Company. Notwithstanding any other provision in this Agreement, any amendment to this Agreement having the effect of
amending or modifying this Section 8.05(a) (including for the avoidance of doubt Schedule 8.05(a)) shall require the prior written consent of the Intel Member, the TPG Member and (if such amendment involves adding Person to Schedule 8.05(a) or the TB Member is otherwise adversely effected by such amendment), the TB Member.

(b) Notwithstanding anything to the contrary contained herein, no Member will be entitled to Transfer any Unvested Management Incentive Unit Interest without the written consent of the Managing Member.

Section 8.06 Withdrawal of a Member. If a Member Transfers all of its Units in accordance with the terms of this Agreement and the Assignee of such Interest is admitted as a Member pursuant to Section 8.03, such Assignee will be admitted to the Company as a Member effective on the effective date of the Transfer or such other date as may be specified when the Assignee is admitted and immediately following such admission the Assignor will cease to be a Member of the Company. Upon the Assignor ceasing to be a Member, the Assignor will not be entitled to any distributions from and after the date of such Transfer. Notwithstanding the admission of an Assignee as a Member and except as otherwise expressly approved by the Managing Member, the Assignor will not be released from any obligations to the Company as a Member (or otherwise) existing as of the date of the Transfer or relating to the consummation of such Transfer (which shall be deemed to include any liabilities arising from any failure by the Transferee to withhold or deduct any amounts required to be deducted or withheld under Section 1446 of the Code or any other law (including as a result of the Company or any of its Affiliates being required to deduct and withhold amounts from distributions to Transferee or its successor) and any liabilities for Taxes imposed on the Company or any Subsidiaries thereof for any taxable period (or portion thereof) ending on or before the date of such Transfer, including pursuant to Chapter 63 of the Code (and any analogous provisions of state, local or non-U.S. Law)); provided, however, that if the Assignor is the TPG Member, then the Intel Member must also approve a release from any obligations contemplated by this sentence in order to be effective; provided, further, that if the Assignor is the Intel Member, then the TPG Member must also approve a release from any obligations contemplated by this sentence in order to be effective. If a Service Provider Member forfeits all of his, her or its Units in the manner contemplated by any applicable Award Agreement or Section 4.03, and holds no other Interests, such Service Provider Member will cease to be a Member of the Company as of the time of such forfeiture, and will not be entitled to any distributions from and after such time.

Section 8.07 Registration of Transfers. When any Units are Transferred in accordance with the terms of this Agreement, the Company shall cause such Transfer to be registered on the books of the Company.

Section 8.08 Restricted Units Legend. The Units have not been registered under the Securities Act and, therefore, in addition to the other restrictions on Transfer contained in this Agreement, cannot be sold unless subsequently registered under the Securities Act or an exemption from such registration is then available. To the extent such Units have been certificated, each certificate evidencing Units and each certificate issued in exchange for or upon the Transfer of any Units (if such securities remain Units as defined herein after such Transfer) shall be stamped or otherwise imprinted with a legend in substantially the following form:
ARTICLE IX
REDEMPTION AND EXCHANGE RIGHTS

Section 9.01 Redemption Right of a Member.

(a) From and after the date of the IPO, and subject to (A) in the case of Service Provider Members, the terms of any applicable Award Agreement and any Trading Policy (including any Black-Out Period contained therein) and (B) the waiver or expiration of the Restricted Period or any other contractual lock-up period relating to the shares of PubCo (or any corresponding Units) that may be applicable to such Member, each Member shall be entitled to cause the Company to redeem (a “Redemption”) its Class A Units (excluding any Class A Units that are subject to vesting conditions), in whole or in part (the “Redemption Right”) at any time and from time to time. A Member desiring to exercise its Redemption Right (a “Redeeming Member”) shall exercise such right by giving written notice (including in electronic form) (the “Redemption Notice”) to the Company, with a copy to PubCo. The Redemption Notice shall specify the number of Class A Units (the “Redeemed Units”) that the Redeeming Member intends to have the Company redeem and a date, not less than two (2) Business Days nor more than ten (10) Business Days after delivery of such Redemption Notice (unless and to the extent that the Managing Member in its sole discretion agrees in writing to waive such time periods), on which exercise of the Redemption Right shall be completed (the “Redemption Date”); provided, that the Redemption Notice may specify that the Redemption is to be contingent (including as to the timing) upon the consummation of a purchase by another Person (whether in a tender or exchange offer, an underwritten offering or otherwise) of the Share Settlement into which the Redeemed Units are exchangeable, or contingent (including as to timing) upon the closing of an announced merger, consolidation or other transaction or event in which the Share Settlement would be exchanged or converted or become exchangeable for or convertible into cash or other securities or property; provided, further that the Redeeming Member may withdraw or amend a Redemption
Notice, in whole or in part, prior to the effectiveness of the Redemption by mutual agreement signed in writing (including in electronic form) by each of the Company and PubCo, specifying (1) the number of withdrawn Units, (2) if any, the number of Units as to which the Redemption Notice remains in effect and (3) if the Redeeming Member so determines, a new Redemption Date or any other new or revised information permitted in the Redemption Notice. Following receipt of the Redemption Notice, and in any event at least two (2) Business Days prior to the Redemption Date, PubCo shall deliver to the Redeeming Member a notice, specifying whether it elects to settle the Redemption with a Share Settlement or a Cash Settlement (an “Election Notice”). In the event an Election Notice is not delivered to the Redeeming Member at least two (2) Business Days prior to the Redemption Date, the Company will be deemed to have elected a Share Settlement.

(b) If the Election Notice specifies a Cash Settlement, then, unless the Redeeming Member has withdrawn the applicable Redemption, on the Redemption Date (to be effective immediately prior to the close of business on the Redemption Date):

(i) PubCo shall pay the Cash Settlement directly to the Redeeming Member in exchange for the Redeemed Units;

(ii) the Redeeming Member shall Transfer and surrender, free and clear of all liens and encumbrances (x) the Redeemed Units to PubCo, and (y) an equal number of shares of Class B Common Stock to PubCo (to the extent the Redeeming Member owns shares of Class B Common Stock);

(iii) the Company shall register PubCo as the owner of the Redeemed Units, and if the Redeemed Units are certificated, issue to the Redeeming Member a certificate for a number of Class A Units equal to the difference (if any) between the number of Class A Units evidenced by the certificate surrendered by the Redeeming Member pursuant to clause (i) of this Section 9.01(b) and the Redeemed Units; and

(iv) PubCo shall cancel and retire for no consideration such shares of Class B Common Stock, if any.

In the event that (x) the Shares of Class A Common Stock are not publicly traded at the time of a Redemption and the Class A Unit Redemption Price is determined by the Managing Member and (y) the Redeeming Member reasonably objects to such Class A Unit Redemption Price, the Election Notice shall deemed to have specified a Share Settlement and Section 9.01(c) shall apply.

(c) If the Election Notice specifies a Share Settlement, then, unless the Redeeming Member has withdrawn the applicable Redemption, on the Redemption Date PubCo (or a wholly-owned Subsidiary thereof) shall Transfer the Share Settlement directly to the Redeeming Member in exchange for the Redeemed Units (a “Direct Redemption”) unless the Company has elected to effect the Redemption as a Contribution Redemption as provided below. In connection with a Direct Redemption, on the Redemption Date, (1) PubCo shall Transfer to such Redeeming Member the Share Settlement; (2) the Redeeming Member shall Transfer and surrender, free and clear of all liens and encumbrances (x) the Redeemed Units to PubCo and (y) an equal number of shares of Class B Common Stock to PubCo (to the extent the Redeeming Member owns shares of Class B Common Stock); (3) PubCo shall cancel and retire for no
consideration such shares of Class B Common Stock, if any; and (4) the Company shall register PubCo as the owner of the Redeemed Units and, if the Redeemed Units are certificated, shall issue to the Redeeming Member a certificate for a number of Class A Units equal to the difference (if any) between the number of Class A Units evidenced by the certificate surrendered by the Redeeming Member pursuant to clause (1) of this Section 9.01(c) and the Redeemed Units. In lieu of the steps described in the preceding sentence, the Company may cause the relevant parties to structure a Direct Redemption to involve the contribution (a “Contribution Redemption”) by PubCo of a number of shares of Class A Common Stock of PubCo equal to what would otherwise be the Share Settlement to the Company in exchange for an equal number of Class A Units of the Company with the Company distributing such PubCo equity interests to the Redeeming Member in redemption of such Member’s interest in the Company (or applicable portion thereof) free and clear of all liens and encumbrances in a transaction that is treated as a “disguised sale of partnership interests” for U.S. federal income tax purposes, and in connection therewith PubCo shall cancel and retire for no consideration a number of shares of Class B Common Stock of the Redeeming Member equal to the number of equity interests in the Company redeemed by the Company. In furtherance of the foregoing, each of the Company and the Redeeming Member shall take all actions reasonably requested by PubCo to effect the transactions contemplated by this Section 9.01(c), including executing and delivering any document reasonably requested by PubCo in connection therewith. Where a TPG Member, Intel Member or TB Member (or an Affiliate of any of the foregoing) is the Redeeming Member, such Person may cause PubCo to effect a Redemption as a purchase for U.S. federal income tax purposes by a wholly-owned Subsidiary of PubCo that is a domestic corporation for U.S. federal income tax purposes.

(d) The number of shares of Class A Common Stock applicable to any Share Settlement or Cash Settlement shall not be adjusted on account of any distributions previously made after the date hereof with respect to the Redeemed Units, dividends previously paid with respect to Class A Common Stock or cash or cash equivalents held by PubCo; provided, however, that if a Redeeming Member causes the Company to redeem Redeemed Units and the Redemption Date occurs subsequent to the Record Date for any distribution with respect to the Redeemed Units but prior to payment of such distribution, the Redeeming Member shall be entitled to receive such distribution with respect to the Redeemed Units on the date that it is made notwithstanding that the Redeeming Member Transferred and surrendered the Redeemed Units to the Company prior to such date; provided, further, however, that a Redeeming Member shall not be entitled to receive any Tax Distributions after it ceases to own any Units in the Company.

(e) In the case of a Share Settlement, in the event a reclassification or other similar transaction occurs following delivery of a Redemption Notice, but prior to the Redemption Date, as a result of which shares of Class A Common Stock are converted into another security, then a Redeeming Member shall be entitled to receive the amount of such other security that the Redeeming Member would have received if such Redemption Right had been exercised and the Redemption Date had occurred immediately prior to the Record Date of such reclassification or other similar transaction.

Section 9.02 Exchange of Management Incentive Units. From and after the date of the IPO, and subject to (A) in the case of Service Provider Members, the terms of any applicable Award Agreement and any Trading Policy (including any Black-Out Period contained therein) and (B) the waiver or expiration of the Restricted Period or any other contractual lock-up period
relating to the shares of PubCo (or any corresponding Units) that may be applicable to such Member, each Member (other than the Managing Member) shall be entitled to cause the Company to exchange (an “Exchange”) its vested Management Incentive Units, in whole or in part (the “Exchange Right”) at any time and from time to time for a number of New Class A Units determined with respect to such vested Management Incentive Units and in accordance with the terms set forth below; provided, that such Exchange shall not be permitted if such Management Incentive Units do not have a Fair Market Value that is greater than $0 at the time of such Exchange. A Member desiring to exercise its Exchange Right (an “Exchanging Member”) shall exercise such right by giving written notice (including, if permitted by the Company, in electronic form) (the “Exchange Notice”) to the Company and PubCo. The Exchange Notice shall specify the number and identity (including the relevant then-unsatisfied Management Incentive Unit Return Threshold) of Management Incentive Units (the “Exchanged Management Incentive Units”) that the Exchanging Member intends to have the Company exchange and a date, not less than two (2) Business Days nor more than ten (10) Business Days after delivery of such Exchange Notice (unless and to the extent that the Managing Member in its sole discretion agrees in writing to waive such time periods), on which exercise of the Exchange Right shall be completed (the “Exchange Date”); provided, that the Company and the Exchanging Member may change the number of Exchanged Management Incentive Units and/or the Exchange Date specified in such Exchange Notice to another number and/or date by mutual agreement signed in writing (including, if permitted by the Company, in electronic form) by each of the Company and PubCo. On the Exchange Date (to be effective immediately prior to the close of business on the Exchange Date): (a) the Exchanging Member shall Transfer and surrender, free and clear of all liens and encumbrances, the Exchanged Management Incentive Units to the Company and (b) the Company shall (i) cancel the Exchanged Management Incentive Units, (ii) issue to the Exchanging Member the New Class A Units applicable to the Exchanged Management Incentive Units and (iii) if the Exchanged Management Incentive Units are certificated, issue to the Exchanging Member a certificate for a number of Management Incentive Units equal to the difference (if any) between the number of Management Incentive Units evidenced by the certificate surrendered by the Exchanging Member pursuant to clause (a) of this Section 9.02 and the Exchanged Management Incentive Units. Upon issuance of the New Class A Units, such New Class A Units shall immediately be subject to all of the provisions herein applicable to Class A Units, including the Redemption provisions contained in this Article IX, and notwithstanding anything herein to the contrary, immediately upon consummation of any Exchange, the Exchanging Member shall be required to initiate its Redemption Right with respect to the New Class A Units received in such Exchange, and therefore the provisions of the foregoing Section 9.01 shall be deemed to apply as though the applicable Member had sent a Redemption Notice thereunder on the date that it sent the Exchange Notice under this Section 9.02, such that the Redemption occurs on the same day as, and immediately following, the Exchange.

Section 9.03 Reservation of Shares of Class A Common Stock; Listing; Certificate of PubCo, etc.

(a) At all times PubCo shall reserve and keep available out of its authorized but unissued Class A Common Stock, solely for the purpose of issuance upon a Share Settlement in a Redemption such number of shares of Class A Common Stock as shall be issuable upon any such Redemption, including any Redemption of New Class A Units that are issuable in
connection with any Exchange; provided, that nothing contained herein shall be construed to preclude PubCo from satisfying its obligations in respect of any such Redemption by delivery of purchased Class A Common Stock (which may or may not be held in the treasury of PubCo). PubCo shall use its commercially reasonable efforts to list the Class A Common Stock required to be delivered upon any such Redemption prior to such delivery upon each national securities exchange upon which the outstanding shares of Class A Common Stock are listed at the time of such Redemption (it being understood that any such shares may be subject to Transfer restrictions under applicable securities Laws). PubCo covenants that all Class A Common Stock issued upon a Redemption in which a Share Settlement is made will, upon issuance, be validly issued, fully paid and non-assessable. The provisions of this Article IX shall be interpreted and applied in a manner consistent with any corresponding provisions of PubCo’s certificate of incorporation (if any).

(b) PubCo agrees that it has taken all or will take such steps as may be required to cause to qualify for exemption under Rule 16b-3(d) or (e), as applicable, under the Exchange Act, and to be exempt for purposes of Section 16(b) under the Exchange Act, any acquisitions from, or dispositions to, PubCo of equity securities of PubCo (including derivative securities with respect thereto) and any securities that may be deemed to be equity securities or derivative securities of PubCo for such purposes that result from the transactions contemplated by this Agreement, by each officer or director of PubCo. The authorizing resolutions shall be approved by either PubCo’s board of directors or a committee composed solely of two or more Non-Employee Directors (as defined in Rule 16b-3) of PubCo. By including this covenant, it is the intention of the board that all such transactions be exempt.

Section 9.04 Effect of Exercise of Redemption or Exchange. This Agreement shall continue notwithstanding the consummation of a Redemption or Exchange and all other rights set forth herein shall be exercised by the remaining Members and the Redeeming Member or the Exchanging Member (to the extent of such Redeeming Member’s or Exchanging Member’s remaining interest in the Company). No Redemption shall relieve such Redeeming Member of any prior breach of this Agreement.

Section 9.05 Tax Treatment. Unless otherwise required by applicable Law, the parties hereto acknowledge and agree that any Redemption and any Exchange shall be treated as a direct exchange of shares of Class A Common Stock (or cash) for Units between PubCo (or one of its wholly-owned Subsidiaries, pursuant to Section 9.01(c)) and the Redeeming Member for U.S. federal and applicable state and local income tax purposes.

Section 9.06 Other Redemption and Exchange Matters.

(a) Each Redemption shall be deemed to be effective immediately prior to the close of business on the Redemption Date, and, in the case of a Share Settlement, the Redeeming Member (or other Person(s) whose name or names in which the Share Settlement is to be issued) shall be deemed to be a holder of the Equity Securities issued in such Share Settlement, from and after that time, until such Equity Securities have been disposed of. As promptly as practicable on or after the Redemption Date, PubCo shall deliver or cause to be delivered to the Redeeming Member (or other Person(s) whose name or names in which the Share Settlement is to be issued as directed by the Redeeming Member) the number of the Share Settlement deliverable.
upon such Redemption, registered in the name of such Redeeming Member (or other Person(s) whose name or names in which the Share Settlement is to be issued as directed by the Redeeming Member). To the extent the Share Settlement is settled through the facilities of The Depository Trust Company, PubCo will, subject to Section 9.06(c), upon the written instruction of a Redeeming Member, deliver or cause to be delivered the shares of the Share Settlement deliverable to such Redeeming Member (or other Person(s) whose name or names in which the Share Settlement is to be issued as directed by the Redeeming Member), through the facilities of The Depository Trust Company, to the account of the participant of The Depository Trust Company designated by such Redeeming Member.

(b) Subject to Section 9.06(c), the shares of the Share Settlement issued upon a Redemption shall bear a legend in substantially the following form:

THE TRANSFER OF THESE SECURITIES HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY OTHER JURISDICTION, AND MAY NOT BE SOLD OR TRANSFERRED OTHER THAN IN ACCORDANCE WITH THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OF 1933, AS AMENDED (OR OTHER APPLICABLE LAW), OR AN EXEMPTION THEREFROM.

(c) If any shares issued upon a Redemption involving a Share Settlement are (i) effectively registered under the Securities Act, (ii) in the opinion of other counsel reasonably acceptable to PubCo, no longer required to bear the legend set forth in Section 9.06(b) to assure compliance by PubCo with the Securities Act or (iii) Transferable under paragraph (b)(1) of Rule 144, upon the written request of the Redeeming Member thereof, PubCo or its agent shall promptly provide such Redeeming Member or its respective Transferees, without any expense to such Persons (other than applicable transfer taxes and similar governmental charges, if any) with new certificates (or evidence of book-entry share) for the applicable securities not bearing the provisions of the legend with respect to which the restriction has terminated. In connection therewith, such Redeeming Member shall provide PubCo with such information in its possession as PubCo may reasonably request in connection with the removal of any such legend.

(d) PubCo shall bear all of its own expenses in connection with the consummation of any Redemption, whether or not any such Redemption is ultimately consummated, including any transfer taxes, stamp taxes or duties, or other similar taxes in connection with, or arising by reason of, any Redemption; provided, however, that if any of the Share Settlement is to be delivered in a name other than that of the Redeeming Member that requested the Redemption (or The Depository Trust Company or its nominee for the account of a participant of The Depository Trust Company that will hold the shares for the account of such Redeeming Member), then such Redeeming Member and/or the Person in whose name such shares are to be delivered shall pay to PubCo the amount of any transfer taxes, stamp taxes or duties, or other similar taxes in connection with, or arising by reason of, such Redemption or shall establish to the reasonable satisfaction of PubCo that such tax has been paid or is not payable. Except as otherwise may separately be agreed by the Company, the Redeeming Member shall bear all of its own expenses in connection with the consummation of any Redemption (including, for the avoidance of doubt, expenses incurred by such Redeeming Member in connection with any Redemption that are invoiced to the Company).
(e) Notwithstanding anything to the contrary contained herein, any Exchange by a Service Provider Member shall be conditioned upon such Service Provider Member’s execution and delivery of a general release of claims against the Company in a form provided by the Company.

ARTICLE X

CERTAIN OTHER MATTERS

Section 10.01 PubCo Change of Control; PubCo Approved Recap Transaction.

(a) In connection with a PubCo Approved Change of Control, the Managing Member shall have the right, in its sole discretion, to require each Member to effect an Exchange of all of such Member’s vested Management Incentive Units (if any) pursuant to Section 9.02 and, thereafter, a Redemption of all or a portion of such Member’s and all other Members’ Units (including, but not limited to, any New Class A Units received by such Member pursuant to such Exchange and any other Class A Units otherwise held by such Members) together with a number of shares of Class B Common Stock corresponding to such Class A Units (to the extent such Members own shares of Class B Common Stock), pursuant to which such Units and such shares of Class B Common Stock will be exchanged for shares of Class A Common Stock (or economically equivalent cash or securities of a successor entity), mutatis mutandis, in accordance with the Redemption provisions of Article IX (applied for this purpose as if PubCo had delivered an Election Notice that specified a Share Settlement with respect to such exchanges) and otherwise in accordance with this Section 10.01. Any such exchange pursuant to this Section 10.01(a) shall be effective immediately prior to the consummation of the PubCo Approved Change of Control (and, for the avoidance of doubt, shall not be effective if such PubCo Approved Change of Control is not consummated) (the date of such exchange, the “Change of Control Exchange Date”). From and after the Change of Control Exchange Date, (i) the Units and any shares of Class B Common Stock subject to such exchange shall be deemed to be Transferred to PubCo on the Change of Control Exchange Date and (ii) each such Member shall cease to have any rights with respect to the Units and any shares of Class B Common Stock subject to such exchange (other than the right to receive shares of Class A Common Stock (or economically equivalent cash or equity securities in a successor entity) pursuant to such exchange). PubCo shall provide written notice of an expected PubCo Approved Change of Control to all Members within the earlier of (x) five (5) Business Days following the execution of an agreement with respect to such PubCo Approved Change of Control and (y) ten (10) Business Days before the proposed date upon which the contemplated PubCo Approved Change of Control is to be effected, including in such notice such information as may reasonably describe the PubCo Approved Change of Control transaction, subject to Law, including the date of execution of such agreement or such proposed effective date, as applicable, the amount and types of consideration to be paid for shares of Class A Common Stock in the PubCo Approved Change of Control, any election with respect to types of consideration that a holder of shares of Class A Common Stock, as applicable, shall be entitled to make in connection with such PubCo Approved Change of Control (which election shall be available to each Member on the same terms as holders of shares of Class A Common Stock). Following delivery of such notice and on or prior to the Change of Control Exchange Date, the Members shall take all actions reasonably requested by PubCo to effect such exchange, including taking any action and delivering any document required pursuant to this Section 10.01 to effect such exchange.
(b) In the event that a tender offer, share exchange offer, take-over bid, recapitalization or similar transaction with respect to all or any portion of shares of PubCo’s issued and outstanding Class A Common Stock is proposed by PubCo or PubCo’s stockholders and approved by the PubCo board of directors, or is otherwise consented to or approved by the PubCo board of directors (a “PubCo Approved Recap Transaction”), PubCo shall provide written notice of the PubCo Approved Recap Transaction to all Members within the earlier of (i) five (5) Business Days following the execution of an agreement (if applicable) with respect to, or the commencement of (if applicable), such PubCo Approved Recap Transaction and (ii) ten (10) Business Days before the proposed date upon which the PubCo Approved Recap Transaction is to be effected, including in such notice such information as may reasonably describe the PubCo Approved Recap Transaction, subject to Law, including the date of execution of such agreement (if applicable) or of such commencement (if applicable), the material terms of such PubCo Approved Recap Transaction, including the amount and types of consideration to be received by holders of shares of Class A Common Stock in the PubCo Approved Recap Transaction, any election with respect to types of consideration that a holder of shares of Class A Common Stock shall be entitled to make in connection with such PubCo Approved Recap Transaction, and the number of Units (and the corresponding shares of Class B Common Stock) held by such Member that is applicable to such PubCo Approved Recap Transaction. The Members shall be permitted to participate in such transaction by delivering a written notice of participation that is effective immediately prior to the consummation of such transaction (and that is contingent upon consummation of such transaction), and shall include such information necessary for consummation of such transaction as requested by PubCo. In the case of any PubCo Approved Recap Transaction that was initially proposed by PubCo, PubCo shall use reasonable best efforts to enable and permit the Members (other than the Managing Member) to participate in such transaction to the same extent or on an economically equivalent basis as the holders of shares of Class A Common Stock, and to enable such Members to participate in such transaction without being required to exchange Units or shares of Class B Common Stock in connection therewith.

ARTICLE XI
LIMITATION ON LIABILITY, EXCULPATION AND INDEMNIFICATION

Section 11.01 Limitation on Liability.

(a) Except as otherwise provided by the Delaware Act, the debts, expenses, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, will be solely the debts, expenses, obligations and liabilities of the Company, and no Member or Indemnified Person will be obligated personally for any such debt, expense, obligation or liability of the Company solely by reason of being a Member or Indemnified Person. All Persons dealing with the Company will have recourse solely to the assets of the Company for the payment of the debts, expenses, obligations or liabilities of the Company. In no event will any Member be required to make up any deficit balance in such Member’s Capital Account upon the liquidation of such Member’s interest in the Company or otherwise.
(b) Except as expressly set forth in this Agreement or as otherwise expressly required by Law, a Member, in such capacity, shall have no liability for obligations or liabilities of the Company in excess of (a) the amount of Capital Contributions made or required to be made by such Member, (b) such Member’s share of any assets and undistributed profits of the Company and (c) to the extent required by Law or this Agreement, the amount of any amounts wrongfully distributed to such Member. Except as expressly set forth in this Agreement or as otherwise required by Law, upon an insolvency of the Company, no Member shall be obligated by this Agreement to return any distribution to the Company or pay the amount of any distribution for the account of the Company or to any creditor of the Company; provided, however, that if any court of competent jurisdiction holds that, notwithstanding this Agreement, any Member is obligated to return or pay any part of any distribution, such obligation shall bind such Member alone and not any other Member (including the Managing Member); and provided, further, that if any Member is required to return all or any portion of any distribution under circumstances that are not unique to such Member but that would have been applicable to all Member if such Member had been named in the lawsuit against the Member in question (such as where a distribution was made to all Members and rendered the Company insolvent, but only one Member was sued for the return of such distribution), the Member that was required to return or repay the distribution (or any portion thereof) shall be entitled to reimbursement from the other Members that were not required to return the distributions made to them based on each such Member’s share of the distribution in question. The provisions of the immediately preceding sentence are solely for the benefit of the Members and shall not be construed as benefiting any third party. The amount of any distribution returned to the Company by a Member or paid by a Member for the account of the Company or to a creditor of the Company shall be added to the account or accounts from which it was subtracted when it was distributed to such Member.

Section 11.02 Exculpation and Indemnification.

(a) Indemnification Rights.

(i) General. The Company shall indemnify, defend and hold harmless the TPG Member, the Intel Member, the TB Member, the Managing Member, all former members of the board of managers of the Company, the Company Representative (in such Company Representative’s capacity as such), to the extent applicable, each such Person’s officers, directors, partners, members, shareholders, and employees, and the officers of PubCo, the Company and their respective Subsidiaries who are designated as such in a written resolution (all such persons being referred to herein as “Indemnified Persons”), who is or was a party, witness or other participant, or is threatened or proposed to be made a party, witness or other participant, in any actual, threatened, pending or complete action, suit, proceeding, demand or investigation, whether civil, criminal, administrative, investigative, or an alternative dispute resolution proceeding by reason of the fact that such Indemnified Person is or was a Member, the Managing Member, the Company Representative (in such Company Representative’s capacity as such), an officer of the Company or an officer, manager, partner, member, shareholder or employee of such Indemnified Person, or by reason of the fact that such Indemnified Person is or was serving at the request of the Company as a manager, member of any board of managers, tax matters member, company representative, director, officer or partner of another corporation, limited liability company, partnership, trust, plan or other organization or enterprise, from and against all expenses (including attorneys’ and experts’ fees and expenses), judgments, fines and amounts paid in
(ii) Indemnification Priority.

(A) The Company hereby acknowledges that the rights to indemnification, advancement of expenses and/or insurance provided pursuant to this Section 11.02 may also be provided to certain Indemnified Persons by one or more of their respective Affiliates (other than the Company and its Subsidiaries) or their insurers (collectively, and including, in the case of the TPG Member and the TB Member, the TPG Member, the TB Member, TPG and TB each of their respective partners, shareholders, members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents and each of the partners, shareholders, members, Affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling Persons, employees and agents of each of the foregoing, the “Affiliate Indemnitors”). The Company hereby agrees that, as between the Company, on the one hand, and the Affiliate Indemnitors, on the other hand, (i) the Company is the full indemnitor of first resort and the Affiliate Indemnitors are the full indemnitors of second resort with respect to all such indemnifiable claims against such Indemnified Persons, whether arising under this Agreement or otherwise (i.e., the obligations of the Company to such Indemnified Persons are primary and any obligation of the Affiliate Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Indemnified Persons are secondary), (ii) upon receipt by the Company of an undertaking by or on behalf of such Indemnified Persons to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized by this Section 11.02 or otherwise, the Company shall be required to advance the full amount of expenses incurred by such Indemnified Persons and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement (or any other agreement between the Company and such Indemnified Persons), without regard to any rights such Indemnified Persons may have against the Affiliate Indemnitors and (iii) the Company irrevocably waives, relinquishes and releases the Affiliate Indemnitors from any and all claims against the Affiliate Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company agrees to indemnify the Affiliate Indemnitors directly for any amounts that the Affiliate Indemnitors pay as indemnification or advancement on behalf of any such Indemnified Person and for which such Indemnified Person may be entitled to indemnification from the Company in connection with serving
as a director or officer (or equivalent titles) of the Company or its Subsidiaries. The Company further agrees that no advancement or payment by the Affiliate Indemnitors on behalf of any such Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification from the Company shall affect the foregoing and the Affiliate Indemnitors shall be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Indemnified Person against the Company, and the Company shall cooperate with the Affiliate Indemnitors in pursuing such rights.

(B) Except as provided in Section 11.02(a)(ii)(A) above, in the event of any payment by the Company of indemnifiable expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnified Person in connection with such action, suit, proceeding, demand or investigation pursuant to Section 11.02(a), the Company shall be subrogated to the extent of such payment to all of the rights of contribution or recovery of the Indemnified Persons against other Persons (other than the Affiliate Indemnitors), and the Indemnified Person shall take, at the request of the Company, all reasonable action necessary to secure such rights, including the execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(iii) Third-Party Indemnification. The Company may make, execute, record and file on its own behalf and on behalf of each Member all instruments and other documents (including one or more deeds poll in favor of the persons to whom the benefit of the exculpation and indemnification provisions of this Agreement are intended (the “Covered Persons”) and/or one or more separate indemnification agreements between the Managing Member, the Company, each Member (as applicable) and individual Covered Persons) that the Managing Member deems necessary or appropriate in order to extend the benefit of the exculpation and indemnification provisions of this Agreement to the Covered Persons; provided, that such other instruments and documents authorized hereunder shall be on the same terms as provided for in this Agreement except as otherwise may be required by applicable Law.

(b) Exculpation. No Indemnified Person will be liable, for damages or otherwise, to the Company or to any Member for any loss that arises out of any act performed or omitted to be performed by it, him or her, in its, his or her capacity as such, to the maximum extent a Delaware corporation would be permitted to exculpate such Indemnified Person if the Company was a Delaware corporation and such individual was a member of such corporation’s board of directors; provided that notwithstanding anything to the contrary contained in this Section 11.02, a Covered Person shall be liable for any such loss, liability, damage or claim arising out of acts or omissions by such Covered Person that constitute “Cause” (as defined in a written agreement applicable to any such Indemnified Person who is an employee of PubCo, the Company or any of their respective Subsidiaries) or that involve intentional misconduct or a knowing violation of Law. In performing his, her or its duties, each Indemnified Person shall be entitled to rely in good faith on the provisions of this Agreement and on information, opinions, reports or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid) of the following other persons or groups: the Managing Member, officers or employees of PubCo, the Company
and their respective Subsidiaries; any attorney, independent accountant, appraiser or other expert or professional employed or engaged by or on behalf of the Company or such Managing Member or officer; or any other person who has been selected with reasonable care by or on behalf of the Company or such Managing Member or officer; in each case as to matters which such relying person reasonably believes to be within such other person’s competence. For the avoidance of doubt, this Section 11.02(b) shall not exculpate, indemnify, or otherwise protect a Member from a breach of this Agreement by such Member or any other agreement between such Member and the Company, any Affiliates of the Company, or any other Member.

(c) Persons Entitled to Indemnity. Any Person who is within the definition of “Indemnified Person” at the time of any action or inaction in connection with the activities of the Company shall be entitled to the benefits of this Section 11.02 as an “Indemnified Person” with respect thereto, regardless of whether such person continues to be within the definition of “Indemnified Person” at the time of such Indemnified Person’s claim for indemnification or exculpation hereunder. The right to indemnification and the advancement of expenses conferred in this Section 11.02 shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute, agreement, by Law, decision of the Managing Member or otherwise. If this Section 11.02 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnified Person pursuant to this Section 11.02 to the fullest extent permitted by any applicable portion of this Section 11.02 that shall not have been invalidated and to the fullest extent permitted by applicable Law.

(d) Procedure Agreements. The Company may enter into an agreement with any Indemnified Person setting forth procedures consistent with applicable Law for implementing the indemnities provided in this Section 11.02.

(e) Reliance, etc. Notwithstanding any other provision of this Agreement, an Indemnified Person or Exempted Person acting under this Agreement shall not be liable to the Company or to any other Indemnified Person for its, his or her good faith reliance on the provisions of this Agreement. Whenever in this Agreement any Member (in each case, other than the Managing Member or any Person who is also an officer or employee of the Company or any of its Subsidiaries) is permitted or required to make a decision (i) in its, his or her discretion or under a grant of similar authority, he, she or it shall be entitled to consider only such interests and factors as such Indemnified Person desires, including its, his or her own and its, his or her Affiliates’ interests, and shall, to the fullest extent permitted by applicable Law, have no duty or obligation to give any consideration to any interest of or factors affecting the Company, any Member or any other Person, or (ii) in its, his or her good faith or under another express standard, he, she or it shall act under such express standard and shall not be subject to any other or different standards; provided, further, that, for the avoidance of doubt, the Managing Member shall not take any actions in contravention of its duties set forth in Article VII.
ARTICLE XII
DISSOLUTION AND TERMINATION

Section 12.01 Dissolution.
(a) The Company shall not be dissolved by the admission of Additional Members or Substitute Members pursuant to Section 3.02 or Section 8.03, respectively.
(b) No Member shall (i) resign from the Company prior to the dissolution and winding up of the Company except in connection with a Transfer, Redemption or Exchange of Units pursuant to the terms of this Agreement or (ii) take any action to dissolve, terminate or liquidate the Company or to require apportionment, appraisal or partition of the Company or any of its assets, or to file a bill for an accounting, except as specifically provided in this Agreement, and each Member, to the fullest extent permitted by Law, hereby waives any rights to take any such actions under Law, including any right to petition a court for judicial dissolution under Section 18-802 of the Delaware Act.
(c) The Company shall be dissolved and its business wound up only upon the earliest to occur of any one of the following events (each a “Dissolution Event”):

(i) the expiration of forty-five (45) days after the consummation of the sale or other disposition of all or substantially all the assets of the Company;

(ii) upon the prior written approval of the Managing Member, the TPG Member and the Intel Member;

(iii) the entry of a decree of judicial dissolution under Section 18-802 of the Delaware Act, in contravention of this Agreement.

The Members hereby agree that the Company shall not dissolve prior to the occurrence of a Dissolution Event and that no Member shall seek a dissolution of the Company, under Section 18-802 of the Delaware Act or otherwise, other than based on the matters set forth in subsections (i), (ii) and (iii) above. If it is determined by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Dissolution Event, the Members hereby agree to continue the business of the Company without a Liquidation.

(d) The death, retirement, resignation, expulsion, bankruptcy, insolvency or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member of the Company shall not in and of itself cause dissolution of the Company.

Section 12.02 Winding Up of the Company.
(a) The Managing Member shall promptly notify the other Members of any Dissolution Event. Upon dissolution, the Company’s business shall be liquidated in an orderly manner. The Managing Member shall appoint a liquidating trustee to wind up the affairs of the Company pursuant to this Agreement. In performing its duties, the liquidating trustee is authorized to sell, distribute, exchange or otherwise dispose of the assets of the Company in accordance with the Delaware Act and in any reasonable manner that the liquidating trustee shall determine to be in the best interest of the Members.

(b) The proceeds of the liquidation of the Company shall be distributed in the following order and priority:
(i) **first**, to the creditors (including any Members or their respective Affiliates that are creditors (except any obligations to the Members in respect of their Capital Accounts) of the Company in satisfaction of all of the Company’s liabilities (whether by payment or by making reasonable provision for payment thereof, including the setting up of any reserves which are, in the judgment of the liquidating trustee, reasonably necessary therefor); and

(ii) **second**, to the Members in the same manner as distributions under Section 5.03(b), subject to Section 5.03(e).

(c) **Distribution of Property.** In the event it becomes necessary in connection with the Liquidation to make a distribution of Property in-kind, subject to the priority set forth in Section 12.02(b), the liquidating trustee shall have the right to compel each Member, treating each such Member in a substantially similar manner, to accept a distribution of any Property in-kind (with such Property, as a percentage of the total liquidating distributions to such Member), corresponding as nearly as possible to the distributions such Member would receive under Section 12.02(b) with such distribution being based upon the amount of cash that would be distributed to such Members if such Property were sold for an amount of cash equal to the fair market value of such Property, as determined by the liquidating trustee in good faith.

Section 12.03 **Termination.** The Company shall terminate when all of the assets of the Company, after payment of or reasonable provision for the payment of all debts and liabilities of the Company, shall have been distributed to the Members in the manner provided for in this Article XII, and the Certificate shall have been cancelled in the manner required by the Delaware Act.

Section 12.04 **Survival.**

(a) **Termination, dissolution or Liquidation of the Company for any reason shall not release any party from any liability which at the time of such termination, dissolution or Liquidation already had accrued to any other party or which thereafter may accrue in respect to any act or omission prior to such termination, dissolution or Liquidation.**

(b) The rights of the TPG Member and the Intel Member (in their capacity as such) to consent or withhold consent to any action under this Agreement shall not survive the TPG Member or Intel Member ceasing to be a Member, except with respect to the consent rights under Section 6.01(b).

**ARTICLE XIII**

**MISCELLANEOUS**

Section 13.01 **Expenses.** All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such cost or expense.

Section 13.02 **Further Assurances.** Each Member agrees to execute, acknowledge, deliver, file and record such further certificates, amendments, instruments and documents, and to do all such other acts and things, as may be required by Law or as, in the reasonable judgment of the Managing Member, may be necessary or advisable to carry out the intent and purposes of this Agreement.
Section 13.03 Notices. Any notices, requests, demands and other communications required or permitted in this Agreement shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail, or (iii) sent by overnight courier, in each case, addressed as follows:

if to the Company or to PubCo, to:

c/o McAfee Corp.
2821 Mission College Blvd.
Santa Clara, CA 95054
Attention: Sayed Darwish
E-mail: Sayed_Darwish@McAfee.com

with a copy (which shall not constitute notice) to:
Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

If to the TPG Member, to:
TPG Global, LLC
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
Attention: General Counsel
Facsimile: (415) 743-1501
E-mail: officeofgeneralcounsel@tpg.com

with a copy (which shall not constitute notice) to:
Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

if to Intel, to:
Intel Corporation
2200 Mission College Boulevard
Santa Clara, California 95054
Attention: Patrick Bombach and Benjamin A. Olson
Facsimile: (408) 653-9098
E-mail: patrick.bombach@intel.com and benjamin.a.olson@intel.com
Section 13.04 **Binding Effect; Benefit; Assignment.**

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the parties hereto and their respective successors and assigns.
(b) Except as provided in Article VIII, no Member may assign, delegate or otherwise Transfer any of its rights or obligations under this Agreement without the consent of the Managing Member.

Section 13.05 Consent to Jurisdiction. Each party to this Agreement, by its execution hereof, (i) hereby irrevocably submits to the exclusive jurisdiction of the Delaware Court of Chancery within New Castle County in in the State of Delaware (or, solely if the Delaware Court of Chancery within New Castle County in the State of Delaware declines jurisdiction, the Complex Commercial Litigation Division of the Delaware Superior Court, New Castle County, or solely if such court declines jurisdiction, the United States District Court for the District of Delaware) for the purpose of any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof, (ii) hereby waives to the extent not prohibited by applicable Law, and agrees not to assert, and agrees not to allow any of its Subsidiaries to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the above-named courts is improper, or that this Agreement or the subject matter hereof or thereof may not be enforced in or by such court and (iii) hereby agrees not to commence or maintain any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof, to the extent that any party hereto is or becomes a party in any litigation in connection with which it may assert indemnification rights set forth in this Agreement, the court in which such litigation is being heard shall be deemed to be included in clause (i) above. Notwithstanding the foregoing, any party to this Agreement may commence and maintain an action to enforce a judgment of any of the above-named courts in any court of competent jurisdiction. Each party hereto hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 13.03 hereof is reasonably calculated to give actual notice.

Section 13.06 WAIVER OF JURY TRIAL. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HERETO HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION OR SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF ANY MEMBER IN CONNECTION WITH ANY OF THE ABOVE, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING.
Section 13.07 Remedies. The parties to this Agreement shall have all remedies available at law, in equity or otherwise in the event of any breach or violation of this Agreement or any default hereunder. The parties acknowledge and agree that in the event of any breach of this Agreement, in addition to any other remedies that may be available, each of the parties hereto shall be entitled to injunctive relief, including specific performance of the obligations of the other parties hereto, without the posting of any bond, and, in addition, to such other equitable remedies (including preliminary or temporary relief) as may be appropriate in the circumstances. If any action should be brought in equity to enforce any of the provisions of this Agreement, none of the parties shall raise the defense that there is an adequate remedy at law. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any such delay, omission nor waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

Section 13.08 Counterparts. This Agreement may be executed in any number of separate counterparts each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (i.e., by email of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes.

Section 13.09 Entire Agreement; Amendment.

(a) This Agreement and the Transaction Documents set forth the entire understanding and agreement among the parties with respect to the transactions contemplated herein and supersedes and replaces any prior understanding, agreement or statement of intent, in each case written or oral, of any kind and every nature with respect hereto. For the avoidance of doubt, to the extent the Tax Receivable Agreement imposes obligations on the Company or the parties hereto, the Tax Receivable Agreement shall be treated by the Company and the parties hereto as part of this Agreement as described in Section 761 of the Code and Treasury Regulations Sections 1.704-1(b)(2)(ii)(h) and 1.761-1(c).

(b) This Agreement or any provision hereof may be modified, amended or supplemented by written action of the Managing Member; provided, that this Agreement or any provision hereof may not be modified, amended or supplemented (i) without the prior written consent of the TPG Member and the Intel Member to the extent such Person, directly or indirectly, has an ownership interest in Units or Interests in the Company, (ii) in any way that is adverse to or disproportionately impacts the TB Member without the TB Member’s prior written consent,
(iii) in any way that would affect any class of Units in a manner materially and disproportionately adverse to any other class of Units in existence immediately prior to such amendment without the prior written consent of the Members, not to be unreasonably withheld or delayed, that hold at least a majority of such class of Units so materially adversely and disproportionately affected. (iv) in any way that would affect any Units in a manner materially and disproportionately adverse to other Units of the same class in existence immediately prior to such amendment without the prior written consent of the Members, not to be unreasonably withheld or delayed, that hold at least a majority of such Units so materially adversely and disproportionately affected.

(c) No waiver of any provision or default under, nor consent to any exception to, the terms of this Agreement or any agreement contemplated hereby shall be effective unless in writing and signed and delivered by the party to be bound and then only to the specific purpose, extent and instance so provided. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. Except as otherwise expressly provided herein, no failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder, or otherwise available in respect hereof at law or in equity, shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

Section 13.10 Severability. In the event that any provision hereof would, under applicable law, be invalid, illegal or unenforceable in any respect, such provision shall be construed by modifying or limiting it so as to be valid, legal and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions hereof are severable, and in the event any provision hereof should be held invalid or unenforceable in any respect, it shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 13.11 Governing Law. This Agreement and all claims arising out of or based upon this Agreement or relating to the subject matter hereof shall be governed by and construed in accordance with the domestic substantive laws of the State of Delaware without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

Section 13.12 No Presumption. With regard to each and every term and condition of this Agreement, the parties hereto understand and agree that the same have or has been mutually negotiated, prepared and drafted, and if at any time the parties hereto desire or are required to interpret or construe any such term or condition, no consideration will be given to the issue of which party hereto actually prepared, drafted or requested any term or condition of this Agreement.

Section 13.13 Attorney-In-Fact. Each Member (other than the Intel Member, the TPG Member, and the TB Member) hereby appoints the Managing Member as such Member’s attorney-in-fact (with full power of substitution) and hereby authorizes the Company to execute and deliver in such Member’s name and on its behalf any amendment of this Agreement otherwise adopted in accordance with the terms of this Agreement or other document relating hereto in furtherance of such Member’s rights and obligations pursuant to this Agreement. Each Member hereby acknowledges and agrees that such proxy is coupled with an interest and shall not terminate upon any bankruptcy, dissolution, liquidation, death or incapacity of such Member.
Section 13.14 Immunity Waiver. Each Member that is not an individual acknowledges that it is a commercial entity and is a separate entity distinct from its ultimate shareholders and/or the executive organs of the government of any state and is capable of suing and being sued. The entry by each Member into this Agreement constitutes, and the exercise by each Member of its respective rights and performance of its respective obligations hereunder will constitute, private and commercial acts performed for private and commercial purposes that shall not be deemed as being entered into in the exercise of any public function.

[signature pages follow]
IN WITNESS WHEREOF, the parties hereto have caused this Second Amended and Restated Limited Liability Company Agreement to be duly executed as of the day and year first written above.

THE COMPANY:  

FOUNDATION TECHNOLOGY WORLDWIDE LLC  

By:  
Name: [___]  
Title: [___]  

THE MANAGING MEMBER:  

MCAFEE CORP.  

By:  
Name: [___]  
Title: [___]  

THE MEMBERS:  

MCAFEE CORP.  

By:  
Name: [___]  
Title: [___]  

TB XII-A MANTA BLOCKER, L.L.C.  

By:  
Name: [___]  
Title: [___]  

[Signature Page to the Second Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC]
TPG VII MANTA BL I-A, LLC
By: [ ],
Name: [ ]
Title: [ ]

TPG VII MANTA BL II-A, LLC
By: [ ],
Name: [ ]
Title: [ ]

SKYHIGH NETWORKS HOLDINGS CORP.
By: [ ],
Name: [ ]
Title: [ ]

INTEL AMERICAS, INC.
By: [ ],
Name: [ ]
Title: [ ]

[Signature Page to the Second Amended and Restated
Limited Liability Company Agreement of Foundation Technology Worldwide LLC]
TPG VII MANTA AIV CO-INVEST, L.P.

By: __________________________
Name: [___]
Title: [___]

TPG VII MANTA HOLDINGS II, L.P.

By: __________________________
Name: [___]
Title: [___]

THOMA BRAVO FUND XII AIV, L.P.

By: __________________________
Name: [___]
Title: [___]

THOMA BRAVO EXECUTIVE FUND XII AIV, L.P.

By: __________________________
Name: [___]
Title: [___]

[Signature Page to the Second Amended and Restated
Limited Liability Company Agreement of Foundation Technology Worldwide LLC]
THOMA BRAVO EXECUTIVE FUND XII-A AIV, L.P.

By: 
Name: [ ]
Title: [ ]

THOMA BRAVO PARTNERS XII AIV, L.P.

By: 
Name: [ ]
Title: [ ]

[Signature Page to the Second Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC]
TAX RECEIVABLE AGREEMENT

by and among

MCAFEE CORP.,

FOUNDATION TECHNOLOGY WORLDWIDE, LLC,

the several EXCHANGE TRA PARTIES (as defined herein),

the several REORGANIZATION TRA PARTIES (as defined herein),

MCAFEE, LLC

MCAFEE FINANCE 2, LLC

the TPG NOMINEE (as defined herein),

the INTEL NOMINEE (as defined herein),

and

OTHER PERSONS FROM TIME TO TIME PARTY HERETO

Dated as of [            ], 2020
## Annexes and Exhibits

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This TAX RECEIVABLE AGREEMENT (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “Agreement”), dated [                ], 2020, is hereby entered into by and among McAfee Corp., a Delaware corporation (the “Corporation”), the Corporate Subsidiaries, Foundation Technology Worldwide, LLC, a Delaware limited liability company (the “LLC”), McAfee Finance 2, LLC, a Delaware limited liability company (“Finance LLC”), McAfee, LLC, a Delaware limited liability company (“McAfee LLC”), Foundation Technology Worldwide, LLC, a Delaware limited liability company (the “LLC”), and, together with the Corporation, the Corporate Subsidiaries, the LLC, Finance LLC and McAfee LLC, the “McAfee Parties”), each of the Exchange TRA Parties from time to time party hereto, each of the Reorganization TRA Parties from time to time party hereto, the TPG Nominee (as defined below), and the Intel Nominee (as defined below). Capitalized terms used but not otherwise defined herein have the respective meanings set forth in Section 1.01.

RECITALS

WHEREAS, certain of the Reorganization TRA Parties were previously direct or indirect owners of the Blocker Entities, and as a result of their previous ownership of the Blocker Entities, the Reorganization TRA Parties previously indirectly held Units through the Blocker Entities;

WHEREAS, the Exchange TRA Parties hold (or prior to an Exchange will hold) Units;

WHEREAS, the LLC is classified as a partnership for U.S. federal income tax purposes;

WHEREAS, the Blocker Entities and Corporate Subsidiaries were and are each classified as corporations for United States federal income tax purposes;

WHEREAS, as a result of certain reorganization transactions undertaken in connection with the IPO of the Corporation, all of the shares of the Blocker Entities were contributed directly or indirectly to the Corporation by the Reorganization TRA Parties, and all of the shares of the Corporate Subsidiaries were directly or indirectly contributed to the Corporation by the Reorganization TRA Parties and the Exchange TRA Parties (the “Reorganization”);

WHEREAS, as a result of or in connection with the Reorganization, the Corporate Group may be entitled to utilize (or otherwise be entitled to the benefits arising out of) the Subsidiary Pre-IPO Covered Tax Assets and, without duplication, the Blocker Pre-IPO Covered Tax Assets (together with the Subsidiary Pre-IPO Covered Tax Assets, the “Pre-IPO Covered Tax Assets”);

WHEREAS, on and after the date hereof, pursuant to, and subject to the provisions of, the LLC Agreement and any other applicable documentation, each Exchange TRA Party has the right from time to time to require the LLC to redeem (a “Redemption”) all or a portion of such TRA Party’s Units for shares of Class A common stock or, at the election of the Corporation, cash, which Redemption may be effected by the Corporation effecting a direct exchange (a “Direct Exchange”) of shares of Class A Common Stock for such Units, and as a result of such Redemptions or Direct Exchanges the Corporate Group may be entitled to utilize (or otherwise be entitled to the benefits arising out of) the Exchange Covered Tax Assets;
WHEREAS, the income, gain, loss, expense, deduction and other Tax items of the Corporate Group and the LLCs may be affected by the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets;

WHEREAS, the parties to this Agreement desire to make certain arrangements with respect to the effects of the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets;

NOW, THEREFORE, in connection with the foregoing and the respective covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the terms set forth in this Article I shall have the following meanings (such meanings to be equally applicable to both (i) the singular and plural and (ii) the active and passive forms of the terms defined).

“Actual Tax Liability” means, with respect to any Taxable Year, the actual liability for Taxes of (i) the Corporate Group and (ii) without duplication, the LLCs, but in the case of this clause (ii) only with respect to Taxes imposed on the LLCs and allocable to the Corporate Group (as reasonably determined by the Corporation); provided, that the actual liability for Taxes described in clauses (i) and (ii) shall be calculated (a) assuming that Subsequently Acquired TRA Attributes do not exist, (b) using the Assumed State and Local Tax Rate, solely for purposes of calculating the state and local Actual Tax Liability of the Corporate Group and LLCs, and (c) assuming, solely for purposes of calculating the liability for U.S. federal income Taxes, in order to prevent double counting, that state and local income and franchise Taxes are not deductible by the Corporate Group for U.S. federal income Tax purposes.

“Advance Payment” is defined in Section 3.1(b) of this Agreement.

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

“Agreed Rate” means a per annum rate of LIBOR plus 100 basis points.

“Agreement” is defined in the preamble.

“Amended Schedule” is defined in Section 2.3(b) of this Agreement.

“Assumed State and Local Tax Rate” means the tax rate equal to the sum of the product of (x) the Corporation’s income and franchise Tax apportionment rate(s) for each state and local jurisdiction in which the Corporation or LLC (or any of their Subsidiaries that are treated as partnerships or disregarded entities for U.S. federal or applicable state or local tax purposes) files
income or franchise Tax Returns for the relevant Taxable Year and (y) the highest corporate income and franchise Tax rate(s) for each such state and local jurisdiction in which the Corporation, the LLC, or such applicable Subsidiaries file income or franchise Tax Returns for each relevant Taxable Year; provided, that solely in respect of the Corporate Group, to the extent, for any Taxable Year, that state and local income and franchise Taxes are deductible for U.S. federal income tax purposes by members of the Corporate Group that are treated as corporations for U.S. federal income tax purposes, the Assumed State and Local Tax Rate calculated pursuant to the foregoing shall be reduced by the assumed federal income Tax benefit received by the Corporate Group with respect to state and local jurisdiction income and franchise Taxes (with such benefit calculated as the product of (a) the Corporation’s marginal U.S. federal income tax rate for the relevant Taxable Year and (b) the Assumed State and Local Tax Rate (without regard to this proviso)).

“Attributable” is defined in Section 3.1(b) of this Agreement.

“Attribute Schedule” is defined in Section 2.1 of this Agreement.


“Basis Adjustment” means the increase or decrease to the tax basis of, or the Corporation’s share of (directly or indirectly through a wholly-owned Subsidiary of the Corporation effecting such Exchange), the tax basis of the Reference Assets (i) under Section 734(b), 743(b) and 754 of the Code and, in each case, the comparable sections of U.S. state and local tax law (in situations where, following an Exchange, the LLC remains a partnership for U.S. federal income tax purposes) and (ii) under Sections 732, 734(b), and 1012 of the Code and, in each case, the comparable sections of U.S. state and local tax law (in situations where, as a result of one or more Exchanges, the LLC becomes an entity that is disregarded as separate from its owner for U.S. federal income tax purposes), in each case, as a result of any Exchange and any payments made under this Agreement. Notwithstanding any other provision of this Agreement, the amount of any Basis Adjustment resulting from an Exchange of one or more Units shall be determined without regard to any Pre-Exchange Transfer of such Units and as if any such Pre-Exchange Transfer had not occurred.

“Blocker Entities” means the entities listed on Annex A.

“Blocker Entity Straddle Period” is defined in the definition of “Blocker Pre-IPO Covered Tax Assets.”

“Blocker Pre-IPO Covered Tax Assets” means, with respect to a Reorganization TRA Party, (i) any net operating loss, capital loss, charitable deduction, disallowed interest expense under Section 163(j) of the Code, or tax credit of the Blocker Entity previously owned by such Reorganization TRA Party (1) that has accrued or otherwise relates to taxable periods (or portions thereof) beginning prior to the IPO Date; provided, that, in the case of a taxable period of a Blocker Entity beginning on or prior to the IPO Date and ending after the IPO Date (a “Blocker Entity Straddle Period”), the attributes of the Blocker Entity that are treated as accruing or otherwise relating to a taxable period (or portion thereof) beginning prior to the IPO Date shall for purposes of this Agreement be calculated based on an interim closing of the books as of the close of the IPO.
Date (and for such purpose, the taxable period of any partnership or other pass-through entity in which the Blocker Entity owns a beneficial interest shall be deemed to terminate at such time), except that the amount of exemptions, allowances or deductions that are calculated on an annual basis, such as the deduction for depreciation, with respect to such Blocker Entity Straddle Period for property placed into service prior to the IPO Date shall be treated as apportioned on a daily basis; provided, further, that the attributes described in this clause (1) with respect to such Reorganization TRA Party shall not include attributes of any corporation or other entity acquired by such Blocker Entity by purchase, merger, or otherwise (in each case, from a Person or Persons other than such Blocker Entity and whether or not such corporation or other entity survives) after the IPO; and (2) that are available to offset income or gain of the Corporate Group earned for periods (or portions thereof) beginning after the IPO; (ii) existing Tax basis in the Reference Assets (including under Sections 734(b), 743(b) and 754 of the Code, including for the avoidance of doubt, Section 1.743-1(h) of the Treasury Regulations and, in each case, the comparable sections of U.S. state and local tax law), determined as of immediately prior to the IPO, that is attributable to Units owned (directly or indirectly) by such Blocker Entity (other than through ownership of equity of a Corporate Subsidiary) as of immediately prior to the IPO and indirectly acquired by the Corporation in connection with the Reorganization; and (iii) Imputed Interest not described with respect to such Reorganization TRA Party in clause (iii) of the definition of Subsidiary Pre-IPO Covered Tax Assets. The determination of the portion of existing Tax basis in the Reference Assets that is attributable to Units so previously owned (directly or indirectly) by an applicable Blocker Entity (and payments made hereunder with respect to such Tax basis) shall be determined in good faith by the Corporation in consultation with its tax return preparer (which tax return preparer shall be a nationally recognized third party accounting firm), it being understood that any Tax basis described in Section 1.743-1(h) of the Treasury Regulations shall be allocable to Units held by the member of the LLC (or its predecessor) for whom the associated basis adjustment pursuant to Section 743(b) of the Code was made; provided that in no event will the portions of existing Tax basis in the Reference Assets that are included as Exchange Covered Tax Assets or Pre-IPO Covered Tax Assets at any time exceed 100% of the existing Tax basis in the Reference Assets that is allocable to the Corporation at such time. For the avoidance of doubt, (A) Blocker Pre-IPO Covered Tax Assets shall include any carryforwards, carrybacks or similar attributes that are attributable to the Tax items described in clauses (i)-(iii) and (B) Blocker Pre-IPO Covered Tax Assets does not include any Subsidiary Pre-IPO Covered Tax Assets.

“Board” means the board of directors of the Corporation.

“Business Day” means any day excluding Saturday, Sunday and any day that is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in New York are closed.

“Change of Control” means the occurrence of any of the following events or series of related events after the date hereof: (a) any Person, or group of Persons acting together which would constitute a “group” for purposes of Section 13(d) of the Exchange Act (as defined in the LLC Agreement), or any successor provisions thereto, is or becomes the beneficial owner, directly or indirectly, of securities of the Corporation representing more than 50% of the combined voting power of the Corporation’s then-outstanding voting securities (other than a group formed pursuant to the Stockholders Agreement); (b) there is consummated a merger, consolidation or similar
business transaction involving the Corporation with any other Person or Persons, and, either (x) the Board of the Corporation immediately prior to the merger or consolidation does not constitute at least a majority of the board of directors of the company surviving the merger or, if the surviving company is a subsidiary, the ultimate parent thereof, or (y) immediately after the consummation of such transaction, the voting securities of the Corporation immediately prior to such transaction do not continue to represent or are not converted into more than 50% of the combined voting power of the then-outstanding voting securities of the Person resulting from such transaction or, if the surviving company is a subsidiary, the ultimate parent thereof; (c) the shareholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated an agreement or series of related agreements for the sale or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation’s assets (including a sale of assets of the LLC), other than such sale or other disposition by the Corporation of all or substantially all of the Corporation’s assets to an entity at least fifty percent (50%) of the combined voting power of the voting securities of which are owned by shareholders of the Corporation in substantially the same proportions as their ownership of the Corporation immediately prior to such sale; (d) the following individuals cease for any reason to constitute a majority of the number of directors of the Board of the Corporation then serving: individuals who were directors of the Corporation on the IPO Date and any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Corporation) whose appointment or election to the Board of the Corporation or nomination for election by the Corporation’s shareholders was made pursuant to the Stockholders Agreement or was approved or recommended by a vote of at least two-thirds (2/3) of the directors then in office who either were directors of the Corporation on the IPO Date or whose appointment, election or nomination for election was previously so approved or recommended by the directors referred to in this clause (d); (e) a “change of control” or similar defined term in any agreement governing indebtedness for borrowed money of the Corporation or LLC or any of their Subsidiaries with aggregate principal amount or aggregate commitments outstanding in excess of $100,000,000; or (f) there is consummated an agreement or series of related agreements for the separation, sale or other disposition, directly or indirectly, by the Corporation or any of its Subsidiaries, of the consumer business or enterprise business of the Corporation and its Subsidiaries, including a sale or other disposition of all or a substantial portion of the assets of any such business, but only if each of the TPG Nominee and the Intel Nominee provides to the Corporation written notice of an election to treat such separation or sale as a Change of Control for purposes of this Agreement. Notwithstanding the foregoing, except with respect to clause (c) above, a “Change of Control” shall not be deemed to have occurred (i) by virtue of the consummation of any transaction or series of integrated transactions immediately following which the ultimate beneficial owners of the Class A Common Stock and Class B Common Stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and voting control over, and own substantially all of the shares or equity of, an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions or (ii) by virtue of the consummation of any transaction or series of transactions, immediately following which, the Corporation and one or more other entities (the “Other Constituent Companies”) shall have become separate wholly-owned Subsidiaries of a holding company, and the ultimate beneficial owners of the Class A Common Stock and Class B Common Stock immediately prior to such transaction or series of transactions, together with the ultimate beneficial
owners of the outstanding equity interests in the Other Constituent Companies immediately prior to such transaction or series of transactions, shall have become the equityholders of the new holding company in exchange for their respective equity interests in the Corporation and the Other Constituent Companies, and such transaction or transactions would not otherwise constitute a “Change of Control” assuming references to the Corporation are references to such holding company.

“Class A Common Stock” means Class A common stock, $0.001 par value per share, of the Corporation.

“Class B Common Stock” means Class B common stock, $0.001 par value per share, of the Corporation.


“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or other agreement.

“Corporate Subsidiaries” means the Persons listed on Annex G.

“Corporate Subsidiary Straddle Period” is defined in the definition of “Subsidiary Pre-IPO Covered Tax Assets.”

“Corporation” is defined in the preamble to this Agreement.

“Cumulative Net Realized Tax Benefit” as of the end of a Taxable Year means the cumulative amount of Realized Tax Benefits for all Taxable Years of the Corporate Group (excluding, for the avoidance of doubt, the Taxable Years of the Blocker Entities and the Corporate Subsidiaries ending on the dates they join the Corporate Group) and the LLCs, up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments of the Corporate Group and the LLCs for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be based on the most recent Tax Benefit Schedules or Amended Schedules, if any, in existence at the time of such determination.

“Default Rate” means a per annum rate of LIBOR plus 500 basis points.

“Determination” shall have the meaning ascribed to such term in Section 1313(a) of the Code or similar provision of law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for tax and shall also include the acquiescence of the Corporation to the amount of any assessed liability for Tax.

“Direct Exchange” is defined in the recitals to this agreement.

“Dispute” is defined in Section 7.8(a) of this Agreement.

“Early Termination Agreed Rate” means LIBOR plus 100 basis points.
“Early Termination Date” means the date of an Early Termination Notice for purposes of determining the Early Termination Payment.

“Early Termination Effective Date” is defined in Section 4.2 of this Agreement.

“Early Termination Notice” is defined in Section 4.2 of this Agreement.

“Early Termination Payment” is defined in Section 4.3(b) of this Agreement.

“Early Termination Rate” means the lesser of (i) 6.50% per annum, compounded annually, and (ii) the Early Termination Agreed Rate.

“Early Termination Schedule” is defined in Section 4.2 of this Agreement.

“Exchange” means any Direct Exchange or Redemption or purchase (as determined for U.S. federal income tax purposes) of Units by the Corporation or one of its wholly-owned Subsidiaries from an Exchange TRA Party.

“Exchange Covered Tax Assets” means, with respect to an Exchange TRA Party, (i) existing Tax basis (including, for the avoidance of doubt, any basis adjustment described in Section 734 of the Code or Section 1.743-1(h) of the Treasury Regulations and, in each case, the comparable sections of U.S. state and local tax law) in the Reference Assets, determined as of immediately prior to an Exchange, that is allocable to the Units being exchanged by such Exchange TRA Party and acquired by the Corporate Group in connection with the relevant Exchange, (ii) Basis Adjustments, and (iii) Imputed Interest not described with respect to such Exchange TRA Party in clause (iii) of the definition of Subsidiary Pre-IPO Closing Tax Assets; provided that, in the case of any Exchange by an Exchange TRA Party pursuant to Section 4.03 of the LLC Agreement, the Exchange Covered Tax Assets with respect to the Units that are subject to such Exchange shall be equal to zero (0). The determination of the portion of existing Tax basis, including, for the avoidance of doubt, any basis adjustment described in Section 1.743-1(h) of the Treasury Regulations, in the Reference Assets that is allocable to Units being exchanged by the Exchange TRA Party (and payments made hereunder with respect to such Tax basis) shall be determined in good faith by the Corporation in consultation with its tax return preparer (which tax return preparer shall be a nationally recognized third party accounting firm), it being understood that any Tax basis described in Section 1.743-1(h) of the Treasury Regulations shall be allocable to Units held by the member of the LLC (or its predecessor) for whom the associated basis adjustment pursuant to Section 743(b) of the Code was made; provided that in no event will the portions of existing Tax basis in the Reference Assets that are allocable to the Corporation at any time. For the avoidance of doubt, (A) Exchange Covered Tax Assets shall include any carryforwards or similar attributes that are attributable to the Tax items described in clauses (i) through (iii) and (B) Exchange Covered Tax Assets shall not include any Subsidiary Pre-IPO Covered Tax Assets.

“Exchange TRA Parties” means the Persons listed on Annex B.

“Expert” is defined in Section 7.9 of this Agreement.
“Forfeited Percentage” is defined in Section 3.1 of this Agreement.

“Forfeited Shares” is defined in Section 3.1 of this Agreement.

“GIC TRA Party” means Snowlake Investment Pte Ltd.

“Hypothetical Tax Liability” means, with respect to any Taxable Year, the liability for Taxes of (i) the Corporate Group and (ii) without duplication, the LLCs, but in the case of this clause (ii) only with respect to Taxes imposed on the LLCs and allocable to the Corporate Group, in each case using the same methods, elections, conventions, and practices used on the relevant Corporate Group Tax Return, but (a) calculated without taking into account the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets (including, for the avoidance of doubt, any carryforward or carryback of any tax item attributable to the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets), (b) using the Assumed State and Local Tax Rate, solely for purposes of calculating the state and local Hypothetical Tax Liability of the Corporate Group and LLCs, and (c) assuming, solely for purposes of calculating the liability for U.S. federal income Taxes, in order to prevent double counting, that state and local income and franchise Taxes are not deductible by the Corporate Group for U.S. federal income Tax purposes. Furthermore, the Hypothetical Tax Liability shall be calculated assuming that the Subsequently Acquired TRA Attributes do not exist.

“Imputed Interest” in respect of a TRA Party shall mean any interest imputed under the provisions of the Code with respect to the Corporation’s payment obligations in respect of such TRA Party under this Agreement.

“Intel Nominee” means Intel Americas, Inc. and such other person as may be designated by an Intel TRA Party.

“Intel TRA Parties” means the Persons listed on Annex F.

“Interest Amount” is defined in Section 3.1(b) of this Agreement.

“IPO” means the initial public offering of shares of Class A Common Stock by the Corporation.

“IPO Date” means the closing date of the IPO.

“IRS” means the U.S. Internal Revenue Service.

“Joinder” means a joinder to this Agreement, in form and substance substantially similar to Exhibit A to this Agreement.

“LIBOR” means during any period, an interest rate per annum equal to the one-year LIBOR which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Corporation and approved by the TPG Nominee and the Intel Nominee (such approval not to be unreasonably withheld, conditioned or delayed) as an authorized information vendor for the purpose of
displaying rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market (an “Alternate Source”), at approximately 11:00 a.m., London time, two (2) Business Days prior to the first day of such period as the one-year London interbank offered rate for U.S. dollars having a borrowing date and a maturity comparable to such period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any Alternate Source, a comparable replacement rate determined by the Corporation at such time and approved by the TPG Nominee and the Intel Nominee (such approval not to be unreasonably withheld, conditioned or delayed)); provided, that at no time shall LIBOR be less than 0%.

“LLC” is defined in the recitals to this Agreement.

“LLCs” means the LLC, McAfee Finance 2, LLC, McAfee Finance 1, LLC, McAfee, LLC, McAfee HoldCo LLC, and any Subsidiaries of any of the foregoing that are treated as partnerships or disregarded entities for U.S. federal income tax purposes.

“LLC Agreement” means that certain Limited Liability Company Agreement of the LLC, dated as of the date hereof, as such agreement may be further amended, restated, supplemented and/or otherwise modified from time to time.

“Market Value” means as of an Early Termination Date, the price for a share of Class A Common Stock (or any class of stock into which it has been converted) on the Stock Exchange (as defined in the LLC Agreement), as reported on bloomberg.com or such other reliable source as determined by the Managing Member (as defined in the LLC Agreement) in good faith, at the close of trading on the last full Trading Day (as defined in the LLC Agreement) immediately prior to such Early Termination Date, subject to appropriate and equitable adjustment for any stock splits, reverse splits, stock dividends or similar events affecting the Class A Common Stock. In the event the shares of Class A Common Stock are not publicly traded as of such Early Termination Date, then the Managing Member (as defined in the LLC Agreement) shall determine the Market Value in good faith.

“Net Tax Benefit” is defined in Section 3.1(b) of this Agreement.

“Objection Notice” is defined in Section 2.3(a) of this Agreement.

“Permitted Transfer” has the meaning set forth in the LLC Agreement.

“Permitted Transferee” has the meaning set forth in the LLC Agreement.

“Person” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

“Pre-Exchange Transfer” means any transfer of one or more Units (including upon the death of a Member) (i) that occurs after the IPO but prior to a Redemption or Direct Exchange or other Exchange of such Units and (ii) to which Section 743(b) of the Code applies (other than such a transfer giving rise to basis adjustments described under Section 1.743-1(h) of the Treasury Regulations).
“Pre-IPO Covered Tax Assets” is defined in the Recitals to this Agreement.

“Realized Tax Benefit” means, for a Taxable Year, the excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability. If all or a portion of the actual liability for such Taxes for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit until there has been a Determination.

“Realized Tax Detriment” means, for a Taxable Year, the excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability. If all or a portion of the actual liability for such Taxes for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

“Reconciliation Dispute” is defined in Section 7.9 of this Agreement.

“Reconciliation Procedures” is defined in Section 2.3(a) of this Agreement.

“Redemption” has the meaning in the recitals to this Agreement.

“Reference Asset” means any tangible or intangible asset (including for this purpose any items of deferred revenue and any adjustments under Section 481 of the Code) of the LLC or any of its successors or assigns, and any asset held by any entities in which the LLC owns a direct or indirect equity interest that are treated as a partnership or disregarded entity for U.S. federal income Tax purposes (but only to the extent such entities are held only through other entities treated as partnerships or disregarded entities) for purposes of the applicable Tax, as of the relevant date. A Reference Asset also includes any asset that is “substituted basis property” under Section 7701(a)(42) of the Code with respect to a Reference Asset. For the avoidance of doubt, stock of McAfee Acquisition Corp. is not a Reference Asset.

“Reorganization” is defined in the Recitals to this Agreement.

“Reorganization TRA Parties” means the persons listed on Annex C.

“Schedule” means any of the following: (i) an Attribute Schedule, (ii) a Tax Benefit Schedule, or (iii) the Early Termination Schedule, and, in each case, any amendments thereto.

“Senior Obligations” is defined in Section 5.1 of this Agreement.

“Stockholders Agreement” means the Stockholders Agreement, dated as of the date hereof, by and among the Corporation and the other persons party thereto or that may become parties thereto from time to time, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

“Subsequently Acquired TRA Attributes” means any net operating losses or other tax attributes to which any of the Corporate Group, the LLCs or any entity in which they hold a direct or indirect equity interest become entitled as a result of a transaction (other than any Exchanges) after the IPO Date to the extent such net operating losses and other tax attributes are subject to a
tax receivable agreement (or comparable agreement) entered into by the Corporate Group or any of its Affiliates pursuant to which any member of the Corporate Group is obligated to pay over amounts with respect to tax benefits resulting from such net operating losses or other tax attributes.

“Subsidiary” means, with respect to any Person and as of the date of any determination, any other Person as to which such Person, owns, directly or indirectly, or otherwise controls, more than 50% of the voting power or other similar interests, or the sole general partner interest, or managing member or similar interest, of such Person.

“Subsidiary Pre-IPO Covered Tax Assets” means, with respect to a TRA Party, such TRA Party’s percentage (as set forth on Exhibit B) of (i) any net operating loss, capital loss, charitable deduction, disallowed interest expense under Section 163(j) of the Code, or tax credit of the Corporate Subsidiaries (1) that has accrued or otherwise relates to taxable periods (or portions thereof) beginning prior to the IPO Date; provided, that, in the case of a taxable period of a Corporate Subsidiary beginning on or prior to the IPO Date and ending after the IPO Date (a “Corporate Subsidiary Straddle Period”), the attributes of the Corporate Subsidiary that are treated as accruing or otherwise relating to a taxable period (or portion thereof) beginning prior to the IPO Date shall for purposes of this Agreement be calculated based on an interim closing of the books as of the close of the IPO Date (and for such purpose, the taxable period of any partnership or other pass-through entity in which the Corporate Subsidiary owns a beneficial interest shall be deemed to terminate at such time), except that the amount of exemptions, allowances or deductions that are calculated on an annual basis, such as the deduction for depreciation, with respect to such Corporate Subsidiary Straddle Period for property placed into service prior to the IPO Date shall be treated as apportioned on a daily basis; provided, further, that the attributes described in this clause (1) with respect to such TRA Party shall not include attributes of any corporation or other entity acquired by such Corporate Subsidiary by purchase, merger, or otherwise (in each case, from a Person or Persons other than such Corporate Subsidiary and whether or not such corporation or other entity survives) after the IPO; and (2) that are available to offset income or gain of the Corporate Group or LLCs earned for periods (or portions thereof) beginning after the IPO; (ii) existing Tax basis in the Reference Assets, determined as of immediately prior to the IPO, that is attributable to Units owned by any Corporate Subsidiary the equity of which is directly or indirectly contributed to the Corporation in connection with the Reorganization; and (iii) Imputed Interest reasonably determined to be allocable to payments pursuant to this Agreement arising from the items described in clause (i) and (ii) of this definition (as reasonably determined by the Corporation with the approval of the Intel Nominee and the TPG Nominee (such approval not to be unreasonably withheld, conditioned or delayed)). The determination of the portion of existing Tax basis in the Reference Assets that is attributable to Units owned by such a Corporate Subsidiary (and payments made hereunder with respect to such Tax basis) shall be determined in good faith by the Corporation in consultation with its tax return preparer (which tax return preparer shall be a nationally recognized third party accounting firm); provided that in no event will the portions of existing Tax basis in the Reference Assets that are allocable to the Corporation at such time. For the avoidance of doubt, Subsidiary Pre-IPO Covered Tax Assets shall include any carryforwards, carrybacks or similar attributes that are attributable to the Tax items described in clauses (i)-(iii).
“Tax Benefit Payment” is defined in Section 3.1(b) of this Agreement.

“Tax Benefit Schedule” is defined in Section 2.2(a) of this Agreement.

“Tax Return” means any return, declaration, report or similar statement filed or required to be filed with respect to Taxes (including any attached schedules), including any information return, claim for refund, amended return and declaration of estimated Tax.

“Taxable Year” means a taxable year of the Corporate Group (or any member thereof) under the Code or comparable sections of U.S. state or local or foreign tax law, as applicable (which, therefore, for the avoidance of doubt, may include a period of less than 12 months for which a Tax Return is made), ending on or after the IPO Date.

“Taxes” means any and all United States federal, state, or local taxes, assessments or other charges that are based on or measured with respect to net income or profits (including alternative minimum taxes and any franchise taxes imposed in lieu of an income tax), including, in each case, any related interest, penalties or additions to tax.

“Taxing Authority” means any national, federal, state, county, municipal, or local government, or any subdivision, agency, commission or authority thereof, or any quasi-governmental body, or any other authority of any kind, exercising regulatory or other authority in relation to tax matters.

“TB Nominee” means Thoma Bravo Partners XII AIV, L.P., a Delaware limited partnership and such other Persons as may be designated by a Thoma TRA Party.

“Thoma TRA Parties” means the persons listed on Annex D.

“TPG TRA Parties” means the persons listed on Annex E.

“TPG Nominee” means TPG Global, LLC and such other Persons as may be designated by a TPG TRA Party.

“TRA Parties” means the Exchange TRA Parties and the Reorganization TRA Parties.

“Treasury Regulations” means the final, temporary, and (to the extent they can be relied upon) proposed regulations under the Code, as promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

“U.S.” means the United States of America.

“Units” means equity interests in the LLC.
“Valuation Assumptions” means, as of an Early Termination Date, the assumptions that:

1. in each Taxable Year ending on or after such Early Termination Date, the Corporate Group and LLCs will have taxable income sufficient to fully use the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets (other than any such Pre-IPO Covered Tax Assets or Exchange Covered Tax Assets that constitute or have resulted in net operating losses, disallowed interest expense carryforwards, or credit carryforwards or carryovers (determined as of the Early Termination Date), which shall be governed by paragraph 4 below) during such Taxable Year or future Taxable Years in which such deductions or other attributes would become available;

2. the U.S. federal income tax rates that will be in effect for each such Taxable Year will be those specified for each such Taxable Year by the Code and other law as in effect on the Early Termination Date, except to the extent any change to such tax rates for such Taxable Year have already been enacted into law;

3. all taxable income of the Corporate Group and LLCs will be subject to the maximum applicable tax rate for U.S. federal income tax purposes throughout the relevant period, and the tax rate for U.S. state and local income taxes shall be the Assumed State and Local Tax Rate as in effect for the Taxable Year of the Early Termination Date;

4. any net operating loss, excess interest deduction, or credit carryovers or carrybacks (or similar items with respect to carryovers or carrybacks) generated by any Pre-IPO Covered Tax Asset or Exchange Covered Tax Asset and available as of the Early Termination Date will be used by the Corporate Group and LLCs ratably over a period beginning on the Early Termination Date and ending on the earlier of (i) five (5) years following the Early Termination Date, or (ii) the scheduled expiration date, if any, under applicable Tax law of such net operating losses, excess interest deductions, or credit carryovers or carrybacks (or similar items with respect to carryovers or carrybacks);

5. any non-amortizable assets will be disposed of in a fully taxable transaction for an amount sufficient to fully utilize the adjusted basis for such assets, including any adjustments attributable to such assets under Sections 734 and 743 of the Code (and, in each case, the comparable sections of U.S. state and local tax law), and for the avoidance of doubt including Basis Adjustments, on the fifteenth anniversary of the IPO Date; provided, that in the event of a Change of Control that includes the sale of such asset (or the sale of equity interests in a partnership or disregarded entity for U.S. federal income tax purposes that directly or indirectly owns such asset), such non-amortizable assets shall be disposed of at the time of the direct or indirect sale of the relevant asset in such Change of Control (if earlier than such fifteenth anniversary) for such price;

6. if, on the Early Termination Date, any Exchange TRA Party has Units that have not been Exchanged, then such Units shall be deemed to be Exchanged for the Market Value that would be received by such Exchange TRA Party if such Units had been Exchanged on the Early Termination Date, and such Exchange TRA Party shall be deemed to receive the amount of cash such Exchange TRA Party would have been entitled to pursuant to Section 4.3(a) had such Units actually been Exchanged on the Early Termination Date; and
any payment obligations pursuant to this Agreement will be satisfied on the date that any Tax Return to which such payment obligation relates is required to be filed excluding any extensions.

Section 1.2  Rules of Construction. Unless otherwise specified herein:
(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) For purposes of interpretation of this Agreement:
   (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision thereof.
   (ii) References in this Agreement to a Schedule, Article, Section, clause or sub-clause refer to the appropriate Schedule to, or Article, Section, clause or subclause in, this Agreement.
   (iii) References in this Agreement to dollars or “$” refer to the lawful currency of the United States of America.
   (iv) The terms “include” and “including” are by way of example and not limitation.
   (v) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.
   (vi) References to any Person shall include the successors and permitted assigns of such Person.

(c) 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.”

(d) Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement.

(e) Unless otherwise expressly provided herein, (a) references to organization documents (including the LLC Agreement), agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted hereby; and (b) references to any law (including the Code and the Treasury Regulations) shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law.
ARTICLE II
DETERMINATION OF REALIZED TAX BENEFIT

Section 2.1 Attribute Schedule. Following the IPO Date, within ninety (90) calendar days after the filing of Form 1120 (or any successor form) of the Corporate Group for any Taxable Year, the Corporation shall deliver (a) to the TPG Nominee and the Intel Nominee a schedule (the “Attribute Schedule”) that shows, in reasonable detail, (i) the Pre-IPO Covered Tax Assets that are available for use by the Corporate Group and the LLCs with respect to each TRA Party with respect to such Taxable Year and the portion of the Pre-IPO Covered Tax Assets that are available for use by the Corporate Group and the LLCs with respect to each TRA Party with respect to future Taxable Years; and (ii) the Exchange Covered Tax Assets that are available for use by the Corporate Group and the LLCs with respect to each Exchange TRA Party that has effected an Exchange (including the Basis Adjustments with respect to the Reference Assets resulting from Exchanges effected in such Taxable Year and the periods over which such Basis Adjustments are amortizable or depreciable), and the portion of the Exchange Covered Tax Assets that are available for use by the Corporate Group and the LLCs with respect to each Exchange TRA Party that has effected an Exchange in future Taxable Years and (b) to the Thoma TRA Parties and the GIC TRA Parties, that portion of the applicable Attribute Schedule relating to the Thoma TRA Parties or the GIC TRA Parties, as the case may be, along with reasonable detail regarding the preparation of the applicable portion of such Attribute Schedule. The Attribute Schedule shall also list any limitations on the ability of the Corporate Group and the LLCs to utilize any Pre-IPO Covered Tax Assets or Exchange Covered Tax Assets under applicable laws (including as a result of the operation of Section 382 of the Code or Section 383 of the Code).

Section 2.2 Tax Benefit Schedule. 

(a) Tax Benefit Schedule. Following the IPO Date, within ninety (90) calendar days after the filing of the Form 1120 (or any successor form) of the Corporate Group for any Taxable Year, the Corporation shall provide (i) to each of the TPG Nominee and the Intel Nominee a schedule showing, in reasonable detail, the calculation of the Tax Benefit Payment in respect of each TRA Party for such Taxable Year and the calculation of the Realized Tax Benefit and Realized Tax Detriment and the components thereof for such Taxable Year (a “Tax Benefit Schedule”) and (ii) to the Thoma TRA Parties and the GIC TRA Parties, that portion of the applicable Tax Benefit Schedule relating to the Thoma TRA Parties or the GIC TRA Parties, as the case may be, along with reasonable detail regarding the preparation of the applicable portion of such Tax Benefit Schedule. Each Tax Benefit Schedule will become final as provided in Section 2.3(a) and may be amended as provided in Section 2.3(b) (subject to the procedures set forth in Section 2.3(b)).

(b) Applicable Principles. For purposes of calculating the Realized Tax Benefit or Realized Tax Detriment for any period, carryovers or carrybacks of any Tax item attributable to the Pre-IPO Covered Tax Assets and the Exchange Tax Assets shall be considered to be subject to the rules of the Code and the Treasury Regulations, as applicable, or other applicable law.
governing the use, limitation and expiration of carryovers or carrybacks of the relevant type. If a carryover or carryback of any Tax item includes a portion that is attributable to a Pre-IPO Covered Tax Asset or an Exchange Covered Tax Asset and another portion that is not, such respective portions shall be considered to be used in accordance with the “with and without” methodology.

Section 2.3 Procedures, Amendments.

(a) Procedure. Every time the Corporation delivers to the TPG Nominee and the Intel Nominee a Schedule under this Agreement, including any Amended Schedule delivered pursuant to Section 2.3(b), and any Early Termination Schedule or amended Early Termination Schedule, the Corporation shall also (x) deliver to the TPG Nominee and the Intel Nominee schedules, valuation reports, if any, and work papers, as determined by the Corporation or reasonably requested by either of the TPG Nominee or the Intel Nominee, providing reasonable detail regarding the preparation of the Schedule, and (y) allow the TPG Nominee and the Intel Nominee reasonable access at no cost to the appropriate representatives of the Corporation, as determined by the Corporation or requested by either the TPG Nominee or the Intel Nominee, in connection with the review of such Schedule. Without limiting the application of the preceding sentence, each time the Corporation delivers to the TPG Nominee and the Intel Nominee a Tax Benefit Schedule, in addition to the Tax Benefit Schedule duly completed, the Corporation shall deliver to the TPG Nominee and the Intel Nominee a reasonably detailed calculation of the applicable Hypothetical Tax Liability, the reasonably detailed calculation of the applicable Actual Tax Liability, as well as any other work papers as determined by the Corporation or requested by either the TPG Nominee or the Intel Nominee, provided that the Corporation shall not be required to provide any information that it reasonably believes is unnecessary for purposes of determining the items in the applicable Schedule or amendment thereto. Subject to Section 2.3(b), an applicable Schedule or amendment thereto shall become final and binding on all parties thirty (30) calendar days after the first date on which the TPG Nominee and the Intel Nominee have received the applicable Schedule or amendment thereto unless (i) either the TPG Nominee or the Intel Nominee provides the Corporation before such date with notice of a material objection to such Schedule (“Objection Notice”) made in good faith or (ii) each of the TPG Nominee and the Intel Nominee provides a written waiver of such right of any Objection Notice before such date (in which case such Schedule or amendment thereto becomes binding on the date both waivers have been received by the Corporation). If the Corporation and the TPG Nominee and Intel Nominee, for any reason, are unable to successfully resolve the issues raised in an Objection Notice within thirty (30) calendar days after receipt by the Corporation of an Objection Notice, then the Corporation and the TPG Nominee and the Intel Nominee shall employ the reconciliation procedures described in Section 7.9 of this Agreement (the “Reconciliation Procedures”).

(b) Amended Schedule. The applicable Attribute Schedule or Tax Benefit Schedule for any Taxable Year may be amended from time to time by the Corporation (i) in connection with a Determination affecting such Schedule, (ii) to correct inaccuracies in the Schedule identified after the date the Schedule was provided to the TPG Nominee and the Intel Nominee, (iii) to comply with the Expert’s determination under the Reconciliation Procedures, (iv) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryback or carryforward of a loss or other tax item to such Taxable Year, or (v) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable
to an amended Tax Return filed for such Taxable Year (any such Schedule, an “Amended Schedule”). The Corporation shall provide (i) to the TPG Nominee and the Intel Nominee, an Amended Schedule, and (ii) to the Thoma TRA Parties or the GIC TRA Party, that portion of the applicable Amended Schedule relating to the Thoma TRA Parties and the GIC TRA Party, as the case may be, along with reasonable detail regarding the preparation of the applicable portion of such Amended Schedule, within sixty (60) calendar days of the occurrence of an event referenced in clauses (i) through (v) of the first sentence of this Section 2.3(b).

ARTICLE III
TAX BENEFIT PAYMENTS

Section 3.1 Timing and Amount of Tax Benefit Payments.

(a) Within five (5) Business Days after a Tax Benefit Schedule delivered to the TPG Nominee and the Intel Nominee becomes final in accordance with Section 2.3(a), the Corporation shall pay or cause to be paid to each TRA Party for such Taxable Year an amount equal to the excess, if any, of (i) the Tax Benefit Payment in respect of such TRA Party for such Taxable Year determined pursuant to Section 3.1(b) over (ii) the aggregate amount of Advance Payments previously made to such TRA Party in respect of such Taxable Year; provided that, if the Corporation makes Advance Payments, it shall make Advance Payments to all parties eligible to receive payments under this Agreement with respect to a particular Taxable Year in proportion to their respective amount of anticipated payments under this Agreement in respect of such Taxable Year. Each such Tax Benefit Payment or such Advance Payment shall be made by wire transfer of immediately available funds to the bank account previously designed by such TRA Party to the Corporation or as otherwise agreed by the Corporation and such TRA Party. The Corporation shall use its commercially reasonable efforts to respond to any reasonable inquiry of a TRA Party in regard to the calculation of the amount payable to such TRA Party pursuant to any Schedule delivered under this Agreement, including the calculation of the Tax Benefit Payment in respect of such TRA Party for such Taxable Year.

(b) A “Tax Benefit Payment” in respect of a TRA Party means an amount, not less than zero, equal to the sum of the portion of the Net Tax Benefit that is Attributable to such TRA Party and the Interest Amount with respect thereto. A Net Tax Benefit is “Attributable” to a Reorganization TRA Party to the extent that it is derived from a Blocker Pre-IPO Covered Tax Asset with respect to the Blocker Entity (or Units owned by such Blocker Entity (other than through a Corporate Subsidiary for purposes of this sentence)) designated on Exhibit B as allocable to such Reorganization TRA Party (in the case of a Blocker Entity with respect to which there is more than one Reorganization TRA Party, with the Net Tax Benefit and Interest Amount with respect thereto apportioned among such Reorganization TRA Parties in a manner consistent with the percentages set forth on Exhibit B). A Net Tax Benefit is “Attributable” to an Exchange TRA Party to the extent that it is derived from an Exchange Covered Tax Asset with respect to Units that were Exchanged by such TRA Party. In addition, a Net Tax Benefit derived from a Subsidiary Pre-IPO Covered Tax Asset will be attributable to a Reorganization TRA Party or Exchange TRA Party, as applicable, by apportioning such relevant amount among such TRA Parties in accordance with the percentages set forth on Exhibit B, as contemplated by the definition of Subsidiary Pre-IPO Covered Tax Assets; provided that, in the case of any forfeiture by a TRA Party of unvested shares of Class A Common Stock (the “Forfeited Shares”), the percentages set forth on Exhibit B shall be adjusted in the manner determined by the Intel Nominee and the TPG Nominee so that the percentage attributable to such TRA Party in respect of the Forfeited Shares immediately before
such forfeiture (the “Forfeited Percentage”) is adjusted to zero (0) as of immediately following such forfeiture and the percentages attributable to all other TRA Parties listed on Exhibit B are, immediately following such forfeiture, in the aggregate, increased by the Forfeited Percentage in proportion to the percentages set forth on Exhibit B with respect to such other TRA Parties. The “Net Tax Benefit” for a Taxable Year shall be an amount equal to the excess, if any, of 85% of the Cumulative Net Realized Tax Benefit as of the end of such Taxable Year over the sum of the total amount of payments previously made under Section 3.1(a) (excluding payments attributable to Interest Amounts) and the Advance Payments previously made under Section 3.1(b) of this Agreement (excluding any portion of Advance Payments in respect of anticipated Interest Amounts); provided, for the avoidance of doubt, that a TRA Party shall not be required to return any portion of any previously made Tax Benefit Payment or Advance Payment it receives under this Agreement. The “Interest Amount” in respect of the TRA Party shall equal the interest on the amount of the unpaid Net Tax Benefit Attributable to such TRA Party for a Taxable Year, which interest shall accrue on any unpaid Net Tax Benefit from and after the due date (without extensions) for filing the Form 1120 (or any successor form) for the Corporate Group for such Taxable Year, calculated at the Agreed Rate, until the date such unpaid amounts are paid. For the avoidance of doubt, for Tax purposes, the Interest Amount shall not be treated as interest but instead shall be treated as additional consideration in the Reorganization or Exchange, as applicable, unless otherwise required by law. “Advance Payments” in respect of a TRA Party for a Taxable Year means the payments made by the Corporation to such TRA Party as an advance of such TRA Party’s anticipated Tax Benefit Payment for such Taxable Year. The Corporation shall be entitled at its option to make Advance Payments. Notwithstanding anything to the contrary in this Agreement, after any lump-sum payment under Article IV of this Agreement in respect of present or future Pre-IPO Covered Tax Assets or Exchange Covered Tax Assets, such Pre-IPO Covered Tax Assets or Exchange Covered Tax Assets shall no longer be considered Pre-IPO Covered Tax Assets or Exchange Covered Tax Assets, as applicable, for purposes of determining Tax Benefit Payments or the Net Tax Benefit.

Section 3.2 No Duplicative Payments. It is intended that the provisions of this Agreement will not result in duplicative payment of any amount (including interest) required under this Agreement. The provisions of this Agreement shall be construed consistent with such intent.

Section 3.3 Pro Rata Payments.

(a) Notwithstanding anything in Section 3.1 to the contrary, to the extent that the aggregate amount of the tax benefit to the Corporate Group and LLCs from the reduction in Tax Liability as a result of the Pre-IPO Covered Tax Assets and the Exchange Covered Tax Assets is limited in a particular Taxable Year because the Corporate Group and LLCs do not have sufficient taxable income to fully utilize available deductions and other attributes, the aggregate Net Tax Benefit for such Taxable Year shall be deemed Attributable to each TRA Party for purposes of Section 3.1(b) in proportion to the portion of such Net Tax Benefit that would be Attributable to such TRA Party under Section 3.1(b) if the Corporate Group had sufficient taxable income so that there were no such limitation; provided, that, for the avoidance of doubt, for purposes of allocating among the TRA Parties the aggregate Net Tax Benefit with respect to any Taxable Year, the
operation of this Section 3.3(a) with respect to any prior Taxable Years shall be taken into account so as to eliminate as quickly as possible, proportionately, the difference with respect to each TRA Party between (i) the aggregate Net Tax Benefit that would be Attributable to such TRA Party under Section 3.1(b) with respect to each such Taxable Year (on a cumulative basis) if the Corporate Group had sufficient taxable income so that there were no limitation under this clause (a) and (ii) the actual aggregate Net Tax Benefit deemed Attributable to such TRA Party under Section 3.1(b) with respect to each such Taxable Year (on a cumulative basis) by operation of this clause (a). Consistent with the foregoing, the Attribute Schedule for a given Taxable Year shall reflect the operation of this Section 3.3(a) in respect of previous Taxable Years, with the Pre-IPO Covered Tax Assets and Exchange Covered Tax Assets described in such Attribute Schedule that are attributable to a TRA Party being adjusted to reflect payments received in respect of such Pre-IPO Covered Tax Assets and Exchange Covered Tax Assets (the intention of the parties being to avoid duplicative payments and maintain records sufficient to allow the Corporation to allocate Tax Benefit Payments consistent with the terms of this Section 3.3(a)).

(b) After taking into account Section 3.3(a), if for any reason the Corporation does not fully satisfy its payment obligations to make Tax Benefit Payments due under this Agreement in respect of a particular Taxable Year (for example, as a result of having insufficient cash to make the Tax Benefit Payments due hereunder), then the Corporation and the TRA Parties agree that (i) the Corporation shall make payments due hereunder to the TRA Parties in respect of a Taxable Year in the same proportion as such payments would have been made if the relevant payment had been made in full by the Corporation, and (ii) no Tax Benefit Payment shall be made in respect of any Taxable Year until all Tax Benefit Payments in respect of prior Taxable Years have been paid.

(c) To the extent the Corporation makes a payment to a TRA Party in respect of a particular Taxable Year under Section 3.1(a) of this Agreement (taking into account Section 3.3(a) and (b)) in an amount in excess of the amount of such payment that should have been made to the TRA Party in respect of such Taxable Year, then (i) the TRA Party shall not receive further payments under Section 3.1(a) until the TRA Party has forgone an amount of payments equal to such excess and (ii) the Corporation shall pay the amount of the TRA Party’s forgone payments to other TRA Parties (to the extent applicable) in a manner such that each of the other TRA Parties, to the extent possible, shall have received aggregate payments under Section 3.1(a) and (b) in the amount it would have received if there had been no excess payment to the TRA Party.

ARTICLE IV
TERMINATION

Section 4.1 Early Termination of Agreement; Breach of Agreement.

(a) With the prior written approval of the Board (or any Person(s) to whom the Board has delegated such authority), the Corporation may terminate this Agreement with respect to all amounts payable to the TRA Parties at any time by paying to each TRA Party the Early Termination Payment in respect of the TRA Party; provided, however, that (i) this Agreement shall only terminate pursuant to this Section 4.1(a) upon the receipt in full of the Early Termination Payment by the TRA Parties; (ii) the Corporation shall deliver an Early Termination Notice only if it is able to make all required Early Termination Payments under this Agreement; and (iii) the Corporation may withdraw any notice to execute its termination rights under this Section 4.1(a) prior to the time at which any Early Termination Payment has been paid.
(b) In the event that the Corporation breaches any of its material obligations under this Agreement, whether as a result of a failure to make any payment when due, a failure to honor any other material obligation required hereunder or by operation of law as a result of the rejection of this Agreement in a case commenced under the Bankruptcy Code or otherwise, and the Corporation fails to cure such breach within 20 Business Days of a TRA Party informing the Corporation of such breach, then, at the election of the Intel Nominee or the TPG Nominee, subject to the following proviso, all obligations hereunder shall be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such breach; provided, that (i) the TPG Nominee and the Intel Nominee shall be entitled jointly to make such election on behalf of, and such election shall be binding only on, all TRA Parties other than the Intel TRA Parties and TPG TRA Parties, (ii) the Intel Nominee shall be entitled to make such election on behalf of, and such election shall be binding on, the Intel TRA Parties, (iii) the TPG Nominee shall be entitled to make such election on behalf of, and such election shall be binding on, the TPG TRA Parties, and (iv) at least five (5) Business Days prior to making any such election, the Intel Nominee or the TPG Nominee (as the case may be) shall provide written notice to the other in order to permit the other, if it wishes, to make its election simultaneously. Procedures similar to the procedures of Section 4.2 shall apply, mutatis mutandis, with respect to the determination of the amounts payable by the Corporation pursuant to this Section 4.1(b). Notwithstanding the foregoing, in the event that the Corporation breaches any of its material obligations under this Agreement, the TPG Nominee and the Intel Nominee shall be entitled to elect jointly on behalf of all TRA Parties (other than the Intel TRA Parties and TPG TRA Parties), the Intel Nominee shall be entitled to elect on behalf of the Intel TRA Parties, and the TPG Nominee shall be entitled to elect on behalf of the TPG TRA Parties, in each case, to receive the amounts referred to in this Section 4.1(b) or to seek specific performance of the terms of this Agreement. Notwithstanding anything in this Agreement to the contrary, if the Corporation fails to make any Tax Benefit Payment when due, to the extent that the Corporation has insufficient funds to make such payment despite using reasonable best efforts to obtain funds to make such payment (including by causing the LLC or any other Subsidiaries of the LLC to distribute or lend funds to facilitate such payment, and by accessing any revolving credit facilities or other sources of available credit to fund any such amounts), such failure shall not be a breach of this Agreement until the earlier of (i) the Corporation having sufficient cash to pay such balance and (ii) the one-year anniversary of the receipt of the notice for such payment; provided, that (x) the interest provisions of Section 5.2 shall apply to such late payment, and (y) if the Corporation does not have sufficient cash to make such payment as a result of limitations imposed by existing credit agreements to which the LLC or any of its Subsidiaries is a party, which limitations are effective as of the date of this Agreement, Section 5.2 shall apply, but the Default Rate shall be replaced by the Agreed Rate.

(c) In connection with a Change of Control, all obligations under this Agreement with respect to the applicable TRA Parties shall be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the closing date of the Change of Control or such other date agreed to by the Intel Nominee, TPG Nominee and the Corporation. Procedures similar to the procedures of Section 4.2 shall apply, mutatis mutandis, with respect to the determination of the amounts payable by the Corporation.
Section 4.2 Early Termination Notice. If the Corporation chooses to exercise its right of early termination under Section 4.1(a) above, the Corporation shall deliver to each of the TPG Nominee and the Intel Nominee notice of such intention to exercise such right (“Early Termination Notice”). In addition, if the Corporation chooses to exercise its right of early termination under Section 4.1(a) above, or the obligations under this Agreement are accelerated under Section 4.1(b) or Section 4.1(c) above, the Corporation shall deliver to (i) the TPG Nominee and the Intel Nominee a schedule (the “Early Termination Schedule”) showing in reasonable detail the calculation of the Early Termination Payment due to each TRA Party and (ii) the Thoma TRA Party and the GIC TRA Party the portion of the Early Termination Schedule showing in reasonable detail the calculation of the Early Termination Payment due to the Thoma TRA Parties or the GIC TRA Parties, as the case may be. Such Early Termination Schedule shall become final and binding on all parties consistent with the procedures described in Section 2.3(a). The date on which the Early Termination Schedule becomes final shall be the “Early Termination Effective Date.”

Section 4.3 Payment upon Early Termination.  

(a) Within three (3) calendar days after an Early Termination Effective Date, the Corporation shall pay to the TRA Parties an amount equal to the Early Termination Payment in respect of such TRA Party; provided, however, that any amount payable pursuant to this Agreement as a result of a Change of Control shall be paid concurrently with the consummation of such Change of Control. Such payment shall be made by wire transfer of immediately available funds to a bank account or accounts designated by the TRA Party or as otherwise agreed by the Corporation and such TRA Party.

(b) “Early Termination Payment” in respect of a TRA Party shall equal (i) the present value, discounted at the Early Termination Rate, as of the date of the Early Termination Notice, of all Tax Benefit Payments in respect of such TRA Party that would be required to be paid by the Corporation beginning from the date of the Early Termination Notice and applying the Valuation Assumptions, plus (ii) any Tax Benefit Payment due and payable with respect to such TRA Party that is unpaid as of the date of the Early Termination Notice, plus (iii) (without duplication) interest accruing on the amounts described in clauses (i) through (ii) (which shall include interest accruing on the amount described in clause (i) from the date of the Early Termination Notice).

(c) Upon the payment of the Early Termination Payment by the Corporation to a TRA Party, the Corporation shall not have any further payment obligations under this Agreement in respect of such TRA Party.

ARTICLE V SUBORDINATION AND LATE PAYMENTS

Section 5.1 Subordination. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payment or Early Termination Payment required to be made by the Corporation under this Agreement shall rank subordinate and junior in right of payment to any principal, interest, or other amounts due and payable in respect of any obligations owed in respect
of secured or unsecured indebtedness for borrowed money of the Corporation and its Subsidiaries ("Senior Obligations") and shall rank pari passu in right of payment with all current or future unsecured obligations of the Corporation that are not Senior Obligations. To the extent that any payment under this Agreement is not permitted to be made at the time payment is due as a result of this Section 5.1 and the terms of the agreements governing Senior Obligations, such payment obligation nevertheless shall accrue for the benefit of the applicable TRA Parties and the Corporation shall make such payments at the first opportunity that such payments are permitted to be made in accordance with the terms of the Senior Obligations (it being understood that interest shall accrue on the amount of such unpaid obligation in accordance with the terms hereof). Payments under any tax receivable agreement (or similar agreement) entered into by the Corporation, the LLC, or their Subsidiaries after the date hereof shall be subordinate to all payments owed pursuant to this Agreement, and no such payments shall be made for so long as the Corporation has any unpaid obligation pursuant this Agreement.

Section 5.2 Late Payments by the Corporation. The amount of all or any portion of any Tax Benefit Payment, Early Termination Payment or other payment under this Agreement not made to the TRA Parties when due under the terms of this Agreement shall be payable together with any interest thereon, computed at the Default Rate and commencing from the date on which such Tax Benefit Payment, Early Termination Payment or other payment was due and payable.

ARTICLE VI
TAX MATTERS; CONSISTENCY; COOPERATION

Section 6.1 Participation in the Corporation’s and the LLC’s Tax Matters. Except as otherwise provided herein and the LLC Agreement, the Corporation shall have full responsibility for, and sole discretion over, all tax matters concerning the Corporation and the LLCs and its Subsidiaries, including without limitation the preparation, filing or amending of any Tax Return and defending, contesting or settling any issue pertaining to taxes; provided, however, that the Corporation shall notify each of the TPG Nominee, the TB Nominee and the Intel Nominee of, and keep them reasonably informed with respect to, and act in good faith in connection with its conduct of, the portion of any audit of the Corporation, the Corporate Group, the LLCs or any of their Subsidiaries the outcome of which is reasonably expected to affect the rights or obligations of the TRA Parties under this Agreement, and shall provide to each of the TPG Nominee, the TB Nominee and the Intel Nominee reasonable opportunity to provide information and other input to the Corporation, Corporate Group, the LLCs and their Subsidiaries concerning the conduct of any such portion of such audit, which information and other input the Corporation, Corporate Group, the LLC and their Subsidiaries, as applicable, shall consider in good faith.

Section 6.2 Consistency. The Corporation, the LLCs and the TRA Parties agree to report and cause to be reported for all purposes, including federal, state and local Tax purposes and financial reporting purposes, all Tax-related items (including, without limitation, the Basis Adjustments and each Tax Benefit Payment) in a manner consistent with that specified in any Schedule finalized consistent with the terms of this Agreement, unless otherwise required by a contrary Determination by an applicable Taxing Authority.
Section 6.3 **Cooperation.** Each of the Corporation, the LLCs and the TRA Parties shall (a) furnish to the other parties in a timely manner such information, documents and other materials as the other party may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return or defending any audit, examination or controversy with any Taxing Authority, (b) make itself reasonably available to the other parties and their respective representatives to provide explanations of documents and material and such other information as the other party or its representatives may reasonably request in connection with any of the matters described in clause (a) above, and (c) reasonably cooperate in connection with any such matter, and the Corporation shall reimburse each TRA Party for any reasonable third-party costs and expenses incurred pursuant to this Section at the request of the Corporation or the LLC.

**ARTICLE VII
MISCELLANEOUS**

Section 7.1 **Notices.** All notices, requests, consents and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by courier service, by electronic mail (delivery receipt requested) or by certified or registered mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such other address for a Party as shall be as specified in a notice given in accordance with this Section 7.1):

If to the Corporation, or the LLC, to:

c/o McAfee Corp.
2821 Mission College Blvd.
Santa Clara, CA 95054
Attention: Sayed Darwish
E-mail: Sayed_Darwish@McAfee.com

with a copy (which shall not constitute notice to the Corporation or the LLC) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

If to the Intel Nominee:

Intel Corporation
2200 Mission College Boulevard
Santa Clara, California 95054
Attention: Patrick Bombach and Benjamin A. Olson
Facsimile: (408) 653-9098
E-mail: patrick.bombach@intel.com and benjamin.a.olson@intel.com
with a copy (which shall not constitute notice to the Intel Nominee) to:

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue, Suite 1400
Palo Alto, California
Attention: Gregg Noel and Amr Razzak
Facsimile: (213) 621-5234
E-mail: gregg.noel@skadden.com and amr.razzak@skadden.com

If to the TPG Nominee:

TPG Global, LLC.
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
Attention: General Counsel
Facsimile: (415) 743-1501
E-mail: officeofgeneralcounsel@tpg.com

with a copy (which shall not constitute notice to the TPG Nominee) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

If to the GIC TRA Party:

[Company Name]
[Address]
Attention: [Name]
E-mail: [●]

with a copy (which shall not constitute notice to the GIC TRA Party) to:

Sidley Austin LLP
787 7th Avenue
New York, New York 10019
Attention: Asi Kirmayer
E-mail: akirmayer@sidley.com

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If to the TB Nominee:

c/o Thoma Bravo, LP
600 Montgomery Street, 20th Floor
San Francisco, California 94111
Attention: Seth Boro and Chip Virnig
Facsimile: (415) 392-6480
Email: sboro@thomabravo.com and cvirnig@thomabravo.com

with a copy (which shall not constitute notice to the TB Nominee) to:

Kirkland & Ellis LLP
300 North LaSalle Drive
Chicago, Illinois 60654
Attention: Gerald T. Nowak, P.C., Corey D. Fox, P.C. and Bradley C. Reed, P.C.
Facsimile: (312) 862-2200
E-mail: gerald.nowak@kirkland.com, corey.fox@kirkland.com and bradley.reed@kirkland.com

Any Party may change its address or e-mail address by giving each of the other Parties written notice thereof in the manner set forth above.

Section 7.2  Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 7.3  Entire Agreement; No Third Party Beneficiaries. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure solely to the benefit of each Party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 7.4  Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware, without regard to the conflicts of laws principles thereof that would mandate the application of the laws of another jurisdiction.

Section 7.5  Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, such term or provision is hereby deemed modified to give effect to the original written intent of the parties to the greatest extent consistent with being valid and enforceable under applicable law. No party hereto shall assert, and each party shall cause its Affiliates or related parties not to assert, that this Agreement or any part hereof is invalid, illegal or unenforceable.
Section 7.6 Assignments; Amendments; Successors; No Waiver.

(a) Assignment. No TRA Party may assign, sell, pledge, or otherwise alienate or transfer any of its interest in the Agreement, including the right to receive Tax Benefit Payments under this Agreement, to any Person, except with the prior written consent of the Board, provided that the TPG TRA Parties, the Intel Nominee, the TB TRA Parties and the GIC Investor (in each case, as defined in the Stockholders Agreement), may assign, sell, pledge or otherwise alienate or transfer all or any portion of their interests in this Agreement, including the right to receive Tax Benefit Payments under this Agreement or designate a Person as a TPG Nominee or Intel Nominee, to any Person. In the case of any such assignment, sale, pledge or other alienation of any such right by any TRA Party to any Person under the terms of this Section 7.6(a), such Person shall execute and deliver a Joinder agreeing to succeed to the applicable portion of such TRA Party’s interest in this Agreement and to become a Party for all purposes of this Agreement, except as otherwise provided in such Joinder. For the avoidance of doubt, if a TRA Party transfers Units in accordance with the terms of the LLC Agreement but does not assign to the transferee of such Units its rights under this Agreement with respect to such transferred Units, such TRA Party shall continue to be entitled to receive the Tax Benefit Payments arising in respect of a subsequent Exchange of such Units (and any such transferred Units shall be separately identified, so as to facilitate the determination of Tax Benefit Payments hereunder). None of the McAfee Parties may assign any of its rights or obligations under this Agreement to any Person (other than any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation) without the prior written consent of each of the TPG Nominee and the Intel Nominee (and any purported assignment without such consent shall be null and void).

(b) Amendments. No provision of this Agreement may be amended unless such amendment is approved in writing by each of the Board (or any Person(s) to whom the Board has delegated such authority), the TPG Nominee and the Intel Nominee; provided, that any amendment that materially and adversely affects one or more TRA parties on a materially disproportionate basis relative to other similarly situated TRA parties shall require the consent of a majority (measured by Tax Benefit Payments receivable) of such similarly situated TRA parties so materially disproportionately affected.

(c) Successors. Except as provided in Section 7.6(a), all of the terms and provisions of this Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties hereto and their respective successors, permitted assigns, heirs, executors, administrators and legal representatives. The Corporation shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Corporation would be required to perform if no such succession had taken place.

(d) Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, duty, agreement, or condition.
Section 7.7 **Titles and Subtitles.** The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.8 **Resolution of Disputes.**

(a) Any and all disputes which cannot be settled amicably after good faith negotiations, including any ancillary claims of any party, arising out of, relating to or in connection with the validity, negotiation, execution, interpretation, performance or non-performance of this Agreement (including the validity, scope and enforceability of this arbitration provision) shall be finally settled by arbitration conducted by a single arbitrator in New York, New York in accordance with the then-existing Rules of Arbitration of the International Chamber of Commerce. If the parties to the dispute fail to agree on the selection of an arbitrator within ten (10) calendar days of the receipt of the request for arbitration, the International Chamber of Commerce shall make the appointment. The arbitrator shall be a lawyer and shall conduct the proceedings in the English language. Performance under this Agreement shall continue if reasonably possible during any arbitration proceedings.

(b) Notwithstanding the provisions of paragraph (a) of this Section 7.8, the Corporation, the TPG Nominee or the Intel Nominee may bring an action or special proceeding in any court of competent jurisdiction for the purpose of compelling another party to arbitrate, seeking temporary or preliminary relief in aid of an arbitration hereunder, and/or enforcing an arbitration award and, for the purposes of this paragraph (b), each TRA Party (i) expressly consents to the application of paragraph (c) of this Section 7.8 to any such action or proceeding, (ii) agrees that proof shall not be required that monetary damages for breach of the provisions of this Agreement would be difficult to calculate and that remedies at law would be inadequate, and (iii) irrevocably appoints the Corporation as each TRA Party’s agent for service of process in connection with any such action or proceeding and agrees that service of process upon such agent, who shall promptly advise such TRA Party of any such service of process, shall be deemed in every respect effective service of process upon such TRA Party in any such action or proceeding.

(c) (i) EACH TRA PARTY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF COURTS LOCATED IN NEW YORK, NEW YORK FOR THE PURPOSE OF ANY JUDICIAL PROCEEDING BROUGHT IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SECTION 7.8, OR ANY JUDICIAL PROCEEDING ANCILLARY TO AN ARBITRATION OR CONTEMPLATED ARBITRATION ARISING OUT OF OR RELATING TO OR CONCERNING THIS AGREEMENT. Such ancillary judicial proceedings include any suit, action or proceeding to compel arbitration, to obtain temporary or preliminary judicial relief in aid of arbitration, or to confirm an arbitration award. The parties acknowledge that the forum designated by this paragraph (c) has a reasonable relation to this Agreement, and to the parties’ relationship with one another.

(ii) The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter may have to personal jurisdiction or to the laying of venue of any such ancillary suit, action or proceeding brought in any court referred to in paragraph (c) (i) of this Section 7.8 and such parties agree not to plead or claim the same.
Section 7.9  **Reconciliation.** In the event that the Corporation, the Intel Nominee and the TPG Nominee are unable to resolve a disagreement with respect to a Schedule (a “Reconciliation Dispute”), the Reconciliation Dispute shall be submitted for determination to a nationally recognized expert (the “Expert”) in the particular area of disagreement mutually acceptable to such parties. The Expert shall be a partner or principal in a nationally recognized accounting firm. If the Corporation, the Intel Nominee, and the TPG Nominee are unable to agree on an Expert within fifteen (15) calendar days of receipt by the respondent(s) of written notice of a Reconciliation Dispute, the selection of an Expert shall be treated as a Dispute subject to Section 7.8 and an arbitration panel shall pick an Expert. The Expert shall resolve any matter relating to a Schedule or an amendment thereto as soon as reasonably practicable and in any event within thirty (30) calendar days after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid on the date prescribed by this Agreement and such Tax Return may be filed as prepared by the Corporation, subject to adjustment or amendment upon resolution. The costs and expenses relating to the engagement of such Expert or amending any Tax Return shall be borne by the Corporation except as provided in the next sentence. The Corporation, the Intel Nominee and the TPG Nominee shall bear their own costs and expenses of such proceeding, unless (i) the Expert entirely adopts the position of the Intel Nominee and/or the TPG Nominee, in which case the Corporation shall reimburse the Intel Nominee and/or TPG Nominee (as applicable) for any reasonable and documented out-of-pocket costs and expenses in such proceeding, or (ii) the Expert entirely adopts the Corporation’s position, in which case Tax Benefit Payments to the TRA Parties that would have received increased Tax Benefit Payments if the position of the Intel Nominee and/or the TPG Nominee had been adopted shall be reduced proportionately in the aggregate by any reasonable and documented out-of-pocket costs and expenses in such proceeding. The Expert shall finally determine any Reconciliation Dispute and the determinations of the Expert pursuant to this Section 7.9 shall be binding on the Corporation and the TRA Parties and may be entered and enforced in any court having competent jurisdiction.

Section 7.10  **Waiver of Jury Trial.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER OR RELATE TO THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE BREACH OR VALIDITY OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.10.
Section 7.11 Withholding. The Corporation and its affiliates and representatives shall be entitled to deduct and withhold from any payment that is payable to any TRA Party pursuant to this Agreement such amounts as are required to be deducted or withheld with respect to the making of such payment in accordance with the Code or any provision of U.S. state, local or foreign tax law (including for this purpose any withholding required by the Corporation or its affiliates that may be required in connection with the Reorganization, a Redemption or a Direct Exchange or other Exchange). To the extent that amounts are so deducted or withheld and paid over to the appropriate Taxing Authority, such amounts shall be treated for all purposes of this Agreement as having been paid by the Corporation to the relevant TRA Party. The Corporation shall provide evidence of such payment to each TRA Party in respect of which such deduction or withholding is required, to the extent that such evidence is available. Each TRA Party shall promptly provide the Corporation with any applicable tax forms and certifications reasonably requested by the Corporation in connection with determining whether any such deductions and withholdings are required under the Code or any provision of U.S. state, local or foreign tax law, including under Sections 1441, 1442, 1445 or 1446 of the Code. The Corporation will consider in good faith any applicable certificates, forms or documentation provided by a TRA Party that in such TRA Party’s reasonable determination reduce or eliminate any such withholding. Provided that the GIC TRA Party remains eligible for benefits under Section 892 of the Code and the Treasury Regulations promulgated thereunder and provides an effective and properly executed Internal Revenue Service Form W-8EXP claiming exemption from U.S. federal income tax under Section 892 of the Code, the Corporation and its affiliates and representatives shall not withhold U.S. federal tax on any amounts payable to the GIC TRA Party hereunder unless such withholding is otherwise required by applicable law.

Section 7.12 Coordination Among TPG TRA Parties and Thoma TRA Parties. Notwithstanding anything herein to the contrary, to the extent that the Thoma TRA Parties are otherwise entitled to receive information relating solely to the Thoma TRA Parties (including pursuant to Section 2.1, Section 2.2, Section 2.3, and Section 4.2), the Thoma TRA Parties shall also be entitled to receive, and the Corporation and the TPG TRA Parties shall deliver to the Thoma TRA Parties, the corresponding applicable information relating to the TPG TRA Parties. The TPG TRA Parties shall consider in good faith any comments provided by the Thoma TRA Parties with respect to any information received by the Thoma TRA Parties hereunder. In the event of any adjustment, amendment or other revision to an Attribute Schedule, a Tax Benefit Schedule, Amended Schedule or the Early Termination Schedule in favor of the TPG TRA Parties, the methodologies and determinations giving rise to such adjustment, amendment or other revision shall apply mutatis mutandis to the Thoma TRA Parties to the extent applicable.

Section 7.13 Affiliated Group; Transfers of Corporate Assets.

(a) The parties acknowledge that each of the Corporation and each Blocker Entity is a member of the Corporate Group and that the provisions of this Agreement shall be applied with respect to the Corporate Group (and any other affiliated or consolidated Tax group of which the Corporation becomes a part), and that Tax Benefit Payments, Early Termination Payments, and other applicable items hereunder shall be computed with reference to the consolidated taxable income of the group as a whole. No later than five (5) days after the IPO Date, except with the consent of the Intel Nominee and the TPG Nominee, the Corporation will cause the Corporate Subsidiaries to join the affiliated group of which the Corporation is the parent and thus join the Corporate Group by contributing 100% of the equity of Manta Holdings, LLC, which shall at all times from the IPO Date through the time of such contribution own 100% of the equity of the Corporate Subsidiaries, to a newly formed corporation in a transaction described in Revenue Ruling 84-111, Situation 3. Except with the consent of the TPG Nominee and the Intel Nominee, and subject to the terms of the preceding sentence, (i) the Corporation shall hold its Units directly or indirectly through a member of the Corporate Group at all times, and (ii) the LLC shall at no time hold, directly or indirectly, in the aggregate more than 0.2% of the outstanding equity of Finance LLC (or any successor thereof) through one or more entities treated as corporations for U.S. federal income tax purposes that are not members of the Corporate Group.
(b) If the Corporation, its successors in interest, any member of a group described in Section 7.13(a), any LLC, or any entity treated as a partnership or disregarded entity for U.S. federal income tax purposes in which any of the foregoing holds a direct or indirect interest, transfers (or is deemed to transfer) one or more assets to a corporation (or a Person classified as a corporation for U.S. income tax purposes) with which the Corporation does not file a consolidated Tax Return for U.S. federal income Tax purposes (or if any entity that holds Reference Assets transfers any Reference Asset to a corporation (or a Person classified as a corporation for U.S. federal income tax purposes) with which the Corporation does not file a consolidated Tax Return for U.S. federal income Tax purposes), such entity, for purposes of calculating the amount of any Tax Benefit Payment or Early Termination Payment due hereunder, shall be treated as having disposed of such asset (or Reference Asset) in a fully taxable transaction on the date of such transfer. The consideration deemed to be received by such entity shall be equal to the fair market value of the transferred asset, which for these purposes shall be deemed to include (i) the amount of debt to which such asset is subject, in the case of a transfer of an encumbered asset, or (ii) the amount of debt allocated to such asset, in the case of a transfer of a partnership interest. For purposes of this Section 7.13, a transfer of a partnership interest or an interest in a disregarded entity shall be treated as a transfer of the transferring partner’s share of each of the assets and liabilities of that partnership or disregarded entity. If any member of a group described in Section 7.13(a) that directly or indirectly owns any equity interests in the LLCs deconsolidates for federal income tax purposes from that group (or the Corporation deconsolidates for federal income tax purposes from that group), then, except as otherwise agreed by each of the TPG Nominee and the Intel Nominee, such deconsolidated members of the group shall be treated prior to deconsolidation as having disposed of their assets directly or indirectly held (including their directly or indirectly held equity of the LLCs) in a fully taxable transaction for consideration calculated in a manner consistent with the provisions of the preceding sentences. Except for transfers covered by the preceding sentences of Section 7.13(b) of this Agreement or that constitute a Change in Control, if any Blocker Entity, any Corporate Subsidiary or the Corporation directly or indirectly transfers (as determined for U.S. federal income tax purposes) Units or equity interests of a member of the Corporate Group (including any transfer which results in a liquidation of one or more of the LLCs for U.S. federal income tax purposes) where such transfer would impact the amounts payable pursuant to this Agreement, the calculation of payments pursuant to this Agreement shall be made as if such transfer did not occur, except as may be otherwise agreed to by the TPG Nominee and the Intel Nominee.

Section 7.14 Confidentiality. Each TRA Party and its assignees acknowledges and agrees that the information of the Corporation and its Affiliates provided pursuant to this Agreement is confidential and, except in the course of performing any duties as necessary for the Corporation and its Affiliates, as required by law or legal process or to enforce the terms of this Agreement, such Person shall keep and retain in the strictest confidence and not disclose to any Person any confidential matters of the Corporation and its Affiliates and successors acquired pursuant to this Agreement. This Section 7.14 shall not apply to (i) any information that has been made publicly available by the Corporation, becomes public knowledge (except as a result of an act of any TRA Party in violation of this Agreement) or is generally known to the business community, (ii) the disclosure of information to the extent necessary for a TRA Party to prosecute or defend claims arising under or relating to this Agreement, (iii) the disclosure of information to the extent necessary for a TRA Party to prepare and file its Tax Returns, to respond to any inquiries regarding the same from any Taxing Authority or to prosecute or defend any action, proceeding or audit by any Taxing Authority with respect to such Tax Returns, (iv) the disclosure on a
confidential basis to limited partners and prospective investors in private equity funds affiliated with the TPG TRA Parties or the Thoma TRA Party of financial and other information of the type typically disclosed to such partners or prospective investors and (v) the disclosure to any potential assignee or transferee of information in connection with an assignment, sale, pledge, alienation or transfer of any interest in this Agreement pursuant to Section 7.6(a) so long as such potential assignee or transferee agrees to be subject to the provisions of this Section 7.14. Notwithstanding anything to the contrary herein, any TRA Party and each of its assignees (and each employee, representative or other agent of such TRA Party or its assignees, as applicable) may disclose at their discretion to any and all Persons, without limitation of any kind, the tax treatment and tax structure of, and tax strategies relating to, the Corporate Group, the LLCs, and their direct and indirect Subsidiaries, such TRA Party and any of their transactions (including without limitation the Reorganization, the IPO, the Exchanges to which such TRA Party is party and this Agreement), and all materials of any kind (including tax opinions or other tax analyses) that are provided to such TRA Party relating to such tax treatment, tax structure or tax strategies. If a TRA Party or an assignee commits a breach, or threatens to commit a breach, of any of the provisions of this Section 7.14, the Corporation shall have the right and remedy to have the provisions of this Section 7.14 specifically enforced by injunctive relief or otherwise by any court of competent jurisdiction without the need to post any bond or other security, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to the Corporation or any of its Subsidiaries and that money damages alone shall not provide an adequate remedy to such Persons. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies available at law or in equity.

Section 7.15 Change in Law. Notwithstanding anything herein to the contrary, if, as a result of or, in connection with an actual or proposed change in Tax law, an Exchange TRA Party reasonably believes that the existence of this Agreement could have material adverse tax consequences to such Exchange TRA Party or any direct or indirect owner of such Exchange TRA Party, then at the written election of such Exchange TRA Party in its sole discretion (in an instrument signed by such Exchange TRA Party and delivered to the Corporation) and to the extent specified therein by such Exchange TRA Party, this Agreement shall cease to have further effect and shall not apply to an Exchange with respect to such Exchange TRA Party occurring after a date specified by such Exchange TRA Party.

Section 7.16 Interest Rate Limitation. Notwithstanding anything to the contrary contained herein, the interest paid or agreed to be paid hereunder with respect to amounts due to any TRA Party hereunder shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "Maximum Rate"). If any TRA Party shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the Tax Benefit Payment, Advance Payment or Early Termination Payment, as applicable (but in each case exclusive of any component thereof comprising interest) or, if it exceeds such unpaid non-interest amount, refunded to the Corporation. In determining whether the interest contracted for, charged, or received by any TRA Party exceeds the Maximum Rate, such TRA Party 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 payment obligations owed by the Corporation to such TRA Party.
hereunder. Notwithstanding the foregoing, it is the intention of the Parties to conform strictly to any applicable usury laws. If at any time the Corporation determines that LIBOR will no longer generally be used for determining interest rates for leveraged syndicated loans in the United States from and after a specific date, the Corporation and the TPG Nominee and the Intel Nominee shall endeavor to establish an alternative rate of interest to LIBOR that gives due consideration to the then prevailing market convention for determining a rate of interest for leveraged syndicated loans in the United States at such time and references to LIBOR herein shall thereafter be deemed to refer to such agreed rate; provided, that at no time shall such agreed rate be less than 0%.

Section 7.17 Independent Nature of Rights and Obligations.

(a) The rights and obligations of the each TRA Party hereunder are several and not joint with the rights and obligations of any other Person. A TRA Party shall not be responsible in any way for the performance of the obligations of any other Person hereunder, nor shall a TRA Party have the right to enforce the rights or obligations of any other Person hereunder (other than the Corporation). Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any TRA Party pursuant hereto or thereto, shall be deemed to constitute the TRA Parties acting as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the TRA Parties are in any way acting in concert or as a group with respect to such rights or obligations or the transactions contemplated hereby, and the Corporation acknowledges that the TRA Parties are not acting in concert or as a group and will not assert any such claim with respect to such rights or obligations or the transactions contemplated hereby.

(b) Except as otherwise explicitly provided in this Agreement, (i) the actions of the Intel Nominee pursuant to and in accordance with this Agreement shall be binding only with respect to the Intel TRA Parties and not with respect to the TPG Nominee or any other TRA Parties, (ii) the actions of the TPG Nominee pursuant to and in accordance with this Agreement shall be binding on all TPG TRA Parties and not with respect to the Intel Nominee or any other TRA Parties, and (iii) the actions of the Intel Nominee and TPG Nominee acting jointly shall be binding on all TRA Parties. To the fullest extent permitted by law, none of the TPG Nominee, the TPG TRA Parties, the Intel Nominee, the Intel TRA Parties or any other TRA Parties shall owe any duties (fiduciary or otherwise) to any other TRA Party or any other Person in determining to take or refrain from taking any action or decision under or in connection with this Agreement, including in connection with the actions and decisions contemplated by subclause (f) of the definition of “Change of Control”, Section 2.3, Section 7.6(b), Section 7.8 and Section 7.9. For purposes of this Agreement, including in connection with the actions and decisions contemplated by subclause (f) of the definition of “Change of Control”, Section 2.3, Section 7.6(b), Section 7.8 and Section 7.9, the TRA Parties acknowledge that, in taking or omitting to take any action or decision hereunder, the TPG Nominee, each TPG TRA Party, the Intel Nominee, each Intel TRA Party and each other TRA Party shall be permitted to take into consideration solely its own interests and shall have no duty or obligation to give any consideration to any interest of or factors affecting any other TRA Party or any other Person.

Section 7.18 Tax Characterization and Elections. The parties intend that (A) each Exchange shall give rise to Basis Adjustments, (B) payments pursuant to this Agreement with respect to an Exchange (except with respect to amounts that constitute Imputed Interest) shall be
treated as consideration in respect of such Exchange that give rise to additional Basis Adjustments, and (C) the rights received pursuant to this Agreement by the Reorganization TRA Parties and Exchange TRA Parties and (without duplication) Tax Benefit Payments (excluding any amount that constitutes Imputed Interest thereon) made in respect of a Pre-IPO Covered Tax Asset will be treated as other property or money described in Section 351(b) of the Code received in the Reorganization (and any Tax Benefit Payment (excluding any amount that constitutes Imputed Interest thereon) described in this clause (C) that the Corporation reasonably determines is attributable to the direct transfer of equity interests in TPG VII Manta AIV II, LLC or TPG VII Manta Blocker Co-Invest II, LLC to McAfee Holdings Subsidiary, Inc. by a person other than the Corporation will be treated as an adjustment to the purchase price with respect to such transfer), and the parties will not take any position on a tax return, audit, examination or other proceeding inconsistent with any of the intended tax treatment described in this Section 7.18 except upon an applicable contrary final Determination. The Corporation will ensure that, on and after the date hereof and continuing through the term of this Agreement, the LLC and each of its direct and indirect subsidiaries that they control and that is treated as a partnership for U.S. federal income tax purposes will have in effect an election under Section 754 of the Code.

[Signature Page Follows This Page]
IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

CORPORATION:

MCAFEE CORP.

By: ________________________________
Name: ______________________________
Title: ______________________________

1
By: 
Name: 
Title:
TPG VII MANTA HOLDINGS II, LP

By: ____________________________

Name: __________________________

Title: ____________________________
By: 
Name: 
Title: 
THOMA BRAVO FUND XII AIV, L.P.

By: 
Name: 
Title: 
THOMA BRAVO EXECUTIVE FUND XII AIV, L.P.

By: 
Name: 
Title: 

By: ________________________________
Name: ________________________________
Title: ________________________________
[ADDITIONAL SIGNATURE PAGES TO BE ADDED]
REGISTRATION RIGHTS AGREEMENT

BY AND AMONG

MCAFEE CORP.

AND

THE STOCKHOLDERS PARTY HERETO

DATED AS OF [•], 2020
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This REGISTRATION RIGHTS AGREEMENT (as it may be amended from time to time in accordance with the terms hereof, the “Agreement”), dated as of [•], 2020 is made by and among:

A. McAfee Corp., a Delaware corporation (the “Company”);
B. Intel Americas, Inc., a Delaware corporation (“Intel” and, collectively with its Permitted Transferees that are Affiliates, the “Intel Investor”);
C. TPG VII Manta Blocker Co-Invest II, L.P., a Delaware limited partnership (“TPG Blocker Co-Invest”), TPG VII Manta BDH II, L.P., a Delaware limited partnership (“TPG BDH”), TPG VII Manta AIV Co-Invest, L.P., a Delaware limited partnership (“TPG AIV Co-Invest”), TPG VII Manta Holdings II, L.P., a Delaware limited partnership (“TPG Holdings” and, collectively with TPG Blocker Co-Invest, TPG BDH, TPG AIV Co-Invest and each of their respective Permitted Transferees that are Affiliates, “TPG” or the “TPG Investor”);
D. Thoma Bravo Fund XII-A, L.P., a Delaware limited partnership (“TB Fund XII-A”), Thoma Bravo Fund XII, L.P., a Delaware limited partnership (“TB Fund XII”) and Thoma Bravo, LLC, a Delaware limited liability company (“TB GP” and, collectively with TB Fund XII-A, TB Fund XII and each of their respective Permitted Transferees that are Affiliates, “TB” or the “TB Investor”);
E. Snowlake Investment Pte Ltd. (“Snowlake” and, together with its Permitted Transferees that are Affiliates, “GIC”);
F. Peter Leav (“CEO”); and

G. such other Persons, if any, that from time to time become party hereto as holders of Registrable Securities pursuant to Section 4.4 in their capacity as Permitted Transferees.

For purposes of this Agreement, each of the Intel Investor and the TPG Investor is a “Principal Investor” and each Principal Investor and each of the TB Investor, GIC and CEO is a “Holder” for so long as it holds Registrable Securities.

RECITALS

WHEREAS, the Company has effected a series of reorganization transactions (the “Reorganization Transactions”) in connection with an initial public offering (the “IPO”) of shares of the Company’s Class A common stock, par value $0.001 per share (the “Class A Common Stock”);

WHEREAS, after giving effect to the Reorganization Transactions, the Holders own (i) shares of Class A Common Stock and (ii) Class A Common Units in Foundation Technology Worldwide LLC (“LLC Units”) that, together with shares of the Company’s Class B common stock, par value $0.001 per share (the “Class B Common Stock” and, together with the Class A Common Stock, the “Common Stock”), subject to certain restrictions, are exchangeable from time to time at the option of the holder thereof for shares of the Company’s Class A Common Stock, pursuant to the terms of the Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC (the “LLC Agreement”);
WHEREAS, on the date hereof, the Company has priced the IPO pursuant to an Underwriting Agreement dated as of the date hereof (the “Underwriting Agreement”); and

WHEREAS, the parties believe that it is in the best interests of the Company and the other parties hereto to set forth their agreements regarding registration rights and certain other matters following the closing of the IPO.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and agreements of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

EFFECTIVENESS

Section 1.1 Effectiveness. This Agreement shall become effective upon the Closing.

ARTICLE II

DEFINITIONS

Section 2.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Adverse Disclosure” means public disclosure of material non-public information that, in the good faith judgment of the Board of Directors of the Company: (i) would be required to be made in any Registration Statement filed with the SEC by the Company so that such Registration Statement, from and after its effective date, does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) would not be required to be made at such time but for the filing, effectiveness or continued use of such Registration Statement; and (iii) the Company has a bona fide business purpose for not disclosing publicly.

“Affiliate” means, with respect to any specified Person, (a) any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with such specified Person or (b) in the event that the specified Person is a natural Person, a Member of the Immediate Family of such Person; provided that the Company and each Subsidiary of the Company shall be deemed not to be an Affiliate of any of the Intel Investor, the TPG Investor or the TB Investor. “Affiliated” and “Affiliation” shall have correlative meanings. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agreement” shall have the meaning set forth in the Preamble.
“Block Trade Offering” means any bought deal or block sale to a financial institution conducted as an underwritten Public Offering.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in the City of New York.

“Class A Common Stock” shall have the meaning set forth in the Recitals.

“Class B Common Stock” shall have the meaning set forth in the Recitals.

“Closing” shall mean the closing of the IPO.

“Common Stock” shall have the meaning set forth in the Recitals.

“Coordination Agreement” means that certain Coordination Agreement, dated [•], 2020, by and among Intel, TPG, TB and GIC.

“Demand Notice” shall have the meaning set forth in Section 3.1.3.

“Demand Registration” shall have the meaning set forth in Section 3.1.1(a).

“Demand Registration” shall have the meaning set forth in Section 3.1.1(a).

“Demand Registration Statement” shall have the meaning set forth in Section 3.1.1(c).

“Demand Suspension” shall have the meaning set forth in Section 3.1.6.

“Demanding Holder” means any of the Intel Investor, the TPG Investor or the TB Investor that exercises a right to request a Demand Registration pursuant to Section 3.1.

“Effective Date” means the date of the Closing.

“Exchange” means the exchange of LLC Units together with shares of Class B Common Stock for shares of Class A Common Stock pursuant to the LLC Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor thereto, and any rules and regulations promulgated thereunder, as the same shall be in effect from time to time.

“Excluded Registration” means (i) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, or similar plan on Form S-8 or its successor approved by the Board of Directors of the Company or (ii) a registration statement on Form S-4 or its successor.

“FINRA” means the Financial Industry Regulatory Authority.

“Holder” shall have the meaning set forth in the Preamble.

“Intel” shall have the meaning set forth in the Preamble.

“IPO” shall have the meaning set forth in the Recitals.
“Issuer Free Writing Prospectus” means an issuer free writing prospectus, as defined in Rule 433 under the Securities Act, relating to an offer of the Registrable Securities.

“Issuer Shares” means the shares of Common Stock or other equity securities of the Company, and any securities into which such shares of Common Stock or other equity securities shall have been changed or any securities resulting from any reclassification or recapitalization of such shares of Common Stock or other equity securities.

“LLC Agreement” shall have the meaning set forth in the Recitals.

“LLC Units” shall have the meaning set forth in the Recitals.

“Loss” shall have the meaning set forth in Section 3.9.1.

“Member of the Immediate Family” means, with respect to an individual, (a) each parent, spouse (but not including a former spouse or a spouse from whom such individual is legally separated) or child (including those adopted) of such individual and (b) each trustee, solely in his or her capacity as trustee and so long as such trustee is reasonably satisfactory to the Company, for a trust naming only one or more of the Persons listed in sub-clause (a) as beneficiaries

“Participation Conditions” shall have the meaning set forth in Section 3.2.5(b).

“Permitted Transferee” means with respect to any Holder, any Affiliate of such Holder.

“Person” means any individual, partnership, corporation, company, association, trust, joint venture, limited liability company, unincorporated organization, entity or division, or any government, governmental department or agency or political subdivision thereof.

“Piggyback Notice” shall have the meaning set forth in Section 3.3.1.

“Piggyback Registration” shall have the meaning set forth in Section 3.3.1.

“Potential Takedown Participant” shall have the meaning set forth in Section 3.2.5(b).

“Principal Investor” or “Principal Investors” shall have the meaning set forth in the Preamble.

“Pro Rata Portion” means, with respect to each Holder requesting that its shares be registered or sold in a Public Offering, a number of such shares equal to the aggregate number of Registrable Securities requested to be registered or sold in such Public Offering (excluding any shares to be registered or sold for the account of the Company) multiplied by a fraction, the numerator of which is the aggregate number of Registrable Securities held by such Holder immediately following Closing (after giving effect to any exercise by the underwriters of their option to purchase additional shares as well as the repurchase of Class B Common Stock and LLC Units by the Company, if any, in connection with the closing of the IPO and any exercise of such option to purchase additional shares by the underwriters) and the Reorganization Transactions, and the denominator of which is the aggregate number of Registrable Securities held by all Holders immediately following Closing (after giving effect to any exercise by the underwriters of their option to purchase additional shares as well as the repurchase of Class B Common Stock and LLC Units by the Company, if any, in connection with the closing of the IPO and any exercise of such option to purchase additional shares by the underwriters) and the Reorganization Transactions.

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"Prospectus" means (i) the prospectus included in any Registration Statement, all amendments and supplements to such prospectus, including post-effective amendments and supplements, and all other material incorporated by reference in such prospectus, and (ii) any Issuer Free Writing Prospectus.

"Public Offering" means the offer and sale of Registrable Securities for cash pursuant to an effective Registration Statement under the Securities Act (other than a Registration Statement on Form S-4 or Form S-8 or any successor form).

"Registrable Securities" means (i) all shares of Class A Common Stock, and any securities into which such Class A Common Stock shall have been changed, that are not then subject to vesting or forfeiture to the Company, (ii) all shares of Class A Common Stock issuable upon exercise, conversion or exchange of any option, warrant or convertible or other security not then subject to vesting or forfeiture to the Company (including shares of Class A Common Stock issuable upon exchange) and (iii) all shares of Class A Common Stock directly or indirectly issued or issuable with respect to the securities referred to in clauses (i) or (ii) above by way of unit or stock dividend or unit or stock split, or in connection with a combination of units or shares, reclassification, recapitalization, merger, consolidation or other reorganization. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (w) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been disposed of in accordance with such Registration Statement, (x) such securities shall have been Transferred pursuant to Rule 144, (y) the holder is able to immediately sell such securities (including all shares of Class A Common Stock issuable upon Exchange) under Rule 144 without any restrictions on transfer (including without application of paragraphs (c), (d), (e), (f) and (h) of Rule 144), as determined in the reasonable judgment of the Holder (it being understood that a written opinion of the Company’s outside legal counsel to the effect that such securities may be so sold shall be conclusive evidence this clause has been satisfied), or (z) such securities shall have ceased to be outstanding. Notwithstanding the foregoing, any such shares held by or issuable to a party to the Coordination Agreement shall not cease to be Registrable Securities prior to the time at which the Coordination Agreement or Stockholders Agreement has terminated with regard to such Holder or the Holder of such Registrable Securities is otherwise permitted to withdraw in accordance with its terms (in the forms delivered to the Company and in effect as of the date hereof).

"Registration" means registration under the Securities Act of the offer and sale to the public of any Issuer Shares under a Registration Statement. The terms “register,” “registered” and “registering” shall have correlative meanings.

"Registration Expenses" shall have the meaning set forth in Section 3.8.

"Registration Statement" means any registration statement of the Company filed with, or to be filed with, the SEC under the Securities Act, including the related Prospectus, amendments and supplements to such registration statement, including pre- and post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement other than a registration statement (and related Prospectus) filed on Form S-4 or Form S-8 or any successor form thereto.

"Reorganization Transactions" shall have the meaning set forth in the Recitals.
“Representatives” means, with respect to any Person, any of such Person’s officers, directors, employees, agents, attorneys, accountants, actuaries, consultants, equity financing partners or financial advisors or other Person associated with, or acting on behalf of, such Person.

“Requisite Investor Approval” means the approval of (a) each of the Principal Investors that then holds Registrable Securities and (b) to the extent only one Principal Investor holds Registrable Securities, such Principal Investor; provided that, for purposes of this definition, a Principal Investor shall be deemed to have approved an action to the extent that such Principal Investor or its Affiliates holding a majority of the Issuer Shares held by such Principal Investor and its Affiliates in the aggregate vote in favor of, or provide their written consent to, such action.

“Rule 144” means Rule 144 under the Securities Act (or any successor rule).

“SEC” means the Securities and Exchange Commission or any successor agency having jurisdiction under the Securities Act.

“Securities Act” means the Securities Act of 1933, as amended, and any successor thereto, and any rules and regulations promulgated thereunder, all as the same shall be in effect from time to time.

“Selling Stockholder Information” shall have the meaning set forth in Section 3.9.1.

“Shelf Period” shall have the meaning set forth in Section 3.2.3.

“Shelf Registration” shall have the meaning set forth in Section 3.2.1(a).

“Shelf Registration Notice” shall have the meaning set forth in Section 3.2.2.

“Shelf Registration Request” shall have the meaning set forth in Section 3.2.1(a).

“Shelf Registration Statement” shall have the meaning set forth in Section 3.2.1(a).

“Shelf Suspension” shall have the meaning set forth in Section 3.2.4.

“Shelf Takedown Notice” shall have the meaning set forth in Section 3.2.5(b).

“Shelf Takedown Request” shall have the meaning set forth in Section 3.2.5(a).

“Stockholders Agreement” means the Stockholders Agreement, dated as of [•], 2020, made by and among the Company, Intel, TPG, TB, GIC and such other Persons who from time to time become party thereto, as amended from time to time.

“TPG” shall have the meaning set forth in the Preamble.

“TPG Investor” shall have the meaning set forth in the Preamble.
“Transfer” means, with respect to any Registrable Security, any interest therein, or any other securities or equity interests relating thereto, a direct or indirect transfer, sale, exchange, assignment, pledge, hypothecation or other encumbrance or other disposition thereof, including the grant of an option or other right, whether directly or indirectly, whether voluntarily, involuntarily, by operation of law, pursuant to judicial process or otherwise. “Transferred” shall have a correlative meaning.

“Underwritten Public Offering” means an underwritten Public Offering, including any Block Trade Offering.

“Underwritten Shelf Takedown” means an Underwritten Public Offering pursuant to an effective Shelf Registration Statement.

“Underwriting Agreement” shall have the meaning set forth in the Recitals.

“WKSI” means any Securities Act registrant that is a well-known seasoned issuer as defined in Rule 405 under the Securities Act at the most recent eligibility determination date specified in paragraph (2) of that definition.

Section 2.2 Other Interpretive Provisions.

Section 2.2.1 The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(a) The words “hereof,” “herein,” “hereunder” and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and any subsection and section references are to this Agreement unless otherwise specified.

(b) The terms “include” and “including” are not limiting and shall be deemed to be followed by the phrase “without limitation.”

(c) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(d) Whenever the context requires, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.
ARTICLE III
REGISTRATION RIGHTS

The Company will perform and comply, and cause each of its subsidiaries to perform and comply, with each of the following provisions as are applicable to it. Each Holder will perform and comply with each of the following provisions as are applicable to such Holder.

Section 3.1 Demand Registration.

Section 3.1.1 Request for Demand Registration.

(a) Following the Effective Date, each of the Intel Investor, the TPG Investor and the TB Investor shall have the right to make a written request from time to time (a “Demand Registration Request”) to the Company for Registration of all or part of the Registrable Securities held by such Holder. Any such Registration pursuant to a Demand Registration Request shall hereinafter be referred to as a “Demand Registration.” Each such demand shall be required to be in respect of at least $100 million in anticipated aggregate net proceeds from all shares sold pursuant to such registration (including after giving effect to net proceeds expected to be received by any Holder that participates in such offering after delivering written notice pursuant to Section 3.1.3 or otherwise) unless a lesser amount is then held by the participating Holders, in which case such demand may only be made in respect of all Registrable Securities held by such Holders; provided, that a Demand Registration shall not be counted for purposes of the limitation set forth in Section 3.1.2 or Section 3.2.5(c) unless and until the Demand Registration has become effective and the Demanding Holders are able to register and sell at least 75% of the Registrable Securities requested to be included in such registration.

(b) Each Demand Registration Request shall specify (x) the aggregate amount of Registrable Securities to be registered and (y) the intended method or methods of disposition thereof.

(c) Upon receipt of a Demand Registration Request, the Company shall as promptly as practicable file a Registration Statement (a “Demand Registration Statement”) relating to such Demand Registration, and use its commercially reasonable efforts to cause such Demand Registration Statement to be promptly declared effective under the Securities Act.

Section 3.1.2 Limitation on Demand Registrations. The Company shall not be obligated to take any action to effect any Demand Registration (i) if a Demand Registration was declared effective or an Underwritten Shelf Takedown was consummated within the preceding 90 days (unless otherwise consented to by the Board of Directors of the Company) or (ii) in connection with a Demand Registration Request made by the TB Investor if a Demand Registration was declared effective or an Underwritten Shelf Takedown was consummated at the request of the TB Investor within the preceding twelve (12) months.

Section 3.1.3 Demand Notice. Promptly upon receipt of a Demand Registration Request pursuant to Section 3.1.1 (but in no event more than one Business Day thereafter), the Company shall deliver a written notice (a “Demand Notice”) of any such Demand Registration Request to all other Holders and the Demand Notice shall offer each such Holder the opportunity to include in the Demand Registration that number of Registrable Securities as each such Holder may request in writing. Subject to Section 3.1.7, the Company shall include in the Demand Registration all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within five Business Days after the date that the Demand Notice was delivered.

Section 3.1.4 Demand Withdrawal. A Demanding Holder and any other Holder that has requested its Registrable Securities be included in a Demand Registration pursuant to Section 3.1.3 may withdraw all or any portion of its Registrable Securities included in a Demand Registration from such Demand Registration at any time prior to the effectiveness of the applicable Demand Registration and will not be obligated to participate in any Underwritten
Public Offering prior to executing the underwriting agreement relating thereto. Upon receipt of a notice to such effect from a Demanding Holder (or if there is more than one Demanding Holder, from all such Demanding Holders) with respect to all of the Registrable Securities included by such Demanding Holder(s) in such Demand Registration, the Company shall cease all efforts to secure effectiveness of the applicable Demand Registration Statement; provided that, for the avoidance of doubt, in the event of a request for a Demand Registration by more than one Demanding Holder, the Company shall continue all efforts to secure effectiveness of the applicable Demand Registration Statement with respect to the Registrable Securities requested to be included by each of the Holders that has not withdrawn its Registrable Securities. Notwithstanding any withdrawal by a Demanding Holder of Registrable Securities from a Demand Registration pursuant to this Section 3.1.4, the Demand Registration with respect to which the withdrawal was made shall be counted for purposes of the limit on Demand Registration Requests set forth in Section 3.1.2 unless (a) the Demanding Holders reimburse the Company for all expenses incurred in connection with the Demand Registration with respect to which the withdrawal was made, (b) the withdrawal is made as a result of an event that has had a material adverse effect on the business, assets, condition (financial or otherwise) or results of operations of the Company or (c) the withdrawal is made in response to a Demand Suspension pursuant to Section 3.1.6.

Section 3.1.5 Effective Registration. The Company shall use commercially reasonable efforts to cause the Demand Registration Statement to become effective and remain effective for not less than 180 days plus the duration of any suspension period (or such shorter period as will terminate when all Registrable Securities covered by such Demand Registration Statement have been sold or withdrawn), or, if such Demand Registration Statement relates to an Underwritten Public Offering, such longer period as in the opinion of counsel for the underwriter or underwriters a Prospectus is required by law to be delivered in connection with sales of Registrable Securities by an underwriter or dealer.

Section 3.1.6 Delay in Filing; Suspension of Registration. If the filing, initial effectiveness or continued use of a Demand Registration Statement at any time would require the Company to make an Adverse Disclosure, the Company may, upon giving prompt written notice of such action to the Holders, delay the filing or initial effectiveness of, or suspend use of, the Demand Registration Statement (a “Demand Suspension”); provided, however, that the Company shall not be permitted to exercise a Demand Suspension (i) more than once during any 12-month period or (ii) for a period exceeding 60 days. In the case of a Demand Suspension, the Holders agree to suspend use of the applicable Prospectus in connection with any sale or purchase, or offer to sell or purchase, Registrable Securities, upon receipt of the notice referred to above. The Company shall immediately notify the Holders in writing upon (a) the Company’s decision to file or seek effectiveness of such Demand Registration Statement following such Demand Suspension and (b) the effectiveness of such Demand Registration Statement. Notwithstanding the provisions of this Section 3.1.6, the Company may not postpone the filing or effectiveness of, or suspend use of, a Demand Registration Statement past the date upon which the applicable Adverse Disclosure is disclosed to the public or ceases to be material. During a Demand Suspension, the Company shall be prohibited from filing a registration statement for its own account or for the account of any other Holder or holder of its securities and, upon termination of any Demand Suspension, the Company shall promptly amend or supplement the Prospectus, if necessary, so it does not contain any untrue statement or omission.
and furnish to the Holders such numbers of copies of the Prospectus as so amended or supplemented as the Holders may reasonably request. The Company shall, if necessary, supplement or amend the Demand Registration Statement, if required by the registration form used by the Company for the Demand Registration or by the instructions applicable to such registration form or by the Securities Act or the rules or regulations promulgated thereunder or as may reasonably be requested by any of the Intel Investor, the TPG Investor or the TB Investor that is participating in such Demand Registration.

Section 3.1.7 Priority of Securities Registered Pursuant to Demand Registrations. If the managing underwriter or underwriters of a proposed Underwritten Public Offering of the Registrable Securities included in a Demand Registration advise the Company in writing that, in its or their opinion, the number of securities requested to be included in such Demand Registration exceeds the number that can be sold in such offering without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, then the securities to be included in such Registration shall be in the case of any Demand Registration (x) first, allocated to each Holder that has requested to participate in such Demand Registration an amount equal to the lesser of (i) the number of such Registrable Securities requested to be registered or sold by such Holder, and (ii) a number of such shares equal to such Holder’s Pro Rata Portion, provided that with respect to GIC, if (A) the number of Registrable Securities requested to be registered by GIC exceeds GIC’s Pro Rata Portion and (B) the number of Registrable Securities requested to be registered by the TPG Investor is less than the TPG Investor’s Pro Rata Portion, then with the consent of the TPG Investor (not to be unreasonably withheld), GIC shall be allocated an additional number of securities equal to the lesser of the excess described in the preceding clause (A) and the excess described in the preceding clause (B), and (y) second, and only if all the securities referred to in clause (x) have been included, the number of other securities that, in the opinion of such managing underwriter or underwriters can be sold without having such adverse effect (with such number to be allocated pro rata among the remaining requesting Holders that have requested to participate in such Demand Registration in a like manner).

Section 3.2 Shelf Registration.

Section 3.2.1 Request for Shelf Registration.

(a) Upon the written request of any of the Intel Investor, the TPG Investor or the TB Investor from time to time following the date on which the Company becomes eligible to use Form S-3 or any similar short-form registration statement (a “Shelf Registration Request”), the Company shall promptly file with the SEC a shelf Registration Statement pursuant to Rule 415 under the Securities Act (“Shelf Registration Statement”) relating to the offer and sale of Registrable Securities by any Holders thereof from time to time in accordance with the methods of distribution elected by such Holders and the Company shall use its commercially reasonable to cause such Shelf Registration Statement to promptly become effective under the Securities Act. Any such Registration pursuant to a Shelf Registration Request shall hereinafter be referred to as a “Shelf Registration.”
(b) If on the date of the Shelf Registration Request the Company is a WKSI, then the Shelf Registration Request may request Registration of an unspecified amount of Registrable Securities to be sold by unspecified Holders. If on the date of the Shelf Registration Request the Company is not a WKSI, then the Shelf Registration Request shall specify the aggregate amount of Registrable Securities to be registered. The Company shall provide to the Intel Investor, the TPG Investor and the TB Investor the information necessary to determine the Company's status as a WKSI upon request.

Section 3.2.2 Shelf Registration Notice. Promptly upon receipt of a Shelf Registration Request (but in no event more than one Business Day thereafter), the Company shall deliver a written notice (a “Shelf Registration Notice”) of any such request to all other Holders, which notice shall specify, if applicable, the amount of Registrable Securities to be registered, and the Shelf Registration Notice shall offer each such Holder the opportunity to include in the Shelf Registration that number of Registrable Securities as each such Holder may request in writing. Subject to Section 3.2.6, the Company shall include in such Shelf Registration all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within five Business Days (or within one Business Day in the case of a Block Trade Offering) after the date that the Shelf Registration Notice has been delivered to such Holder.

Section 3.2.3 Continued Effectiveness. The Company shall use its commercially reasonable efforts to keep such Shelf Registration Statement continuously effective under the Securities Act in order to permit the Prospectus forming part of the Shelf Registration Statement to be usable by Holders until the earlier of: (i) the date as of which all Registrable Securities have been sold pursuant to the Shelf Registration Statement or another Registration Statement filed under the Securities Act (but in no event prior to the applicable period referred to in Section 4(a)(3) of the Securities Act and Rule 174 thereunder); and (ii) the date as of which no Holder holds Registrable Securities (such period of effectiveness, the “Shelf Period”).

Section 3.2.4 Suspension of Registration. If the continued use of such Shelf Registration Statement at any time would require the Company to make an Adverse Disclosure, the Company may, upon giving prompt written notice of such action to the Holders, suspend use of the Shelf Registration Statement (a “Shelf Suspension”); provided, however, that the Company shall not be permitted to exercise a Shelf Suspension (i) more than one time during any 12-month period, or (ii) for a period exceeding 60 days. In the case of a Shelf Suspension, the Holders agree to suspend use of the applicable Prospectus in connection with any sale or purchase of, or offer to sell or purchase, Registrable Securities, upon receipt of the notice referred to above. The Company shall immediately notify the Holders in writing upon the termination of any Shelf Suspension, and upon such termination, promptly amend or supplement the Prospectus, if necessary, so it does not contain any untrue statement or omission and furnish to the Holders such numbers of copies of the Prospectus as so amended or supplemented as the Holders may reasonably request. The Company shall, if necessary, supplement or amend the Shelf Registration Statement, if required by the registration form used by the Company for the Shelf Registration Statement or by the instructions applicable to such registration form or by the Securities Act or the rules or regulations promulgated thereunder or as may reasonably be requested by the Holders of a majority of Registrable Securities that are included in such Shelf Registration Statement.
Section 3.2.5 Shelf Takedown.

(a) At any time during which the Company has an effective Shelf Registration Statement with respect to Registrable Securities held by the Intel Investor, the TPG Investor or the TB Investor, by notice to the Company specifying the intended method or methods of disposition thereof, such Holder may make a written request (a “Shelf Takedown Request”) to the Company to effect a Public Offering, including an Underwritten Shelf Takedown, of all or a portion of such Holder’s Registrable Securities that are covered by such Shelf Registration Statement, and as soon as practicable the Company shall amend or supplement the Shelf Registration Statement for such purpose; provided that any Underwritten Shelf Takedown Request shall be required to be in respect of at least $100 million in anticipated net proceeds in the aggregate (including after giving effect to net proceeds expected to be received by any Holder that participates in such offering after delivering a written notice pursuant to Section 3.2.5(b)), unless a lesser amount is then held by the Holders requesting to participate in such offering, in which case such request may only be made in respect of all Registrable Securities held by such Holders.

(b) Promptly upon receipt of a Shelf Takedown Request (but in no event more than one Business Day thereafter) for any Underwritten Shelf Takedown, the Company shall deliver a notice (a “Shelf Takedown Notice”) to each other Holder with Registrable Securities covered by the applicable Registration Statement, or to all other Holders if such Registration Statement is undesignated (each a “Potential Takedown Participant”). The Shelf Takedown Notice shall offer each such Potential Takedown Participant the opportunity to include in any Underwritten Shelf Takedown such number of Registrable Securities as each such Potential Takedown Participant may request in writing. Subject to Section 3.2.6, the Company shall include in the Underwritten Shelf Takedown all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within two Business Days after the date that the Shelf Takedown Notice has been delivered to such Holder (or within one Business Day after the date that the Shelf Takedown Notice has been delivered to such Holder if such notice relates to a Block Trade Offering). Any Potential Takedown Participant’s request to participate in an Underwritten Shelf Takedown shall be binding on the Potential Takedown Participant; provided that each such Potential Takedown Participant that elects to participate may condition its participation on such Underwritten Shelf Takedown being completed within ten (10) Business Days of its acceptance at a price per share (after giving effect to any underwriters’ discounts or commissions) to such Potential Takedown Participant of not less than 90% (or such lesser percentage specified by such Potential Takedown Participant in writing) of the closing price for the shares on their principal trading market on the Business Day immediately prior to such Potential Takedown Participant’s election to participate (the “Participation Conditions”). Notwithstanding the delivery of any Shelf Takedown Notice, but subject to the Participation Conditions in any Block Trade Offering, all determinations as to whether to complete any Underwritten Shelf Takedown and as to the timing, manner, price, size and other terms of any Underwritten Shelf Takedown contemplated by this Section 3.2.5 shall be determined by the Intel Investor, the TPG Investor and the TB Investor, so long as each such Holder is participating in such Underwritten Shelf Takedown.
Section 3.2.6 Priority of Securities Sold Pursuant to Shelf Takedowns. If the managing underwriter or underwriters of a proposed Underwritten Shelf Takedown pursuant to Section 3.2.5 advise the Company in writing that, in its or their opinion, the number of securities requested to be included in the proposed Underwritten Shelf Takedown exceeds the number that can be sold in such Underwritten Shelf Takedown without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the number of Registrable Securities to be included in such offering shall be (x) first, allocated to each Holder that has requested to participate in such Underwritten Shelf Takedown an amount equal to the lesser of (i) the number of such Registrable Securities requested to be registered or sold by such Holder, and (ii) a number of such shares equal to such Holder’s Pro Rata Portion, provided that with respect to GIC, if (A) the number of Registrable Securities requested to be registered by GIC exceeds GIC’s Pro Rata Portion and (B) the number of Registrable Securities requested to be registered by the TPG Investor is less than the TPG Investor’s Pro Rata Portion, then with the consent of the TPG Investor (not to be unreasonably withheld), GIC shall be allocated an additional number of securities equal to the lesser of the excess described in the preceding clause (A) and the excess described in the preceding clause (B), and (y) second, and only if all the securities referred to in clause (x) have been included, the number of other securities that, in the opinion of such managing underwriter or underwriters can be sold without having such adverse effect (with such number to be allocated pro rata among the remaining requesting Holders that have requested to participate in such Underwritten Shelf Takedown in a like manner).

Section 3.3 Piggyback Registration.

Section 3.3.1 Participation. If the Company at any time proposes to file a Registration Statement under the Securities Act or to conduct a Public Offering with respect to any offering of its equity securities for its own account or for the account of any other Persons (other than an Excluded Registration or a Registration pursuant to Sections 3.1 or 3.2), then, as soon as practicable (but in no event less than five Business Days prior to the proposed date of filing of such Registration Statement or, in the case of any such Public Offering under a Shelf Registration Statement, the anticipated pricing or trade date), the Company shall give written notice (a “Piggyback Notice”) of such proposed filing or Public Offering to all Holders, and such Piggyback Notice shall offer the Holders the opportunity to register under such Registration Statement, or to sell in such Public Offering, such number of Registrable Securities as each such Holder may request in writing (a “Piggyback Registration”). Subject to Section 3.3.2, the Company shall include in such Registration Statement or in such Public Offering as applicable, all such Registrable Securities that are requested to be included therein within five Business Days after the receipt by such Holder of any such notice; provided, however, that if at any time after giving written notice of its intention to register or sell any securities and prior to the
effective date of the Registration Statement filed in connection with such Registration, or the pricing or trade date of a Public Offering under a Shelf Registration Statement, the Company shall determine for any reason not to register or sell or to delay Registration or the sale of such securities, the Company shall promptly give written notice of such determination to each Holder and, thereupon, (i) in the case of a determination not to register or sell, the Company shall be relieved of its obligation to register or sell any Registrable Securities in connection with such Registration or Public Offering (but not from its obligation to pay the Registration Expenses in connection therewith), without prejudice, however, to the rights of any Holders entitled to request that such Registration or sale be effected as a Demand Registration under Section 3.1 or an Underwritten Shelf Takedown under Section 3.2, as the case may be, and (ii) in the case of a determination to delay Registration or sale, in the absence of a request for a Demand Registration or an Underwritten Shelf Takedown, as the case may be, the Company shall be permitted to delay registering or selling any Registrable Securities, for the same period as the delay in registering or selling such other securities. If the offering pursuant to such Registration Statement or Public Offering is to be an Underwritten Public Offering, then each Holder making a request for a Piggyback Registration pursuant to this Section 3.3.1 shall, and the Company shall, make such arrangements with the managing underwriter or underwriters so that each such Holder may, participate in such underwritten offering. If the offering pursuant to such Registration Statement or Public Offering is to be on any other basis, then each Holder making a request for a Piggyback Registration pursuant to this Section 3.3.1 shall be permitted to, and the Company shall, make such arrangements so that each such Holder may participate in such offering on such basis. Any Holder shall have the right to withdraw all or part of its request for inclusion of its Registrable Securities in a Piggyback Registration by giving written notice to the Company of its request to withdraw; provided that such request must be made in writing prior to the execution of the related underwriting agreement or the effectiveness of the Registration Statement, as applicable.

Section 3.3.2 Priority of Piggyback Registration. If the managing underwriter or underwriters of any proposed offering of Registrable Securities included in a Piggyback Registration informs the Company and the participating Holders in writing that, in its or their opinion, the number of securities that such Holders and any other Persons intend to include in such offering exceeds the number that can be sold in such offering without being likely to have a significant adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, then the securities to be included in such Registration shall be (i) first, 100% of the securities that the Company proposes to sell and (ii) second, and only if all the securities referred to in clause (i) have been included, the number of Registrable Securities that, in the opinion of such managing underwriter or underwriters, can be sold without having such adverse effect, with such number to be allocated among the Holders that have requested to participate in such Registration based on an amount equal to the lesser of (A) the number of such Registrable Securities requested to be sold by such Holder, and (B) a number of such shares equal to such Holder’s Pro Rata Portion, provided that with respect to GIC, if (x) the number of Registrable Securities requested to be registered by GIC exceeds GIC’s Pro Rata Portion and (y) the number of Registrable Securities requested to be registered by the TPG Investor is less than the TPG Investor’s Pro Rata Portion, then with the consent of the TPG Investor (not to be unreasonably withheld), GIC shall be allocated an additional number of securities equal to the less of the excess described in the preceding clause (x) and the excess described in the preceding clause (y), and (iii) third, and only if all of the Registrable Securities referred to in clause (ii) have been included in such Registration, any other securities eligible for inclusion in such Registration.
Section 3.3.3 No Effect on Other Registrations. No Registration of Registrable Securities effected pursuant to a request under this Section 3.3 shall be deemed to have been effected pursuant to Sections 3.1 and 3.2 or shall relieve the Company of its obligations under Sections 3.1 and 3.2.

Section 3.4 Lock-Up Agreements. In connection with each Registration or sale of Registrable Securities pursuant to Section 3.1, 3.2 or 3.3 conducted as an Underwritten Public Offering, if requested by the underwriters for such Underwritten Public Offering and provided that a similar request is made in accordance with Section 3.6.1, each Holder shall enter into a lock-up agreement with such customary terms (which shall be the same terms for all Holders) as are negotiated among the Company, the underwriters and the Principal Investors (or the TB Investor in connection with any such Registration or Underwritten Public Offering demanded by the TB Investor in which neither the Intel Investor nor the TPG Investor participate), provided that in no event will GIC or its Affiliates be required to enter into a lock-up agreement on terms less favorable than the terms agreed to by the TPG Investor pursuant to its lock-up agreement. The Company, the Principal Investors and the TB Investor, as applicable, agree to use commercially reasonable efforts to include in any such agreement a lock-up period beginning no earlier than seven days before, and ending no later than 90 days after, the date of the final prospectus in connection with such Registration or Underwritten Public Offering.

Section 3.5 Registration Procedures.

Section 3.5.1 Requirements. In connection with the Company’s obligations under Sections 3.1, 3.2 and 3.3, the Company shall use its commercially reasonable efforts to effect such Registration and to permit the sale of such Registrable Securities in accordance with the intended method or methods of distribution thereof as expeditiously as reasonably practicable, and in connection therewith the Company shall:

(a) as promptly as is reasonably practicable prepare and file the required Registration Statement, including all exhibits and financial statements required under the Securities Act to be filed therewith and Prospectus, and, before filing a Registration Statement or Prospectus or any amendments or supplements thereto, (x) furnish to the underwriters, if any, and to the Holders of the Registrable Securities covered by such Registration Statement, copies of all documents prepared to be filed, which documents shall be subject to the review of such underwriters and such Holders and their respective counsel, (y) subject to applicable law, make such changes in such documents concerning the Holders prior to the filing thereof as such Holders, or their counsel, may reasonably request and (z) subject to applicable law, except in the case of a Registration under Section 3.3, not file any Registration Statement or Prospectus or amendments or supplements thereto to which any participating Principal Investor (or the TB Investor if there is no participating Principal Investor), or the underwriters, if any, shall reasonably object;
(b) as promptly as is reasonably practicable prepare and file with the SEC such amendments and post-effective amendments to such Registration Statement and supplements to the Prospectus as may be (x) reasonably requested by any Principal Investor (or the TB Investor if there is no participating Principal Investor) with Registrable Securities covered by such Registration Statement, (y) reasonably requested by any participating Holder (to the extent such request relates to information relating to such Holder), or (z) necessary to keep such Registration Statement effective for the period of time required by this Agreement, and comply with provisions of the applicable securities laws with respect to the sale or other disposition of all securities covered by such Registration Statement during such period in accordance with the intended method or methods of disposition by the sellers thereof set forth in such Registration Statement;

(c) notify the participating Holders and the managing underwriter or underwriters, if any, and (if requested) confirm such notice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by the Company (v) when the applicable Registration Statement or any amendment thereto has been filed or becomes effective, and when the applicable Prospectus or any amendment or supplement thereto has been filed, (w) of any written comments by the SEC, or any request by the SEC or other federal or state governmental authority for amendments or supplements to such Registration Statement or such Prospectus, or for additional information (whether before or after the effective date of the Registration Statement) or any other correspondence with the SEC relating to, or which may affect, the Registration, (x) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or any order by the SEC or any other regulatory authority preventing or suspending the use of any preliminary or final Prospectus or the initiation or threatening of any proceedings for such purposes, (y) if, at any time, the representations and warranties of the Company in any applicable underwriting agreement cease to be true and correct in all material respects and (z) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for offering or sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(d) promptly notify each selling Holder and the managing underwriter or underwriters, if any, when the Company becomes aware of the happening of any event as a result of which the applicable Registration Statement or the Prospectus included in such Registration Statement (as then in effect) contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein (in the case of such Prospectus or any preliminary Prospectus, in light of the circumstances under which they were made) not misleading, when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the Registration Statement, or, if for any other reason it shall be necessary during such time period to amend or supplement such Registration Statement or Prospectus in order to comply with the Securities Act and, as promptly as reasonably practicable thereafter, prepare and file with the SEC, and furnish without charge to the selling Holders and the managing underwriter or underwriters, if any, an amendment or supplement to such Registration Statement or Prospectus, which shall correct such misstatement or omission or effect such compliance;
(e) to the extent the Company is eligible under the relevant provisions of Rule 430B under the Securities Act, if the Company files any Shelf Registration Statement, the Company shall include in such Shelf Registration Statement such disclosures as may be required by Rule 430B under the Securities Act (referring to the unnamed selling security holders in a generic manner by identifying the initial offering of the securities to the Holders) in order to ensure that the Holders may be added to such Shelf Registration Statement at a later time through the filing of a Prospectus supplement rather than a post-effective amendment;

(f) use its commercially reasonable efforts to prevent, or obtain the withdrawal of, any stop order or other order or notice preventing or suspending the use of any preliminary or final Prospectus;

(g) promptly incorporate in a Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment such information as the managing underwriter or underwriters and the Holders of a majority of Registrable Securities being sold agree should be included therein relating to the plan of distribution with respect to such Registrable Securities; and make all required filings of such Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment as soon as reasonably practicable after being notified of the matters to be incorporated in such Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment;

(h) furnish to each selling Holder and each underwriter, if any, without charge, as many conformed copies as such Holder or underwriter may reasonably request of the applicable Registration Statement and any amendment or post-effective amendment or supplement thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits (including those incorporated by reference);

(i) deliver to each selling Holder and each underwriter, if any, without charge, as many copies of the applicable Prospectus (including each preliminary Prospectus) and any amendment or supplement thereto and such other documents as such Holder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities by such Holder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities by such Holder or underwriter (it being understood that the Company shall consent to the use of such Prospectus or any amendment or supplement thereto by each of the selling Holders and the underwriters, if any, in connection with the offering and sale of the Registrable Securities covered by such Prospectus or any amendment or supplement thereto);

(j) on or prior to the date on which the applicable Registration Statement becomes effective, use its commercially reasonable efforts to register or qualify, and cooperate with the selling Holders, the managing underwriter or underwriters, if any, and their respective counsel, in connection with the Registration or qualification of such Registrable Securities for offer and sale under the securities or “Blue Sky” laws of each state and other jurisdiction as any such selling Holder or managing underwriter or underwriters, if any, or their respective counsel reasonably request in writing and do any and all other acts or things reasonably necessary or
advisable to keep such Registration or qualification in effect for such period as required by Section 3.1 or Section 3.2, as applicable; provided that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to taxation or general service of process in any such jurisdiction where it is not then so subject;

(k) cooperate with the selling Holders and the managing underwriter or underwriters, if any, to enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriters may request prior to any sale of Registrable Securities to the underwriters;

(l) use its commercially reasonable efforts to cause the Registrable Securities covered by the applicable Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Securities;

(m) not later than the effective date of the applicable Registration Statement, provide a CUSIP number for all Registrable Securities if other than the CUSIP for the publicly traded Class A Common Stock and if one has then been assigned;

(n) make such representations and warranties to the Holders of Registrable Securities being registered, and the underwriters or agents, if any, in form, substance and scope as are customarily made by issuers in public offerings similar to the offering then being undertaken;

(o) enter into such customary agreements (including underwriting and indemnification agreements) and take all such other actions as any participating Principal Investor (or the TB Investor if there is no participating Principal Investor) or the managing underwriter or underwriters, if any, reasonably request in order to expedite or facilitate the Registration and disposition of such Registrable Securities;

(p) obtain for delivery to the underwriter or underwriters, if any, an opinion or opinions from counsel for the Company dated the most recent effective date of the Registration Statement or, in the event of an Underwritten Public Offering, the date of the closing under the underwriting agreement, in customary form, scope and substance, which opinions shall be reasonably satisfactory to the underwriter or underwriters and its or their counsel;

(q) in the case of an Underwritten Public Offering, obtain for delivery to the Company and the managing underwriter or underwriters, with copies to the Holders included in such Registration or sale, a comfort letter from the Company’s independent certified public accountants or independent auditors (and, if necessary, any other independent certified public accountants or independent auditors of any subsidiary of the Company or any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Registration Statement) in customary form and covering such matters of the type customarily covered by comfort letters as the managing underwriter or underwriters reasonably request, dated the date of execution of the underwriting agreement and brought down to the closing under the underwriting agreement;
(r) cooperate with each seller of Registrable Securities and each underwriter, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with FINRA;

(s) use its commercially reasonable efforts to comply with all applicable securities laws and, if a Registration Statement was filed, make available, including through the SEC’s EDGAR filing system or any successor system, to its security holders, as soon as reasonably practicable, an earnings statement satisfying the provisions of Section 11(a) of the Securities Act and the rules and regulations promulgated thereunder;

(t) provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by the applicable Registration Statement from and after a date not later than the effective date of such Registration Statement;

(u) use its commercially reasonable efforts to cause all Class A Common Stock covered by the applicable Registration Statement to be listed on the securities exchange on which the Company’s Class A Common Stock is then listed or quoted and on each inter-dealer quotation system on which the Company’s Class A Common Stock is then quoted;

(v) make available upon reasonable notice at reasonable times and for reasonable periods for inspection by any representative appointed by the participating Principal Investors (or the TB Investor if there is no participating Principal Investor), by any underwriter participating in any disposition to be effected pursuant to such Registration Statement or by any attorney, accountant or other agent retained by such Holders or any such underwriter, all pertinent financial and other records and pertinent corporate documents and properties of the Company, and cause all of the Company’s officers, directors and employees and the independent public accountants who have certified its financial statements to make themselves available to discuss the business of the Company and to supply all information reasonably requested by any such Person in connection with such Registration Statement;

(w) in the case of an Underwritten Public Offering, cause the senior executive officers of the Company to participate in the customary “road show” presentations that may be reasonably requested by the managing underwriter or underwriters in any such offering and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto;

(x) take no direct or indirect action prohibited by Regulation M under the Exchange Act;
(y) take all reasonable action to ensure that any Issuer Free Writing Prospectus utilized in connection with any Registration complies in all material respects with the Securities Act, is filed in accordance with the Securities Act to the extent required thereby, is retained in accordance with the Securities Act to the extent required thereby and, when taken together with the related Prospectus, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(z) take all such other reasonable actions as are necessary or advisable in order to expedite or facilitate the disposition of such Registrable Securities in accordance with the terms of this Agreement.

Section 3.5.2 Company Information Requests. The Company may require each seller of Registrable Securities as to which any Registration or sale is being effected to furnish to the Company such information regarding the distribution of such securities and such other information relating to such Holder and its ownership of Registrable Securities as the Company may from time to time reasonably request in writing and the Company may exclude from such Registration or sale the Registrable Securities of any such Holder who unreasonably fails to furnish such information within a reasonable time after receiving such request. Each Holder agrees to furnish such information to the Company and to cooperate with the Company as reasonably necessary to enable the Company to comply with the provisions of this Agreement.

Section 3.5.3 Discontinuing Registration. Each Holder agrees that, as promptly as possible after receipt of any notice from the Company of the happening of any event of the kind described in Section 3.5.1(d), such Holder will forthwith discontinue disposition of Registrable Securities pursuant to such Registration Statement until such Holder’s receipt of the copies of the supplemented or amended Prospectus contemplated by Section 3.5.1(d), or until such Holder is advised in writing by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus, or any amendments or supplements thereto, and if so directed by the Company, such Holder shall deliver to the Company (at the Company’s expense) all copies, other than permanent file copies then in such Holder’s possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. In the event the Company shall give any such notice, the period during which the applicable Registration Statement is required to be maintained effective shall be extended by the number of days during the period from and including the date of the giving of such notice to and including the date when each seller of Registrable Securities covered by such Registration Statement either receives the copies of the supplemented or amended Prospectus contemplated by Section 3.5.1(d) or is advised in writing by the Company that the use of the Prospectus may be resumed.

Section 3.6 Underwritten Offerings.

Section 3.6.1 Shelf and Demand Registrations. If requested by the underwriters for any Underwritten Public Offering, pursuant to a Registration or sale under Section 3.1 or 3.2, the Company shall enter into an underwriting agreement with such underwriters, such agreement to be reasonably satisfactory in substance and form to each of the Company, each Principal
Investor seeking to participate in such offering and the underwriters, and containing a requirement to obtain lock-up agreements from directors and executive officers of the Company and such other terms as are generally prevailing in agreements of that type. The Holders of the Registrable Securities proposed to be distributed by such underwriters shall cooperate with the Company in the negotiation of the underwriting agreement and shall give consideration to the reasonable suggestions of the Company regarding the form thereof. Such Holders shall be parties to such underwriting agreement, which shall contain such agreements on the part of the Company to and for the benefit of such Holders as are customarily made by issuers to selling stockholders in public offerings similar to the applicable offering. Any such Holder shall be required to make representations and warranties and other agreements, deliver an opinion or opinions from its counsel and provide indemnities, in each case as are customarily made by selling stockholders in secondary public offerings.

Section 3.6.2 Piggyback Registrations. If the Company proposes to register or sell any of its securities under the Securities Act as contemplated by Section 3.3 and such securities are to be distributed through one or more underwriters, the Company shall, if requested by any Holder pursuant to Section 3.3 and, subject to the provisions of Section 3.3.2, use its commercially reasonable efforts to arrange for such underwriters to include on the same terms and conditions that apply to the other sellers in such Registration or sale all the Registrable Securities to be offered and sold by such Holder among the securities of the Company to be distributed by such underwriters in such Registration or sale. The Holders of Registrable Securities to be distributed by such underwriters shall be parties to the underwriting agreement between the Company and such underwriters, which underwriting agreement shall contain such representations and warranties by, and the other agreements on the part of, the Company to and for the benefit of such Holders as are customarily made by issuers to selling stockholders in secondary public offerings. Any such Holder shall be required to make representations and warranties and other agreements, deliver an opinion or opinions from its counsel and provide indemnities, in each case as are customarily made by selling stockholders in secondary public offerings.

Section 3.6.3 Participation in Underwritten Registrations. Subject to the provisions of Section 3.6.1 and Section 3.6.2 above, no Person may participate in any Underwritten Public Offering hereunder unless such Person (i) agrees to sell such Person’s securities on the basis provided in any underwriting arrangements approved by the Persons entitled to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents required under the terms of such underwriting arrangements; provided that any such Holder shall not be required to make any representations or warranties to or agreements with the Company other than representations, warranties or agreements regarding such Holder, such Holder’s title to the Registrable Securities, such Holder’s intended method of distribution and any other representations to be made by the Holder as are generally prevailing in agreements of that type, and the aggregate amount of the liability of such Holder shall not exceed such Holder’s proceeds from the sale of its Registrable Securities in the offering, net of underwriting discounts and commissions but before expenses.

Section 3.6.4 Selection of Underwriters. In the case of an Underwritten Public Offering under Section 3.1 or 3.2, the managing underwriter or underwriters to administer the offering shall be determined by the participating Principal Investors (or the TB Investor if there is no participating Principal Investor); provided that such managing underwriter or underwriters shall be reasonably acceptable to the Company.

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Section 3.7 **No Inconsistent Agreements; Additional Rights.** Neither the Company nor any of its subsidiaries shall hereafter enter into, and neither the Company nor any of its subsidiaries is currently a party to, any agreement with respect to its securities that is inconsistent with the rights granted to the Holders by this Agreement. Without Requisite Investor Approval, neither the Company nor any of its subsidiaries shall enter into any agreement granting registration or similar rights to any Person that are prior in right, pari passu or inconsistent with the rights under this Agreement, and the Company hereby represents and warrants that, as of the date hereof, no registration or similar rights have been granted to any other Person other than pursuant to this Agreement.

Section 3.8 **Registration Expenses.** All expenses incident to the Company’s performance of or compliance with this Agreement shall be paid by the Company, including (i) all registration and filing fees, and any other fees and expenses associated with filings required to be made with the SEC or FINRA, (ii) all fees and expenses in connection with compliance with any securities or “Blue Sky” laws (including reasonable fees and disbursements of counsel for the underwriters in connection with blue sky qualifications of the Registrable Securities), (iii) all printing, duplicating, word processing, messenger, telephone, facsimile and delivery expenses of the Company (including expenses of printing certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing Prospectuses), (iv) all fees and disbursements of counsel for the Company and of all independent certified public accountants or independent auditors of the Company and any subsidiaries of the Company (including the expenses of any special audit and comfort letters required by or incident to such performance), (v) Securities Act liability insurance or similar insurance if the Company so desires, (vi) all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange or quotation of the Registrable Securities on any inter-dealer quotation system, (vii) all applicable rating agency fees with respect to the Registrable Securities, (viii) all reasonable fees and disbursements, not to exceed $20,000 per Holder per Registration or Shelf Takedown Request, of counsel for the Intel Investor, the TPG Investor, the TB Investor and GIC, including all reasonable fees for an opinion from counsel to each such participating Holder and any required local counsel opinions, provided that the aggregate amount payable by the Company over the term of this Agreement pursuant to this clause (viii) shall not exceed $1,000,000, (ix) all fees and expenses of any special experts or other Persons retained by the Company in connection with any Registration or sale, (x) all of the Company’s internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties) and (xi) all expenses of the Company related to the “road-show” for any Underwritten Public Offering. All such expenses are referred to herein as “Registration Expenses.” The Company shall not be required to pay any fees and disbursements to underwriters not customarily paid by the issuers of securities in an offering similar to the applicable offering, including underwriting discounts and commissions and transfer taxes, if any, attributable to the sale of Registrable Securities, which shall be paid by the participating Holders in proportion to the number of Registrable Securities offered and sold by or on behalf of each such Holder.
Section 3.9 Indemnification.

Section 3.9.1 Indemnification by the Company. The Company shall indemnify and hold harmless, to the full extent permitted by law, each Holder, each shareholder, member, limited or general partner of such Holder, each shareholder, member, limited or general partner of each such shareholder, member, limited or general partner, each of their respective Affiliates, officers, directors, shareholders, employees, advisors, and agents and each Person who controls (within the meaning of the Securities Act or the Exchange Act) such Persons and each of their respective Representatives from and against any and all losses, penalties, judgments, suits, costs, claims, damages, liabilities and expenses, joint or several (including reasonable costs of investigation and legal expenses) (each, a “Loss” and collectively “Losses”) arising out of or based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement under which such Registrable Securities are registered or sold under the Securities Act (including any final, preliminary or summary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein) or any other disclosure document produced by or on behalf of the Company or any of its subsidiaries including any report or other document filed under the Exchange Act, (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (iii) any violation or alleged violation by the Company or any of its subsidiaries of any federal, state, foreign or common law rule or regulation applicable to the Company or any of its subsidiaries and relating to action or inaction in connection with any such registration, disclosure document or other document or report; provided, that no selling Holder shall be entitled to indemnification pursuant to this Section 3.9.1 in respect of any untrue statement or omission contained in any information relating to such seller Holder furnished in writing by such selling Holder to the Company specifically for inclusion in a Registration Statement and used by the Company in conformity therewith (such information “Selling Stockholder Information”). This indemnity shall be in addition to any liability the Company may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any indemnified party and shall survive the Transfer of such securities by such Holder and regardless of any indemnity agreed to in the underwriting agreement that is less favorable to the Holders.

Section 3.9.2 Indemnification by the Selling Holders. Each selling Holder agrees (severally and not jointly) to indemnify and hold harmless, to the fullest extent permitted by law, the Company, its directors and officers and each Person who controls the Company (within the meaning of the Securities Act or the Exchange Act) from and against any Losses resulting from (i) any untrue statement of a material fact in any Registration Statement under which such Registrable Securities were registered or sold under the Securities Act (including any final, preliminary or summary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein) or (ii) any omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or omission is contained in such selling Holder’s Selling Stockholder Information. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the proceeds from the sale of its Registrable Securities in the offering giving rise to such indemnification obligation, net of underwriting discounts and commissions but before expenses, less any amounts paid by such Holder pursuant to Section 3.9.4 and any amounts paid by such Holder as a result of liabilities incurred under the underwriting agreement, if any, related to such sale.
Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that any delay or failure to so notify the indemnifying party shall relieve the indemnifying party of its obligations hereunder only to the extent, if at all, that it forfeits substantive rights by reason of such delay or failure) and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; provided, however, that any Person entitled to indemnification hereunder shall have the right to select and employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such Person unless (i) the indemnifying party has agreed in writing to pay such fees or expenses, (ii) the indemnifying party shall have failed to assume the defense of such claim within a reasonable time after receipt of notice of such claim from the Person entitled to indemnification hereunder and employ counsel reasonably satisfactory to such Person, (iii) the indemnified party has reasonably concluded (based upon advice of its counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party or (iv) in the reasonable judgment of any such Person (based upon advice of its counsel) a conflict of interest may exist between such Person and the indemnifying party with respect to such claims (in which case, if the Person notifies the indemnifying party in writing that such Person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such Person). If the indemnifying party assumes the defense, the indemnifying party shall not have the right to settle such action without the prior written consent of the indemnified party. If such defense is not assumed by the indemnifying party, the indemnifying party will not be subject to any liability for any settlement made without its prior written consent, but such consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, if at any time an indemnified party shall have requested that an indemnifying party reimburse the indemnified party for reasonable fees and expenses of counsel as contemplated by this paragraph, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into in good faith more than 60 days after receipt by the indemnifying party of such request and more than 30 days after receipt of the proposed terms of such settlement and (ii) the indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. It is understood that the indemnifying party or parties shall not, except as specifically set forth in this Section 3.9.3, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements or other charges of more than one separate firm (in addition to any local counsel) at any one time unless (x) the employment of more than one counsel has been authorized in writing by the indemnifying party or parties, (y) an indemnified party has reasonably concluded (based on the advice of counsel) that there may be legal defenses available to it that are different from or in addition to those available to the other indemnified parties or (z) a conflict or potential conflict exists or may exist (based upon advice of counsel to an indemnified party) between such indemnified party and the other indemnified parties, in each of which cases the indemnifying party shall be obligated to pay the reasonable fees and expenses of such additional counsel or counsels.
Section 3.9.4 Contribution. If for any reason the indemnification provided for in Section 3.9.1 and Section 3.9.2 is unavailable to an indemnified party (other than as a result of exceptions contained in Section 3.9.1 and Section 3.9.2) or insufficient in respect of any Losses referred to therein, then the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such Loss in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party or parties on the other hand in connection with the acts, statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. In connection with any Registration Statement filed with the SEC by the Company, the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just or equitable if contribution pursuant to this Section 3.9.4 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in this Section 3.9.4. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The amount paid or payable by an indemnified party as a result of the Losses referred to in Sections 3.9.1 and 3.9.2 shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. If indemnification is available under this Section 3.9, the indemnifying parties shall indemnify each indemnified party to the fullest extent provided in Sections 3.9.1 and 3.9.2 hereof without regard to the provisions of this Section 3.9.4. The remedies provided for in this Section 3.9 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity. Notwithstanding the provisions of this Section 3.9.4, in connection with any Registration Statement filed by the Company, a selling Holder shall not be required to contribute any amount in excess of the dollar amount of the proceeds from the sale of its Registrable Securities in the offering giving rise to such indemnification obligation, net of underwriting discounts and commissions but before expenses, less any amounts paid by such Holder pursuant to Section 3.9.2 and any amounts paid by such Holder as a result of liabilities incurred under the underwriting agreement, if any, related to such sale.

Section 3.9.5 Indemnification Priority. The Company hereby acknowledges and agrees that any of the Persons entitled to indemnification pursuant to Section 3.9.1 (each, a “Company Indemnitee” and collectively, the “Company Indemnitees”) may have certain rights to indemnification, advancement of expenses and/or insurance provided by other sources. The Company hereby acknowledges and agrees (i) that it is the indemnitor of first resort (i.e., its obligations to a Company Indemnitee are primary and any obligation of such other sources to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Company Indemnitee are secondary) and (ii) that it shall be required to advance the full amount of expenses incurred by a Company Indemnitee and shall be liable for the full amount of
all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement without regard to any rights a Company Indemnitee may have against such other sources. The Company further agrees that no advancement or payment by such other sources on behalf of a Company Indemnitee with respect to any claim for which such Company Indemnitee has sought indemnification, advancement of expenses or insurance from the Company shall affect the foregoing, and that such other sources shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Company Indemnitee against the Company.

Section 3.10 Rules 144 and 144A and Regulation S. The Company shall file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder (or, if the Company is not required to file such reports, it will, upon the request of any Holder, make publicly available such necessary information for so long as necessary to permit sales that would otherwise be permitted by this Agreement pursuant to Rule 144, Rule 144A or Regulation S under the Securities Act, as such rules may be amended from time to time or any similar rule or regulation hereafter adopted by the SEC), and it will take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Registrable Securities without Registration under the Securities Act in transactions that would otherwise be permitted by this Agreement and within the limitation of the exemptions provided by (i) Rule 144, Rule 144A or Regulation S under the Securities Act, as such rules may be amended from time to time, or (ii) any similar rule or regulation hereafter adopted by the SEC. Upon the request of any Holder, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

Section 3.11 Existing Registration Statements. Notwithstanding anything herein to the contrary and subject to applicable law and regulation, the Company may satisfy any obligation hereunder to file a Registration Statement or to have a Registration Statement become effective by a specified date by designating, by notice to the Holders, a Registration Statement that previously has been filed with the SEC or become effective, as the case may be, as the relevant Registration Statement for purposes of satisfying such obligation, and all references to any such obligation shall be construed accordingly; provided that such previously filed Registration Statement may be, and is, amended or, subject to applicable securities laws, supplemented to add the number of Registrable Securities, and, to the extent necessary, to identify as selling stockholders those Holders demanding the filing of a Registration Statement pursuant to the terms of this Agreement. To the extent this Agreement refers to the filing or effectiveness of other Registration Statements, by or at a specified time and the Company has, in lieu of then filing such Registration Statements or having such Registration Statements become effective, designated a previously filed or effective Registration Statement as the relevant Registration Statement for such purposes, in accordance with the preceding sentence, such references shall be construed to refer to such designated Registration Statement, as amended or supplemented in the manner contemplated by the immediately preceding sentence.
ARTICLE IV

MISCELLANEOUS

Section 4.1 Authority; Effect. Each party hereto represents and warrants to and agrees with each other party that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized on behalf of such party and do not violate any agreement or other instrument applicable to such party or by which its assets are bound. This Agreement does not, and shall not be construed to, give rise to the creation of a partnership among any of the parties hereto, or to constitute any of such parties members of a joint venture or other association. The Company and its subsidiaries shall be jointly and severally liable for all obligations of the Company pursuant to this Agreement.

Section 4.2 Notices. Any notices, requests, demands and other communications required or permitted in this Agreement shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) sent by overnight courier, in each case, addressed as follows:

if to the Company, to:

McAfee Corp.
2821 Mission College Blvd.
Santa Clara, CA 95054
Attention: Sayed Darwish
E-mail: Sayed_Darwish@McAfee.com

with a copy (which shall not constitute notice) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

If to the TPG Investor, to:

TPG Global, LLC
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
Attention: General Counsel, Julie Clayton and Jerry Neugebauer
Facsimile: (415) 743-1501
E-mail: officeofgeneralcounsel@tpg.com
with a copy (which shall not constitute notice) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

if to the Intel Investor, to:

Intel Corporation
2200 Mission College Boulevard
Santa Clara, California 95054
Attention: Susie Giordano and Benjamin A. Olson
Facsimile: (408) 653-9098
E-mail: susie.giordano@intel.com and benjamin.a.olson@intel.com

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue, Suite 1400
Palo Alto, California
Attention: Gregg Noel and Amr Razzak
Facsimile: (213) 621-5234
E-mail: gregg.noel@skadden.com and amr.razzak@skadden.com

if to the TB Investor, to:

c/o Thoma Bravo, L.P.
600 Montgomery Street, 20th Floor
San Francisco, California 94111
Attention: Seth Boro and Chip Virnig
Facsimile: (415) 392-6480
E-mail: sboro@thomabravo.com and cvirnig@thomabravo.com

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle Drive
Chicago, Illinois 60654
Attention: Gerald T. Nowak, P.C., Corey D. Fox, P.C. and Bradley Reed
Facsimile: (312) 862-2200
E-mail: gerald.nowak@kirkland.com, corey.fox@kirkland.com and bradley.reed@kirkland.com

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if to GIC, to:

[             ]
Attention: [             ]
Facsimile: [             ]
E-mail: [             ]

with a copy (which shall not constitute notice) to:

Sidley Austin LLP
787 7th Avenue
New York, New York 10019
Attention: Asi Kirmayer
E-mail: akirmayer@sidley.com

if to CEO, to:

[       ]

Subject to the foregoing, notice to the holder of record of any Registrable Securities shall be deemed to be notice to the holder of such securities for all purposes hereof.

Unless otherwise specified herein, such notices or other communications shall be deemed effective (i) on the date received, if personally delivered, (ii) on the date received if delivered by facsimile or e-mail on a Business Day, or if not delivered on a Business Day, on the first Business Day thereafter and (iii) one Business Day after being sent by overnight courier. Each of the parties hereto shall be entitled to specify a different address by giving notice as aforesaid to each of the other parties hereto.

Section 4.3 Termination and Effect of Termination. This Agreement shall terminate upon the date on which no Holder holds any Registrable Securities, except for the provisions of Sections 3.9 and 3.10, which shall survive any such termination. No termination under this Agreement shall relieve any Person of liability for breach or Registration Expenses incurred prior to termination. In the event this Agreement is terminated, each Person entitled to indemnification or contribution rights pursuant to Section 3.9 hereof shall retain such indemnification or contribution rights with respect to any matter that (i) may be a liability subject to indemnification or contribution thereunder and (ii) occurred prior to such termination.

Section 4.4 Permitted Transferees. The rights of a Holder hereunder may be assigned (but only with all related obligations as set forth below) in connection with a Transfer of Registrable Securities to a Permitted Transferee of that Holder. Without prejudice to any other or similar conditions imposed hereunder with respect to any such Transfer, no assignment permitted under the terms of this Section 4.4 will be effective unless the Permitted Transferee to which the assignment is being made, if not a Holder, has delivered to the Company a written acknowledgment and joinder agreement in form and substance reasonably satisfactory to the Company that the Permitted Transferee will be bound by, and will be a party to, this Agreement (such written joinder agreement to include such Permitted Transferee’s contact information for the delivery of notice).
Section 4.5 Remedies. The parties to this Agreement shall have all remedies available at law, in equity or otherwise in the event of any breach or violation of this Agreement or any default hereunder. The parties acknowledge and agree that in the event of any breach of this Agreement, in addition to any other remedies that may be available, each of the parties hereto shall be entitled to specific performance of the obligations of the other parties hereto and, in addition, to such other equitable remedies (including preliminary or temporary relief) as may be appropriate in the circumstances. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any such delay, omission nor waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

Section 4.6 Amendments. This Agreement may not be orally amended, modified, extended or terminated, nor shall any oral waiver of any of its terms be effective. This Agreement may be amended, modified, extended or terminated, and the provisions hereof may be waived, only by an agreement in writing signed by the Company and each of the Principal Investors that then holds Registrable Securities; provided, however, that any amendment, modification, extension or termination that (a) has a disproportionate and materially adverse effect on any Holder shall require the prior written consent of such Holder and (b) creates a material new obligation of a Holder or further restricts in any material respect the ability of a Holder to Transfer its Shares shall require the prior written consent of such Holder, other than any amendment or modification reasonably required to address a change in applicable law. In addition, each party hereto may waive any right hereunder by an instrument in writing signed by such party.

Section 4.7 Governing Law. This Agreement and all claims arising out of or based upon this Agreement or relating to the subject matter hereof shall be governed by and construed in accordance with the domestic substantive laws of the State of Delaware without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

Section 4.8 Consent to Jurisdiction. Each party to this Agreement, by its execution hereof, (i) hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the State of Delaware for the purpose of any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof, (ii) hereby waives to the extent not prohibited by applicable law, and agrees not to assert, and agrees not to allow any of its subsidiaries to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the above-named courts is improper, or that this Agreement or the subject matter hereof or thereof may not be enforced in or by such court and (iii) hereby agrees not to commence or maintain any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation
arising out of or based upon this Agreement or relating to the subject matter hereof or thereof other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, to the extent that any party hereto is or becomes a party in any litigation in connection with which it may assert indemnification rights set forth in this Agreement, the court in which such litigation is being heard shall be deemed to be included in clause (i) above. Notwithstanding the foregoing, any party to this Agreement may commence and maintain an action to enforce a judgment of any of the above-named courts in any court of competent jurisdiction. Each party hereto hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 4.2 hereof is reasonably calculated to give actual notice.

Section 4.9 WAIVER OF JURY TRIAL. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, EACH PARTY HERETO HEREBY WAIVES AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION OR SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE TRANSACTIONS CONTEMPLATED HEREBY, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT, TORT OR OTHERWISE. EACH PARTY HERETO ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY THE OTHER PARTIES HERETO THAT THIS SECTION 4.9 CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH IT IS RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 4.9 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

Section 4.10 Merger; Binding Effect, Etc. This Agreement (along with the Stockholders Agreement, the LLC Agreement and the Coordination Agreement) constitutes the entire agreement of the parties with respect to its subject matter, supersedes all prior or contemporaneous oral or written agreements or discussions with respect to such subject matter, and shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective heirs, representatives, successors and permitted assigns. Except as otherwise expressly provided herein, no Holder or other party hereto may assign any of its respective rights or delegate any of its respective obligations under this Agreement without the prior written consent of the other parties hereto, and any attempted assignment or delegation in violation of the foregoing shall be null and void.
Section 4.11 **Counterparts; Electronic Signatures.** This Agreement may be executed in any number of separate counterparts each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (i.e., by e-mail of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes. The Company and each Holder hereto hereby agree that this Agreement may be executed by way of electronic signatures and that the electronic signature has the same binding effect as a physical signature. For the avoidance of doubt, the Company and each Holder further agree that this Agreement, or any part hereof, shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic record.

Section 4.12 **Severability.** In the event that any provision hereof would, under applicable law, be invalid, illegal or unenforceable in any respect, such provision shall be construed by modifying or limiting it so as to be valid, legal and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions hereof are severable, and in the event any provision hereof should be held invalid or unenforceable in any respect, it shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 4.13 **No Recourse.** Notwithstanding anything that may be expressed or implied in this Agreement, the Company and each Holder covenant, agree and acknowledge that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any current or future director, officer, employee, stockholder, general or limited partner or member of any Holder or of any Affiliate or assignee thereof, as such, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Holder or any current or future member of any Holder or any current or future director, officer, employee, stockholder, partner or member of any Holder or of any Affiliate or assignee thereof, as such, for any obligation of any Holder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

[Signature pages follow]
IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first above written.

McAFEE CORP.

By:
Name:
Title:

[Signature Page to Registration Rights Agreement]
INTEL AMERICAS, INC.

By: 
Name: 
Title: 

[Signature Page to Registration Rights Agreement]
TPG INVESTOR

TPG VII MANTA BLOCKER CO-INVEST II, L.P.

By:
Name:
Title:

TPG VII MANTA BDH II, L.P.

By:
Name:
Title:

TPG VII MANTA AIV CO-INVEST, L.P.

By:
Name:
Title:

TPG VII MANTA HOLDINGS II, L.P.

By:
Name:
Title:

[Signature Page to Registration Rights Agreement]
TB INVESTOR
THOMA BRAVO FUND XII-A, L.P.

By:
Name:
Title:

THOMA BRAVO FUND XII, L.P.

By:
Name:
Title:

THOMA BRAVO, LLC

By:
Name:
Title:

[Signature Page to Registration Rights Agreement]
[Signature Page to Registration Rights Agreement]
By: Peter Leav

[Signature Page to Registration Rights Agreement]
STOCKHOLDERS AGREEMENT

BY AND AMONG

McAFEE CORP.

AND

THE STOCKHOLDERS PARTY HERETO

DATED AS OF [•], 2020
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This STOCKHOLDERS AGREEMENT (as it may be amended from time to time in accordance with the terms hereof, this “Agreement”), dated as of [•], 2020, is made by and among:

a. McAfee Corp., a Delaware corporation (the “Company”);
b. Intel Americas, Inc., a Delaware corporation (“Intel” and, collectively with its Permitted Transferees that are Affiliates, the “Intel Investor”);
c. TPG VII Manta Blocker Co-Invest II, L.P., a Delaware limited partnership (“TPG Blocker Co-Invest”), TPG VII Manta BDH II, L.P., a Delaware limited partnership (“TPG BDH”), TPG VII Manta AIV Co-Invest, L.P., a Delaware limited partnership (“TPG AIV Co-Invest”), TPG VII Manta Holdings II, L.P., a Delaware limited partnership (“TPG Holdings”), and collectively with TPG Blocker Co-Invest, TPG BDH, TPG AIV Co-Invest and each of their respective Permitted Transferees that are Affiliates, “TPG” or the “TPG Investor”;
d. Thoma Bravo Fund XII-A, L.P., a Delaware limited partnership (“TB Fund XII-A”), Thoma Bravo Fund XII, L.P., a Delaware limited partnership (“TB Fund XII”) and Thoma Bravo, LLC, a Delaware limited liability company (“TB GP” and, collectively with TB Fund XII-A, TB Fund XII and each of their respective Permitted Transferees that are Affiliates, “TB” or the “TB Investor”); e. Snowlake Investment Pte Ltd. (“Snowlake” and, together with its Permitted Transferees that are Affiliates, “GIC”); and f. such other Persons who from time to time become party hereto by executing a counterpart signature page hereof and are designated by the Board (as defined below) as “Other Stockholders” (the “Other Stockholders” and, together with Intel, the TPG Investor, the TB Investor and GIC, the “Stockholders”).

RECITALS

WHEREAS, on the date hereof, the Company has priced an initial public offering (the “IPO”) of shares of its Class A common stock, par value $0.001 per share (the “Class A Common Stock”), pursuant to an Underwriting Agreement dated as of the date hereof;

WHEREAS, in connection with the IPO (a) the amended and restated limited liability company agreement (the “Operating Agreement”) of Foundation Technology Worldwide LLC (“FTW”) will be further amended and restated, with the Company becoming FTW’s sole managing member and (b) pursuant to a series of exchanges and contributions, the Company will issue shares of Class A Common Stock and shares of Class B common stock, par value $0.001 per share (the “Class B Common Stock” and, together with the Class A Common Stock, the “Common Stock”), to certain of FTW’s pre-IPO unit holders;

WHEREAS, after the completion of the IPO, the Class A Units of FTW (the “LLC Units”), together with shares of Class B Common Stock will, subject to certain restrictions, be exchangeable from time to time at the option of the holder thereof for shares of Class A Common Stock, pursuant to the Operating Agreement; and...
WHEREAS, the parties hereto desire to provide for certain governance rights and other matters, and to set forth the respective rights and obligations of the Stockholders following the IPO.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and agreements of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Affiliate” means, with respect to any specified Person, (a) any other Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with such specified Person, (b) any Person who is a general partner, managing member, managing director, manager, officer, director or principal of such specified Person or (c) in the event that the specified Person is a natural Person, a Member of the Immediate Family of such Person; provided that the Company and each Subsidiary of the Company shall be deemed not to be an Affiliate of any Principal Stockholder, any Person that controls such Principal Stockholder or any Person with whom the Company or any such Subsidiary would otherwise be Affiliated through Affiliation with such Principal Stockholder or any Person that controls such Principal Stockholder. “Affiliated” and “Affiliation” shall have correlative meanings. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Board” means the board of directors of the Company.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are by law closed in the City of New York.

“Business Combination Transaction” has the meaning set forth in Section 4.4.

“Chief Executive Officer” means the chief executive officer of the Company then in office.

“Class A Common Stock” has the meaning set forth in the Recitals.

“Class B Common Stock” has the meaning set forth in the Recitals.

“Closing” means the closing of the IPO.

“Common Stock” has the meaning set forth in the Recitals.
“Company” has the meaning set forth in the Preamble.

“Company Bylaws” means the bylaws of the Company in effect on the date hereof, as may be amended from time to time.

“Company Charter” means the certificate of incorporation of the Company in effect on the date hereof, as may be amended from time to time.

“Company Shares” means (a) all shares of Common Stock that are not then subject to vesting (including shares that were at one time subject to vesting to the extent they have vested), (b) all shares of Common Stock issuable upon exercise, conversion or exchange of any option, warrant or convertible or other security that are directly or indirectly convertible into or exchangeable or exercisable for shares of Common Stock and are not then subject to vesting (including options, warrants and convertible or other securities that were at one time subject to vesting to the extent they have vested) (without double counting shares of Class A Common Stock issuable upon an exchange of shares of Class B Common Stock together with LLC Units) and (c) all shares of Common Stock directly or indirectly issued or issuable with respect to the securities referred to in clause (a) or (b) above by way of unit or stock dividend or unit or stock split, or in connection with a combination of units or shares, recapitalization, merger, consolidation or other reorganization.

“Coordination Agreement” means the Coordination Agreement by and among certain stockholders of the Company, dated as of the date hereof, as such agreement may be amended from time to time.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor thereto, and any rules and regulations promulgated thereunder, all as the same shall be in effect from time to time.

“FTW” has the meaning set forth in the Recitals.

“Fund Indemnitors” has the meaning set forth in Section 3.1(j).

“Independent Director” means a director of the Company who (a) qualifies as independent for purposes of serving on the Board under the rules of the Nasdaq Global Market (the “Exchange”) and (b) satisfies the independence criteria set forth in Rule 10A-3 under the Exchange Act.

“Indemnitee” has the meaning set forth in Section 3.1(j).

“Intel” or “The Intel Investor” has the meaning set forth in the Preamble.

“Intel Designee” has the meaning set forth in Section 3.1(c).

“Intel Director” has the meaning set forth in Section 3.1(a).

“Intel Group” means Intel Corporation, a Delaware corporation, and its controlled Affiliates.
“IPO” has the meaning set forth in the Recitals.

“LLC Units” has the meaning set forth in the Recitals.

“Member of the Immediate Family” means, with respect to an individual, (a) each parent, spouse (but not including a former spouse or a spouse from whom such individual is legally separated) or child (including those adopted) of such individual and (b) each trustee, solely in his or her capacity as trustee and so long as such trustee is reasonably satisfactory to the Company, for a trust naming only one or more of the Persons listed in sub-clause (a) as beneficiaries.

“Necessary Action” means, with respect to a specified result, all actions reasonably necessary to cause such result through the exercise of rights attaching to Common Stock or LLC Units then held by a Stockholder, including (i) voting or providing a written consent or proxy with respect to the Company Shares, including in respect of the adoption of stockholders’ resolutions and amendments to the organizational documents of the Company, and (ii) executing written consents in respect thereof.

“Operating Agreement” has the meaning set forth in the Recitals.

“Other Stockholders” has the meaning set forth in the Recitals.

“Permitted Transferees” means, with respect to any Stockholder, (i) such Persons as each Principal Stockholder then party to this Agreement approves in writing and (ii) any Affiliate of such Stockholder.

“Person” means any individual, partnership, limited liability company, corporation, trust, association, estate, unincorporated organization or government or any agency or political subdivision thereof.

“Principal Stockholder” means each of Intel and TPG.

“Purported Owner” has the meaning set forth in Section 4.17(b).

“Representative” means, with respect to any Person, any director, manager, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Restricted Shares” has the meaning set forth in Section 4.17(b).

“Restrictions” has the meaning set forth in Section 4.17(b).

“SEC” means the U.S. Securities and Exchange Commission.

“Share Exchange” means a share exchange involving more than 50% of the shares of the Common Stock; provided that a redemption or exchange of Class B Common Stock (together with LLC Units) for Class A Common Stock effected in accordance with Sections [ ] of the Operating Agreement shall not constitute a “Share Exchange” for purposes of this Agreement.
“Stockholder” has the meaning set forth in the Preamble.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association, business entity or other non-corporate business enterprise of which (a) if a corporation, a majority of the total voting power of shares of stock or other ownership interests of such entity entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of such Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity (other than a corporation) or other non-corporate business enterprise, a majority of limited liability company, partnership or other similar ownership interests of such entity is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of such Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, other business entity (other than a corporation) or other non-corporate business enterprise if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity or other non-corporate business enterprise gains or losses or shall be or control any managing director, general partner or board of managers of such limited liability company, partnership, association, other business entity or other non-corporate business enterprise. For purposes hereof, references to a “Subsidiary” of any Person shall be given effect only at such times that such Person has one or more Subsidiaries.

“Tax Receivable Agreement” means that certain tax receivable agreement, by and among [•], dated as of the date hereof, as such agreement may be amended from time to time.

“TB” or “The TB Investor” has the meaning set forth in the Preamble.

“TB Fund XII” has the meaning set forth in the Preamble.

“TB Fund XII-A” has the meaning set forth in the Preamble.

“TB GP” has the meaning set forth in the Preamble.

“TPG” or “TPG Investor” has the meaning set forth in the Preamble.

“TPG AIV Co-Invest” has the meaning set forth in the Preamble.

“TPG BDH” has the meaning set forth in the Preamble.

“TPG Blocker Co-Invest” has the meaning set forth in the Preamble.

“TPG Designee” has the meaning set forth in Section 3.1(b).

“TPG Director” has the meaning set forth in Section 3.1(a).

“TPG Group” means, collectively, the TPG Investor, GIC and any Permitted Transferee of TPG who agrees to the provisions of Section 3.2 hereof.
“TPG Holdings” has the meaning set forth in the Preamble.

“Transfer” means, when used as a noun, any direct or indirect, sale, disposition, hypothecation, mortgage, gift, pledge, assignment, attachment, or any other transfer or disposition (including the creation of any derivative or synthetic interest, including a participation or other similar interest or any lien or encumbrance) and, when used as a verb (whether in fulfillment of contractual obligation or otherwise) to directly or indirectly sell, dispose, hypothecate, mortgage, gift, pledge, assign, attach, or otherwise transfer (including by creating any derivative or synthetic interest or any lien or encumbrance) or any other similar participation or interest, in case used as a noun or a verb, whether voluntary or involuntary, by operation of Law or otherwise; and “Transferred,” “Transferee” and “Transferor” shall each have a correlative meaning.

“Transfer Agent” has the meaning set forth in Section 4.17(b).

Section 1.2. Other Interpretive Provisions

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words “hereof,” “herein,” “hereunder” and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and any subsection and section references are to this Agreement unless otherwise specified.

(c) The terms “include” and “including” are not limiting and shall be deemed to be followed by the phrase “without limitation.”

(d) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(e) Whenever the context requires, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Each of the parties to this Agreement hereby represents and warrants, severally and not jointly (and solely as to itself), to each other party to this Agreement that as of the date such party executes this Agreement:

Section 2.1. Existence; Authority; Enforceability. Such party has the necessary power and authority to enter into this Agreement and to perform its obligations hereunder. Such party is duly organized and validly existing under the laws of its jurisdiction of organization, and the execution of this Agreement, and the performance of its obligations hereunder, have been authorized by all necessary action on the part of its board of directors (or equivalent) and shareholders (or other holders of equity interests), if required, and no other act or proceeding on its part is necessary to authorize the execution of this Agreement or the performance of its
obligations hereunder. This Agreement has been duly executed by such party and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effect of any laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar laws relating to or affecting creditors’ rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 2.2. Absence of Conflicts. The execution and delivery by such party of this Agreement and the performance of its obligations hereunder does not and will not (a) conflict with, or result in the breach of, any provision of the constitutive documents of such party, (b) result in any material violation, breach, conflict, default or an event of default (or an event which with notice, lapse of time, or both, would constitute a default or an event of default), or give rise to any right of acceleration or termination or any additional material payment obligation, under the terms of any material contract, agreement or permit to which such party is a party or by which such party’s assets or operations are bound or affected, or (c) violate any law applicable to such party, except, in the case of each of (b) and (c) with respect to the Stockholders, for any such violation, breach, conflict or default that would not impair in any material respect the ability of such Stockholder to perform its respective obligations hereunder.

Section 2.3. Consents. Other than as expressly required herein or any consents which have already been obtained, no material consent, waiver, approval, authorization, exemption, registration, license, permit or declaration is required to be made or obtained by such party in connection with the execution, delivery or performance of this Agreement by such party.

ARTICLE III
GOVERNANCE

Section 3.1. The Board.

(a) Composition of Initial Board. Prior to Closing, the Company and the Stockholders shall take all Necessary Action within their control to cause the Board to be comprised of seven (7) directors, (i) two (2) of whom shall be designated by TPG (each, a “TPG Director”); (ii) one (1) of whom shall be designated by Intel (an “Intel Director”), (iii) one (1) of whom shall be the Chief Executive Officer; and (iv) three (3) of whom shall be individuals designated by TPG, each of whom must qualify as an Independent Director of the Company (each, a “TPG Unaffiliated Director”). Further, subject to Section 3.1(b) and (c), each of TPG and Intel shall have the right to designate one additional TPG Director and Intel Director, respectively, and the Company and the Stockholders shall take all Necessary Action within their control to cause such director designees to be elected to the Board. The foregoing directors shall be divided into three (3) classes of directors, each of whose members shall serve for staggered three-year terms as follows:

(1) the class I directors shall include one (1) TPG Director, one (1) TPG Unaffiliated Director and one (1) Intel Director;

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The initial term of the class I directors shall expire immediately following the Company’s first annual meeting of stockholders at which directors are elected following the completion of the IPO. The initial term of the class II directors shall expire immediately following the Company’s second annual meeting of stockholders at which directors are elected following the completion of the IPO. The initial term of the class III directors shall expire immediately following the Company’s third annual meeting at which directors are elected following the completion of the IPO.

(b) **TPG Representation.** For so long as the TPG Group holds a number of shares of Common Stock representing at least the percentage of the number of shares of Common Stock held by the TPG Group as of the Closing (after giving effect to any exercise by the underwriters of their option to purchase additional shares as well as the repurchase of Class B Common Stock and LLC Units by the Company, if any, in connection with the closing of the IPO and any exercise of such option to purchase additional shares by the underwriters) shown below, there shall be included in the slate of nominees recommended by the Board for election as directors at each applicable annual or special meeting of stockholders at which directors are to be elected that number of individuals designated by TPG (each, a “TPG Designee”) that, if elected, will result in the number of TPG Designees serving as directors on the Board that is shown below. Further, TPG shall have the right to designate the Chairperson of the Board for so long as it has the right to nominate a TPG Designee. For the avoidance of doubt, each TPG Designee designated for election as a TPG Unaffiliated Director must be eligible to (but not be required to) serve on the Audit Committee of the Board.

<table>
<thead>
<tr>
<th>Ownership Percentage</th>
<th>Number of TPG Designees</th>
</tr>
</thead>
<tbody>
<tr>
<td>25% or greater</td>
<td>6 (including 3 TPG Unaffiliated Directors)</td>
</tr>
<tr>
<td>Less than 25% but greater than or equal to 10%</td>
<td>2 (including 1 TPG Unaffiliated Director)</td>
</tr>
</tbody>
</table>

(c) **Intel Representation.** For so long as the Intel Investor holds a number of shares of Common Stock representing at least the percentage of the number of shares of Common Stock held by the Intel Investor as of the Closing (after giving effect to any exercise by the underwriters of their option to purchase additional shares as well as the repurchase of Class B Common Stock and LLC Units by the Company, if any, in connection with the closing of the IPO and any exercise of such option to purchase additional shares by the underwriters) shown below, there shall be included in the slate of nominees recommended by the Board for election as directors at each applicable annual or special meeting of stockholders at which directors are to be elected that number of individuals designated by Intel (each, an “Intel Designee”) that, if elected, will result in the number of Intel Designees serving as directors on the Board that is shown below.

<table>
<thead>
<tr>
<th>Ownership Percentage</th>
<th>Number of Intel Designees</th>
</tr>
</thead>
<tbody>
<tr>
<td>25% or greater</td>
<td>2</td>
</tr>
<tr>
<td>Less than 25% but greater than or equal to 10%</td>
<td>1</td>
</tr>
</tbody>
</table>
(d) **Offer to Tender Resignation.** Once any Principal Stockholder no longer has the right to designate a director for election to the Board as described in Section 3.1(b) or (c), such Principal Stockholder shall take all Necessary Action within its control to cause the appropriate number of such Principal Stockholder’s designees to tender his or her resignation from the Board effective at the Company’s next annual meeting of stockholders. The Board shall have the option, but not the obligation, to accept or reject any such resignation. The Company shall fill any resulting vacancy with a director who qualifies as independent for purposes of serving on the Board under the rules of the Exchange and who is not affiliated with Intel or TPG.

(e) **CEO Representation.** Subject to the last sentence of Section 3.1(f), if the term of the Chief Executive Officer as a director on the Board is to expire in conjunction with any annual or special meeting of stockholders at which directors are to be elected, the Chief Executive Officer shall be included in the slate of nominees recommended by the Board for election.

(f) **Vacancies.** Each Principal Stockholder shall have the exclusive right to: (i) remove its designees from the Board, and the Company and the other Stockholders shall take all Necessary Action within their control to cause the removal of any such designee(s) at the request of the designating Principal Stockholder and (ii) designate for election or appointment to the Board directors to fill any vacancy created by reason of death, removal, disability, retirement or resignation of its designees to the Board, and the Company and the other Stockholders shall take all Necessary Action within their control to cause any such vacancy to be filled by replacement directors designated by such designating Principal Stockholder as promptly as reasonably practicable; provided, that, for the avoidance of doubt and notwithstanding anything to the contrary in this paragraph, no Principal Stockholder shall have the right to designate a replacement director, and the Company and the other Stockholders shall not be required to take any action to cause any vacancy to be filled by any such designee, to the extent that election or appointment of such designee to the Board would result in a number of directors designated by such Principal Stockholder in excess of the number of directors that such Principal Stockholder is then entitled to designate for membership on the Board pursuant to Section 3.1(b) or (c). If the Chief Executive Officer resigns or is terminated for any reason, the Chief Executive Officer shall resign from the Board, and the Company and the Stockholders shall take all Necessary Action within their control to remove the Chief Executive Officer from the Board and fill such vacancy with the next Chief Executive Officer in office. Except to the extent TPG has the right to designate one (1) or more directors for election to the Board as described in Section 3.1(b), no Affiliate of TPG shall be elected by the Board or nominated for election by the Board without the consent of Intel. Except to the extent Intel has the right to designate one (1) or more directors for election to the Board as described in Section 3.1(c), no Affiliate of Intel shall be elected by the Board or nominated for election by the Board without the consent of TPG.

(g) **Additional Unaffiliated Directors.** For so long as any Principal Stockholder has the right to designate at least one (1) director for nomination under this Agreement, the Company will take all Necessary Action within its control to ensure that the number of directors serving on the Board shall not exceed nine (9); provided, that (A) the number of directors may be increased if necessary to satisfy the requirements of applicable laws
(h) **Committees.** Subject to applicable laws and stock exchange regulations, each Principal Stockholder shall have the right to have a representative appointed to serve on each committee of the Board, other than the Audit Committee of the Board, for so long as such Principal Stockholder has the right to designate at least one (1) director for election to the Board pursuant to Section 3.1(b) or (c). Subject to applicable laws and stock exchange regulations, each Principal Stockholder shall have the right to appoint a representative as an observer to each committee of the Board, for so long as such Principal Stockholder has the right to designate at least one (1) director for election to the Board pursuant to Section 3.1(b) or (c). At all times during which this Agreement is operative and effective, the Board shall have determined that at least one (1) director serving on the Audit Committee of the Board shall qualify as an “audit committee financial expert” under the rules and regulations of the SEC.

(i) **Reimbursement of Expenses.** In accordance with the Company Bylaws, the Company shall reimburse each Intel Designee, Intel Director, TPG Designee and TPG Director for all reasonable and documented out-of-pocket expenses incurred in connection with such director’s or designee’s participation in the meetings of the Board or any committee of the Board, including reasonable travel, lodging and meal expenses. For the avoidance of doubt, no Intel Designee or TPG Designee shall be eligible to receive compensation from the Company for serving as a director unless such director is an “Independent Director.”

(j) **D&O Insurance; Indemnification Priority.** The Company shall obtain customary director and officer indemnity insurance on reasonable terms, which insurance shall cover each director and the members of each board of directors (or equivalent governing body) of each of the Company’s Subsidiaries. The Company hereby acknowledges that any director, officer or other indemnified person covered by any such indemnity insurance policy (any such Person, an “Indemnitee”) may have certain rights to indemnification, advancement of expenses and/or insurance provided by the Stockholders or one or more of their respective Affiliates (collectively, the “Fund Indemnitors”). The Company hereby (i) agrees that the Company and any Subsidiary of the Company that provides indemnity shall be the indemnitor of first resort (i.e., its or their obligations to an Indemnitee shall be primary and any obligation of any Fund Indemnitor to advance expenses or to provide indemnification for the same expenses or liabilities incurred by an Indemnitee shall be secondary), (ii) agrees that it shall be required to advance the full amount of expenses incurred by an Indemnitee and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this agreement, any other agreement between the Company and an Indemnitee or the Company Charter or Company Bylaws, without regard to any rights an Indemnitee may have against any Fund Indemnitor or their insurers, and (iii) irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of an Indemnitee with respect to any claim for which such Indemnitee has sought indemnification from the Company, as the case may be, shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Indemnitee against the Company.
Section 3.2. **Voting Agreement.** Each Stockholder shall cast all votes to which such Stockholder is entitled in respect of such Stockholder’s Company Shares, whether at any annual or special meeting, by written consent or otherwise, so as to cause to be elected to the Board those individuals as have been designated in accordance with Section 3.1(a)-(g) and to otherwise effect the intent of this Article III.

**ARTICLE IV**

**GENERAL PROVISIONS**

Section 4.1. **Company Charter and Company Bylaws.** The provisions of this Agreement shall be controlling if any such provisions or the operation thereof conflict with the provisions of the Company Charter or the Company Bylaws. The Company and the Stockholders agree to take all Necessary Action within their control to amend the Company Charter and Company Bylaws so as to avoid any conflict with the provisions hereof.

Section 4.2. **Freedom to Pursue Opportunities.** The Company agrees that, without the consent of each Principal Stockholder, it shall not take any action, or adopt any resolution, inconsistent with Article IX of the Company Charter; if such action would have a materially adverse effect on TB, then the consent of TB shall also be required.

Section 4.3. **Assignment; Benefit.**

(a) The rights and obligations hereunder shall not be assignable without the prior written consent of the other parties hereto, subject to the prior termination of this Agreement with respect to any Stockholder in accordance with Section 4.5; provided that each of the parties to this Agreement may assign its rights and obligations hereunder to Permitted Transferees that are Affiliates without the prior written consent of the other parties hereto. Any attempted assignment of rights or obligations in violation of this Section 4.3 shall be null and void.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, and there shall be no third-party beneficiaries to this Agreement other than the Indemnitees and the Fund Indemnitors under Section 3.1(h), and Exempted Persons (as defined in the Company Charter) under Section 4.2.

Section 4.4. **Restrictions on Business Combination Transactions.** The Company shall not be a party to any reorganization, Share Exchange, consolidation, conversion or merger or any other transaction having an effect on stockholders substantially similar to that resulting from a reorganization, Share Exchange, consolidation, conversion or merger (each a “Business Combination Transaction”) that includes or is in conjunction with a transaction involving the disposition, exchange or conversion of LLC Units for consideration unless (a) each holder of Class A Common Stock and Class B Common Stock (together with the corresponding number of LLC Units) is allowed to participate pro rata in such Business Combination Transaction (as if the
Class B Common Stock (together with the corresponding number of LLC Units) had been exchanged immediately prior to such Business Combination Transaction for Class A Common Stock pursuant to the Operating Agreement and (b) the gross proceeds payable in respect of each LLC Unit equals the gross proceeds that would be payable on account of such LLC Unit if it were exchanged immediately prior to such Business Combination Transaction into Class A Common Stock pursuant to the Operating Agreement. Nothing in this Section 4.4 shall modify any of the rights set forth in the Tax Receivable Agreement.

Section 4.5. Standstill. Each of Intel, TPG and TB agrees that, notwithstanding Section 4.6 hereof, until the later of (a) the date two (2) years following the Closing and (b) the date that TPG loses its right to designate a director pursuant to Section 3.1(b), in the case of TPG and TB, or the date that Intel loses its right to designate a director pursuant to Section 3.1(c), in the case of Intel (the “Standstill Period”), neither such Stockholder nor its Affiliates (in the case of TPG or TB) or the Intel Group (in the case of Intel) or Representatives (acting on its behalf or on behalf of such Stockholder or any of its Affiliates (in the case of TPG or TB) or the Intel Group (in the case of Intel) or at its direction or the direction of such Stockholder or any of its Affiliates (in the case of TPG or TB) or the Intel Group (in the case of Intel)) will, directly or indirectly, without the prior written consent of the Board or as expressly permitted herein, (i) acquire, agree to acquire, propose, seek or offer to acquire, or knowingly facilitate the acquisition or ownership of, any securities or indebtedness of the Company, any warrant or option to purchase such securities or indebtedness, any security convertible into any such securities or indebtedness (other than, for the avoidance of doubt, the issuance of shares of Class A Common Stock upon an exchange of shares of Class B Common Stock together with LLC Units), or any other right to acquire such securities or indebtedness that would result in such Stockholder owning more than forty-nine percent (49%) of the outstanding voting power of the Company, (ii) enter, agree to enter, propose, seek or offer to enter into or knowingly facilitate any merger, business combination, recapitalization, restructuring or other extraordinary transaction involving the Company, or (iii) advise or knowingly assist or encourage or enter into any discussions, negotiations, agreements or arrangements with any other Persons in connection with any of the foregoing. Notwithstanding the foregoing, each of Intel, TPG and TB shall be entitled to have discussions with the Chief Executive Officer of the Company and the Chairperson of the Board of the Company, or the full Board (or any committee thereof), regarding any of the matters set forth in this Section 4.5, but only so long as such request or proposal does not require public disclosure by the Company or any such Person. This Section 4.5 shall be of no further force and effect upon the occurrence of any of the following events: (i) the Company enters into a definitive agreement with a person or “group” of persons involving the direct or indirect acquisition of all or a majority of the Company’s equity securities or all or substantially all of the Company’s assets or (ii) any person (other than the Company and its Subsidiaries) commences a tender offer or exchange offer with respect to securities representing a majority of the voting power of the Company and the Board fails to recommend against such tender offer or exchange offer within 10 Business Days of the commencement thereof. Nothing in this Section 4.5 shall restrict any Stockholder’s ability to monetize its equity investment in the Company in compliance with applicable securities laws.
Section 4.6. Termination. If not otherwise stipulated, this Agreement shall terminate automatically (without any action by any party hereto) as to each Stockholder as of the latest of (i) the time that such Stockholder no longer has the right to nominate any directors to the Board pursuant to Article III hereof, (ii) the date that is the second anniversary of the Closing and (iii) the time that the Company Shares held by such Stockholder constitute less than 2% of all Company Shares; provided, that each Stockholder will remain bound by the restrictions on Transfer of Class B Common Stock as set forth in Section 4.16 herein until the time that such Stockholder no longer owns any shares of Class B Common Stock; provided further that unless earlier terminated pursuant to the foregoing, all rights and obligations of the TB Investor or GIC under this Agreement shall terminate upon the termination of the TB Investor’s or GIC’s obligations, respectively, under Article III of the Coordination Agreement. Further, notwithstanding anything to the contrary herein, for so long as TPG has the right to designate one (1) or more directors for election to the Board as described in Section 3.1(b), at the written request of the TPG Investor or the Company, GIC shall provide written notice, within five (5) Business Days of such request, of the number of shares of Common Stock that it owns as of the date of such request; provided that such notice shall not be required to describe shares of Common Stock acquired as described in the second sentence of Section 4.15 hereof.

Section 4.7. Severability. In the event that any provision hereof would, under applicable law, be invalid, illegal or unenforceable in any respect, such provision shall be construed by modifying or limiting it so as to be valid, legal and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions hereof are severable, and in the event any provision hereof should be held invalid or unenforceable in any respect, it shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 4.8. Entire Agreement; Amendment.

(a) This Agreement, along with the Registration Rights Agreement, the Operating Agreement and the Coordination Agreement (collectively, the “Transaction Documents”), sets forth the entire understanding and agreement among the parties with respect to the transactions contemplated herein and supersedes and replaces any prior understanding, agreement or statement of intent, in each case written or oral, of any kind and every nature with respect hereto and thereto. This Agreement or any provision hereof may only be amended, modified or waived, in whole or in part, at any time by an instrument in writing signed by each of Intel, TPG and TB, in each case, for so long as it is a party to this Agreement; provided that (i) any such amendment, modification or waiver that (A) has a disproportionate and materially adverse effect on any Stockholder or (B) creates a material new obligation of a Stockholder or further restricts in any material respect the ability of a Stockholder to Transfer its Company Shares or LLC Units, shall require the prior written consent of such Stockholder and (ii) any amendment which extends the standstill period in Section 4.5 shall require the prior written consent of each Stockholder to whom such extended period would apply.

(b) No waiver of any breach of any of the terms of this Agreement shall be effective unless such waiver is expressly made in writing and executed and delivered by the party against whom such waiver is claimed. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. Except as otherwise expressly provided herein, no failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder, or otherwise available in respect hereof at law or in equity, shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
Section 4.9. **Counterparts; Electronic Signatures.** This Agreement may be executed in any number of separate counterparts each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (i.e., by email of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes. The parties hereto hereby agree that this Agreement may be executed by way of electronic signatures and that the electronic signature has the same binding effect as a physical signature. For the avoidance of doubt, the parties hereto further agree that this Agreement, or any part thereof, shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic record.

Section 4.10. **Notices.** Any notices, requests, demands and other communications required or permitted in this Agreement shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail or (iii) sent by overnight courier, in each case, addressed as follows:

if to the Company, to:

McAfee Corp.
2821 Mission College Boulevard
Santa Clara, California 95054
Attention: Sayed Darwish
E-mail: Sayed_Darwish@McAfee.com

with copies (which shall not constitute notice) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

if to the TPG Investor, to:

TPG Global, LLC
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
Attention: General Counsel, Julie Clayton and Jerry Neugebauer
Facsimile: (415) 743-1501
E-mail: officeofgeneralcounsel@tpg.com
with a copy (which shall not constitute notice) to:

Ropes & Gray LLP
3 Embarcadero Center
San Francisco, California 94111
Attention: Thomas Holden and Michael Roh
Facsimile: (415) 315-4823
E-mail: thomas.holden@ropesgray.com; michael.roh@ropesgray.com

if to Intel, to:

Intel Corporation
2200 Mission College Boulevard
Santa Clara, California 95054
Attention: Susie Giordano and Benjamin A. Olson
Facsimile: (408) 653-9098
E-mail: susie.giordano@intel.com and benjamin.aolson@intel.com

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue, Suite 1400
Palo Alto, California 94301
Attention: Gregg Noel and Amr Razzak
Facsimile: (213) 621-5234
E-mail: gregg.noel@skadden.com and amr.razzak@skadden.com

if to TB, to:

c/o Thoma Bravo, L.P.
600 Montgomery Street, 20th Floor
San Francisco, California 94111
Attention: Seth Boro and Chip Virnig
Facsimile: (415) 392-6480
E-mail: sboro@thomabravo.com and cvirmig@thomabravo.com

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle Drive
Chicago, Illinois 60654
Attention: Gerald T. Nowak, P.C., Corey D. Fox, P.C. and Bradley Reed
Facsimile: (312) 862-2200
E-mail: gerald.nowak@kirkland.com, corey.fox@kirkland.com and bradley.reed@kirkland.com

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if to the GIC, to:

[ ]
Attention: [ ]
Facsimile: [ ]
E-mail: [ ]

with a copy (which shall not constitute notice) to:

Sidley Austin LLP
787 7th Avenue
New York, New York 10019
Attention: Asi Kirmayer
E-mail: akirmayer@sidley.com

Unless otherwise specified herein, such notices or other communications shall be deemed effective (i) on the date received, if personally delivered, (ii) on the date received if delivered by facsimile or e-mail on a Business Day, or if not delivered on a Business Day, on the first Business Day thereafter and (iii) one (1) Business Day after being sent by overnight courier. Each of the parties hereto shall be entitled to specify a different address by giving notice as aforesaid to each of the other parties hereto.

Section 4.11. Governing Law. This Agreement and all claims arising out of or based upon this Agreement or relating to the subject matter hereof shall be governed by and construed in accordance with the domestic substantive laws of the State of Delaware without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

Section 4.12. Consent to Jurisdiction. Each party to this Agreement, by its execution hereof, (i) hereby irrevocably submits to the exclusive jurisdiction of the Delaware Court of Chancery (or, solely if the Delaware Court of Chancery declines jurisdiction, the Complex Commercial Litigation Division of the Delaware Superior Court, New Castle County, or solely if such court declines jurisdiction, the United States District Court for the District of Delaware) for the purpose of any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof, (ii) hereby waives to the extent not prohibited by applicable law, and agrees not to assert, and agrees not to allow any of its subsidiaries to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the above-named courts is improper, or that this Agreement or the subject matter hereof may not be enforced in or by such court and (iii) hereby agrees not to commence or maintain any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof or thereof other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action, claim, cause of action or suit (in contract, tort or
otherwise), inquiry, proceeding or investigation to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, to the extent that any party hereto is or becomes a party in any litigation in connection with which it may assert indemnification rights set forth in this Agreement, the court in which such litigation is being heard shall be deemed to be included in clause (i) above. Notwithstanding the foregoing, any party to this Agreement may commence and maintain an action to enforce a judgment of any of the above-named courts in any court of competent jurisdiction. Each party hereto hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 4.10 hereof is reasonably calculated to give actual notice.

Section 4.13. Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HERETO HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION OR SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF ANY STOCKHOLDER IN CONNECTION WITH ANY OF THE ABOVE, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT, TORT OR OTHERWISE. EACH PARTY HERETO ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY THE OTHER PARTIES HERETO THAT THIS SECTION 4.13 CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH IT IS RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 4.13 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

Section 4.14. Remedies. The parties to this Agreement shall have all remedies available at law, in equity or otherwise in the event of any breach or violation of this Agreement or any default hereunder. The parties acknowledge and agree that in the event of any breach of this Agreement, in addition to any other remedies that may be available, each of the parties hereto shall be entitled to specific performance of the obligations of the other parties hereto and, in addition, to such other equitable remedies (including preliminary or temporary relief) as may be appropriate in the circumstances. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any such delay, omission nor waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.
Section 4.15. Subsequent Acquisition of Shares. Any equity securities of the Company acquired subsequent to the date hereof by a Stockholder shall be subject to the terms and conditions of this Agreement. Notwithstanding anything to the contrary, this Agreement shall not limit: (a) the ordinary course activities of any of GIC’s affiliates, including, without limitation, brokerage, investment, financial, merger or other advisory, financing, asset management, trading, market making, arbitrage, and investment activities conducted in the ordinary course of business provided that such activities are conducted in compliance with standard practices and procedures (including those known as “Ethical Walls”) that prevent the flow of information between (i) such affiliate’s personnel who engage in the foregoing activities and (ii) GIC’s and its affiliates’ personnel who have access to Company information pursuant to the Transaction Documents and/or (b) investments or actions done by a third party fund or investment vehicle for which GIC or any of its affiliates is a passive limited partner.

Section 4.16. Restrictions on Transfer or Issuance of Class B Common Stock.

(a) No shares of Class B Common Stock may be Transferred or issued unless a corresponding number of LLC Units are Transferred or issued therewith (including any transfers or issuances of shares of Class B Common Stock held in treasury or otherwise by the Company or any of its subsidiaries) in accordance with the provisions of the Operating Agreement and that the Company will not register any Transfers of shares of Class B Common Stock that do not satisfy this Section 4.16(a).

(b) Any purported transfer of shares of Class B Common Stock in violation of the restrictions described in Section 4.16(a) (the “Restrictions”) shall be null and void. If, notwithstanding the foregoing prohibition, a person shall, voluntarily or involuntarily, purportedly become or attempt to become, the purported owner (“Purported Owner”) of shares of Class B Common Stock in violation of the Restrictions, then the Purported Owner shall not obtain any rights in and to such shares of Class B Common Stock (the “Restricted Shares”), and the purported transfer of the Restricted Shares to the Purported Owner shall not be recognized by the Company’s transfer agent (the “Transfer Agent”).

(c) Upon a determination by the Board that a person has attempted or may attempt to transfer or to acquire Restricted Shares in violation of Section 4.16(a), the Board may take such action as it deems advisable to refuse to give effect to such transfer or acquisition on the books and records of the Company, including without limitation to cause the Transfer Agent to record the Purported Owner’s transferor as the record owner of the Restricted Shares, and to institute proceedings to enjoin or rescind any such transfer or acquisition.

(d) The Board may, to the extent permitted by law, from time to time establish, modify, amend or rescind, by Company Bylaws or otherwise, regulations and procedures not inconsistent with the provisions of this Section 4.16 for determining whether any acquisition of shares of Class B Common Stock would violate the Restrictions and for the orderly application, administration and implementation of the provisions of this Section 4.16. Any such procedures and regulations shall be kept on file with the Secretary of the Company and with its Transfer Agent and shall be made available for inspection by any prospective transferee and, upon written request, shall be provided to any holder of shares of Class B Common Stock.

(e) The Board shall have all powers necessary to implement the Restrictions, including without limitation the power to prohibit the transfer of any shares of Class B Common Stock in violation thereof.
Section 4.17. **No Recourse.** Notwithstanding anything that may be expressed or implied in this Agreement, the Company and each Stockholder covenant, agree and acknowledge that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any current or future director, officer, employee, stockholder, general or limited partner or member of any Stockholder or of any Affiliate or assignee thereof, as such, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Stockholder or any current or future member of any Stockholder or any current or future director, officer, employee, stockholder, partner or member of any Stockholder or of any Affiliate or assignee thereof, as such, for any obligation of any Stockholder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

Section 4.18. **Effectiveness.** This Agreement shall become effective upon the Closing.

[Signature pages follow]

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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

MCAFEE CORP.

By:
Name:
Title:
TPG INVESTOR

TPG VII MANTA BLOCKER CO-INVEST II, L.P.

By:
Name:
Title:

TPG VII MANTA BDH II, L.P.

By:
Name:
Title:

TPG VII MANTA AIV CO-INVEST, L.P.

By:
Name:
Title:

TPG VII MANTA HOLDINGS II, L.P.

By:
Name:
Title:
TB INVESTOR
THOMA BRAVO FUND XII-A, L.P.

By:
Name:
Title:

THOMA BRAVO FUND XII, L.P.

By:
Name:
Title:

THOMA BRAVO, LLC

By:
Name:
Title:
Solely with respect to Section 3.1(f)

Name: Peter Leav
Title: Chief Executive Officer
INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “Agreement”) is made and entered into as of [•], 2020, by and among McAfee Corp., a Delaware corporation (the “Company”), and [NAME OF DIRECTOR/OFFICER] (“Indemnitee”).

WHEREAS, in light of the litigation costs and risks to directors and officers resulting from their service to companies, and the desire of the Company to attract and retain qualified individuals to serve as directors and officers, it is reasonable, prudent and necessary for the Company to indemnify and advance expenses on behalf of the Company’s directors and/or officers to the fullest extent permitted by Delaware corporate law so that they will serve or continue to serve the Company free from undue concern regarding such risks;

WHEREAS, the Company has requested that Indemnitee serve or continue to serve as a director and/or officer of the Company and may have requested or may in the future request that Indemnitee serve one or more McAfee Entities (as hereinafter defined) as a director or an officer or in other capacities;

WHEREAS, one of the conditions that Indemnitee requires in order to serve as a director and/or officer of the Company is that Indemnitee be so indemnified; and

WHEREAS, Indemnitee may have certain rights to indemnification, advancement of expenses and/or insurance provided by one or more of the Affiliate Indemnitors (as hereinafter defined) (or their affiliates) and/or any insurer providing insurance coverage under any policy purchased or maintained by such Affiliate Indemnitors (or their affiliates), which Indemnitee, the Company and the Affiliate Indemnitors (or their affiliates) intend to be secondary to the primary obligation of the Company to indemnify Indemnitee as provided herein, with the Company’s acknowledgement of and agreement to the foregoing being a material condition to Indemnitee’s willingness to serve as a director and/or officer the Company.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

1. Services by Indemnitee. Indemnitee agrees to serve as a director and/or officer of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any contractual obligation the Indemnitee may have under any other agreement).

2. Indemnification - General. On the terms and subject to the conditions of this Agreement, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, all losses, damages, liabilities, judgments, fines, penalties, costs, amounts paid in settlement, Expenses (as hereinafter defined) and other amounts that Indemnitee reasonably incurs and that result from, arise in connection with or are by reason of Indemnitee’s Corporate Status (as hereinafter defined) and shall advance Expenses to Indemnitee. The obligations of the Company shall continue after such time as Indemnitee ceases to serve as a director and/or officer of the Company or in any other Corporate Status and include, without limitation, claims for monetary damages against Indemnitee in respect of any actual or alleged liability or other loss of Indemnitee, to the fullest extent permitted under Delaware corporate law (including, if applicable, Section 145 of the Delaware General Corporation Law) as in existence on the date hereof and as amended from time to time.

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3. **Proceedings Other Than Proceedings by or in the Right of the Company.** If in connection with or by reason of Indemnitee’s Corporate Status, Indemnitee was, is, or is threatened to be made, a party to or a participant in any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company to procure a judgment in its favor, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, all Expenses, losses, damages, liabilities, judgments, penalties, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such liabilities, judgments, penalties, fines and amounts paid in settlement) reasonably incurred by Indemnitee or on behalf of Indemnitee in connection with such Proceeding or any claim, issue or matter therein.

4. **Proceedings by or in the Right of the Company.** If in connection with or by reason of Indemnitee’s Corporate Status, Indemnitee was, is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in the Company’s favor, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, all Expenses reasonably incurred by Indemnitee or on behalf of Indemnitee in connection with such Proceeding or any claim, issue or matter therein.

5. **Mandatory Indemnification in Case of Successful Defense.** Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of Indemnitee’s Corporate Status, a party to (or a participant in) and is successful, on the merits or otherwise, in defense of any Proceeding or any claim, issue or matter therein (including, without limitation, any Proceeding brought by or in the right of the Company), the Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, all Expenses reasonably incurred by Indemnitee or on behalf of Indemnitee in connection therewith. If Indemnitee is not wholly successful in defense of such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee or on behalf of Indemnitee in connection with each successfully resolved claim, issue or matter. For purposes of this Section 5 and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, on substantive or procedural grounds, or settlement of any such claim prior to a final judgment by a court of competent jurisdiction with respect to such Proceeding, shall be deemed to be a successful result as to such claim, issue or matter; provided, however, that any settlement of any claim, issue or matter in such a Proceeding shall not be deemed to be a successful result as to such claim, issue or matter if such settlement is effected by Indemnitee without the Company’s prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned.
6. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement or otherwise to indemnification by the Company for some or a portion of the Expenses, liabilities, judgments, penalties, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such liabilities, judgments, penalties, fines and amounts paid in settlement) incurred by Indemnitee or on behalf of Indemnitee in connection with a Proceeding or any claim, issue or matter therein, in whole or in part, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee to the fullest extent to which Indemnitee is entitled to such indemnification.

7. Indemnification for Additional Expenses Incurred to Secure Recovery or as Witness.

(a) The Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, any and all Expenses and, if requested by Indemnitee, shall advance on an as-incurred basis (as provided in Section 8 of this Agreement) such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action or proceeding or part thereof brought by Indemnitee for (i) indemnification or advance payment of Expenses by the Company under this Agreement, any other agreement, the Certificate of Incorporation or By-laws of the Company as now or hereafter in effect, or pursuant to indemnification agreements in effect as of the date hereof; or (ii) recovery under any director and officer liability insurance policies maintained by any McAfee Entity.

(b) To the extent that Indemnitee is, by reason of Indemnitee’s Corporate Status, a witness (or is forced or asked to respond to discovery requests) in any Proceeding to which Indemnitee is not a party, the Company shall, to the fullest extent permitted by law, indemnify Indemnitee with respect to, and hold Indemnitee harmless from and against, and the Company will advance on an as-incurred basis (as provided in Section 8 of this Agreement), all Expenses reasonably incurred by Indemnitee or on behalf of Indemnitee in connection therewith.

8. Advancement of Expenses. The Company shall, to the fullest extent permitted by law, pay on a current and as-incurred basis all Expenses incurred by Indemnitee in connection with any Proceeding in any way connected with, resulting from or relating to Indemnitee’s Corporate Status. Such Expenses shall be paid in advance of the final disposition of such Proceeding, without regard to whether Indemnitee will ultimately be entitled to be indemnified for such Expenses and without regard to whether an Adverse Determination (as hereinafter defined) has been or may be made. Upon submission of a request for advancement of Expenses pursuant to Section 9(c) of this Agreement, Indemnitee shall be entitled to advancement of Expenses as provided in this Section 8, and such advancement of Expenses shall continue until such time (if any) as there is a final non-appealable judicial determination that Indemnitee is not entitled to indemnification. Indemnitee shall repay such amounts advanced if and to the extent that it shall ultimately be determined in a decision by a court of competent jurisdiction from which no appeal can be taken that Indemnitee is not entitled to be indemnified by the Company for such Expenses. Such repayment obligation shall be unsecured and shall not bear interest. The Company shall not impose on Indemnitee additional conditions to advancement or require from Indemnitee additional undertakings regarding repayment. Indemnitee shall, in all events, be entitled to advancement of Expenses, without regard to Indemnitee’s ultimate entitlement to indemnification, until the final determination of the Proceeding.
9. **Indemnification Procedures.**

(a) **Notice of Proceeding.** Indemnitee agrees to notify the Company promptly upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses hereunder. Any failure by Indemnitee to notify the Company will not relieve the Company of its advancement or indemnification obligations under this Agreement unless, and only to the extent that, the Company can establish that such omission to notify resulted in actual and material prejudice to it, which prejudice cannot be reversed or otherwise eliminated without any material negative effect on the Company, and the omission to notify the Company will, in any event, not relieve the Company from any liability which it may have to indemnify Indemnitee otherwise than under this Agreement. If, at the time of receipt of any such notice, the Company has a director and officer liability insurance policy in effect, the Company will promptly notify the relevant insurer in accordance with the procedures and requirements of such policy.

(b) **Defense; Settlement.** Indemnitee shall have the sole right and obligation to control the defense or conduct of any claim or Proceeding with respect to Indemnitee. The Company shall not, without the prior written consent of Indemnitee, which may be provided or withheld in Indemnitee’s sole discretion, effect any settlement of any Proceeding against Indemnitee or which, in the opinion of Independent Counsel, could have been brought against Indemnitee or which potentially or actually imposes any cost, liability, expense or burden on Indemnitee unless (i) such settlement solely involves the payment of money or performance of any obligation by persons other than Indemnitee or any Affiliate Indemnitor affiliated with Indemnitee and includes an unconditional, full release of Indemnitee and Affiliate Indemnitors by all relevant parties from all liability on any matters that are the subject of such Proceeding and an acknowledgment that Indemnitee denies all wrongdoing in connection with such matters and (ii) the Company has fully indemnified the Indemnitee with respect to, and held Indemnitee harmless from and against, all Expenses and other amounts incurred by Indemnitee or on behalf of Indemnitee in connection with such Proceeding. The Company shall not be obligated to indemnify Indemnitee against amounts paid in settlement of a Proceeding against Indemnitee if such settlement is effected by Indemnitee without the Company’s prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned, unless such settlement solely involves the payment of money or performance of any obligation by persons other than the Company and includes an unconditional release of the Company by any party to such Proceeding other than the Indemnitee from all liability on any matters that are the subject of such Proceeding and an acknowledgment that the Company denies all wrongdoing in connection with such matters; provided, however, that if a Change in Control has occurred, the Company shall be liable for indemnification of Indemnitee for amounts paid in settlement if the Independent Counsel (selected pursuant to Section 9(e) of this Agreement) has approved the settlement.
(c) Request for Advancement; Request for Indemnification.

(i) To obtain advancement of Expenses under this Agreement, Indemnitee shall submit to the Company a written request therefor, together with such invoices or other supporting information as may be reasonably requested by the Company and reasonably available to Indemnitee, and, only to the extent required by applicable law which cannot be waived, an unsecured written undertaking to repay amounts advanced in the event of a decision by a court of competent jurisdiction from which no appeal can be taken that Indemnitee is not entitled to be indemnified by the Company for such Expenses. The Company shall make advance payment of Expenses to Indemnitee no later than five (5) business days after receipt of the written request for advancement (and each subsequent request for advancement) by Indemnitee. If, at the time of receipt of any such written request for advancement of Expenses, the Company has a director and officer insurance policy in effect, the Company will promptly notify the relevant insurer in accordance with the procedures and requirements of such policy. The Company shall thereafter keep such insurer informed of the status of the Proceeding or other claim (with assistance from the Indemnitee as reasonably required) and take such other actions, as appropriate to secure coverage of Indemnitee for such claim.

(ii) To obtain indemnification under this Agreement, at any time before or after submission of a request for advancement pursuant to Section 9(c)(i) of this Agreement, Indemnitee may submit a written request for indemnification hereunder. The time at which Indemnitee submits a written request for indemnification shall be determined by the Indemnitee in the Indemnitee’s sole discretion. Once Indemnitee submits such a written request for indemnification (and only at such time that Indemnitee submits such a written request for indemnification), a Determination (as hereinafter defined) shall thereafter be made, as provided in and only to the extent required by Section 9(d) of this Agreement. In no event shall a Determination be made, or required to be made, as a condition to or otherwise in connection with any advancement of Expenses pursuant to Section 8 and Section 9(c)(i) of this Agreement. If, at the time of receipt of any such request for indemnification, the Company has a director and officer insurance policy in effect, the Company will promptly notify the relevant insurer in accordance with the procedures and requirements of such policies.

(d) Determination. The Company agrees that Indemnitee shall be indemnified to the fullest extent permitted by law and that no Determination shall be required in connection with such indemnification unless specifically required by applicable law which cannot be waived. In no event shall a Determination be required in connection with indemnification for Expenses pursuant to Section 7 of this Agreement or incurred in connection with any Proceeding or portion thereof with respect to which Indemnitee has been successful on the merits or otherwise. Any decision that a Determination is required by law in connection with any other indemnification of Indemnitee, and any such Determination, shall be made within twenty (20) days after receipt of Indemnitee’s written request for indemnification pursuant to Section 9(c)(i) and such Determination shall be made either (i) by the Disinterested Directors (as hereinafter defined), even though less than a quorum, so long as Indemnitee does not request that such Determination be made by Independent Counsel (as...
hereinafter defined), or (ii) if so requested by Indemnitee, in Indemnitee’s sole discretion, by Independent Counsel in a written opinion to
the Company and Indemnitee. If a Determination is made that Indemnitee is entitled to indemnification, payment to Indemnitee shall be
made within five (5) business days after such Determination. Indemnitee shall reasonably cooperate with the person, persons or entity
making such determination with respect to Indemnitee’s entitlement to indemnification, including providing to such person, persons or
entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure
and which is reasonably available to Indemnitee and reasonably necessary to such Determination. Any Expenses incurred by Indemnitee in
so cooperating with the Disinterested Directors or Independent Counsel, as the case may be, making such determination shall be advanced
and borne by the Company (irrespective of the Determination as to Indemnitee’s entitlement to indemnification). If the person, persons or
entity empowered or selected under this Section 9(d) to determine whether Indemnitee is entitled to indemnification shall not have made a
determination within twenty (20) days after receipt by the Company of the request therefor, the requisite determination of entitlement to
indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such
indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make
Indemnitee’s statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such
indemnification under applicable law; provided, however, that such twenty (20) day period may be extended for a reasonable time, not to
exceed an additional twenty (20) days, if the person, persons or entity making the determination with respect to entitlement to
indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating
thereto; and provided, further, that the foregoing provisions of this Section 9(d) shall not apply if the determination of entitlement to
indemnification is to be made by Independent Counsel pursuant to Section 9(e).
(e) Independent Counsel. In the event Indemnitee requests that the Determination be made by Independent Counsel pursuant to
Section 9(d) of this Agreement, the Independent Counsel shall be selected as provided in this Section 9(e). The Independent Counsel
shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board of Directors, in which event the
Board of Directors shall make such selection on behalf of the Company, subject to the remaining provisions of this Section 9(e)), and
Indemnitee or the Company, as the case may be, shall give written notice to the other, advising the Company or Indemnitee of the identity
of the Independent Counsel so selected. The Company or Indemnitee, as the case may be, may, within five (5) days after such written
notice of selection shall have been received, deliver to Indemnitee or the Company, as the case may be, a written objection to such
selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not
meet the requirements of “Independent Counsel” as defined in Section 15 of this
Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court of competent jurisdiction has determined that such objection is without merit. If, within ten (10) days after submission by Indemnitee of a written request for indemnification pursuant to Section 9(c)(ii) of this Agreement and after a request for the appointment of Independent Counsel has been made, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other’s selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 9(d) of this Agreement. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 9(f) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing). Any expenses incurred by or in connection with the appointment of Independent Counsel shall be borne by the Company (irrespective of the Determination of Indemnitee’s entitlement to indemnification) and not by Indemnitee.

(f) Consequences of Determination; Remedies of Indemnitee. The Company shall be bound by and shall have no right to challenge a Favorable Determination. If an Adverse Determination is made, or if for any other reason the Company does not make timely indemnification payments or advances of Expenses, Indemnitee shall have the right to commence a Proceeding before a court of competent jurisdiction to challenge such Adverse Determination and/or to require the Company to make such payments or advances (and the Company shall have the right to defend its position in such Proceeding and to appeal any adverse judgment in such Proceeding). Indemnitee shall be entitled to be indemnified for all Expenses incurred in connection with such a Proceeding and to have such Expenses advanced by the Company in accordance with Section 8 of this Agreement. If Indemnitee fails to challenge an Adverse Determination within twenty (20) business days, or if Indemnitee challenges an Adverse Determination and such Adverse Determination has been upheld by a final judgment of a court of competent jurisdiction from which no appeal can be taken, then, to the extent and only to the extent required by such Adverse Determination or final judgment, the Company shall not be obligated to indemnify Indemnitee under this Agreement.

(g) Presumptions; Burden and Standard of Proof. The parties intend and agree that, to the extent permitted by law, in connection with any Determination with respect to Indemnitee’s entitlement to indemnification hereunder by any person, including a court:
(i) it will be presumed that Indemnitee is entitled to indemnification under this Agreement (notwithstanding any Adverse Determination), and the Company or any other person or entity challenging such right will have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption;

(ii) the termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that Indemnitee’s conduct was unlawful;

(iii) Indemnitee will be deemed to have acted in good faith if Indemnitee’s action is based on the records or books of account of the Company, including financial statements, or on information supplied to Indemnitee by the officers, employees, or committees of the board of directors of the Company, or on the advice of legal counsel or other advisors (including financial advisors and accountants) for the Company or on information or records given in reports made to the Company by an independent certified public accountant or by an appraiser or other expert or advisor selected by the Company; and

(iv) the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Company or relevant enterprises will not be imputed to Indemnitee in a manner that limits or otherwise adversely affects Indemnitee’s rights hereunder.

The provisions of this Section 9(g) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

10. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 9(d) of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 8 and Section 9(c)(i) of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 9(d) of this Agreement within twenty (20) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6 or 7 of this Agreement within five (5) business days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3 or 4 of this Agreement is not made within five (5) business days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of his
entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association in New York (or JAMS in New York, if requested by the Indemnitee). The Company shall not oppose Indemnitee’s right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 9(d) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 10 shall be conducted in all respects as a de novo trial, or arbitration, on the merits, in which (i) Indemnitee shall not be prejudiced by reason of that adverse determination, and (ii) the Company shall bear the burden of establishing that Indemnitee is not entitled to indemnification.

(c) If a determination shall have been made pursuant to Section 9(d) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 10, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee’s statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under Delaware corporate law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 10 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement.

11. Insurance; Subrogation; Other Rights of Recovery, etc.

(a) The Company shall use its reasonable best efforts to purchase and maintain a policy or policies of insurance with reputable insurance companies with A.M. Best ratings of “A” or better, providing Indemnitee with coverage for any liability asserted against, and incurred by, Indemnitee or on Indemnitee’s behalf by reason of Indemnitee’s Corporate Status, or arising out of Indemnitee’s status as such, whether or not the Company would have the power to indemnify Indemnitee against such liability. Such insurance policies shall have coverage terms and policy limits at least as favorable to Indemnitee as the insurance coverage provided to any other director and/or officer of the Company. If the Company has such insurance in effect at the time it receives from Indemnitee any notice of the commencement of an action, suit, proceeding or other claim, the Company shall give prompt notice of the commencement of such action, suit, proceeding or other claim to the insurers and take such other actions in accordance with the procedures set forth in the policy as required or appropriate to secure coverage of
Indemnitee for such action, suit, proceeding or other claim. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such action, suit, proceeding or other claim in accordance with the terms of such policy. The Company shall continue to provide such insurance coverage to Indemnitee for a period of at least seven (7) years after Indemnitee ceases to serve as a director or in any other Corporate Status.

(b) In the event of any payment by the Company under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee against any other McAfee Entity, and Indemnitee hereby agrees, as a condition to obtaining any advancement or indemnification from the Company, to assign the Company all of Indemnitee’s rights to obtain from such other McAfee Entity such amounts to the extent that they have been paid by the Company to or for the benefit of Indemnitee as advancement or indemnification under this Agreement and are adequate to indemnify Indemnitee with respect to the costs, Expenses or other items to the full extent that Indemnitee is entitled to indemnification or other payment hereunder; and Indemnitee will (upon request by the Company) execute all papers required and use reasonable best efforts to take all action reasonably necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit or enforce such rights.

(c) The Company hereby acknowledges that the rights to indemnification, advancement of expenses and/or insurance provided pursuant to this Agreement may also be provided to certain Indemnitees by one or more of their respective affiliates (other than the McAfee Entities) or their insurers (collectively, and including, in the case of the Manta Holdings, L.P., Manta Holdings, L.P., TPG Global, LLC, each of their respective partners, shareholders, members, affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling persons, employees and agents and each of the partners, shareholders, members, affiliates, associated investment funds, directors, officers, fiduciaries, managers, controlling persons, employees and agents of each of the foregoing, the “Affiliate Indemnitors”). The Company hereby agrees that, as between the Company, on the one hand, and the Affiliate Indemnitors, on the other hand, (i) the Company is the full indemnitor of first resort and the Affiliate Indemnitors are the full indemnitors of second resort with respect to all such indemnifiable claims against such Indemnitees, whether arising under this Agreement or otherwise (i.e., the obligations of the Company to such Indemnitees are primary and any obligation of the Affiliate Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Indemnitees are secondary), (ii) upon receipt by the Company of an undertaking by or on behalf of such Indemnitees to repay such amount if it shall be determined that the Indemnitee is not entitled to be indemnified as authorized by this Agreement or otherwise, the Company shall be required to advance the full amount of expenses incurred by such Indemnitees and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally
permitted and as required by the terms of this Agreement (or any other agreement between the Company and such Indemnitees), without regard to any rights such Indemnitees may have against the Affiliate Indemnitors and (iii) the Company irrevocably waives, relinquishes and releases the Affiliate Indemnitors from any and all claims against the Affiliate Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company agrees to indemnify the Affiliate Indemnitors directly for any amounts that the Affiliate Indemnitors pay as indemnification or advancement on behalf of any such Indemnitee and for which such Indemnitee may be entitled to indemnification from the Company in connection with serving as a director and/or officer of the Company. The Company further agrees that no advancement or payment by the Affiliate Indemnitors on behalf of any such Indemnitee with respect to any claim for which such Indemnitee has sought indemnification from the Company shall affect the foregoing and the Affiliate Indemnitors shall be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Indemnitee against the Company, and the Company shall cooperate with the Affiliate Indemnitors in pursuing such rights.

(d) Except as provided in Sections 11(c), the Company shall not be liable to pay or advance to Indemnitee any amounts otherwise indemnifiable under this Agreement or under any other indemnification agreement if, and to the extent that, Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company’s obligation to indemnify or advance Expenses hereunder to Indemnitee in respect of or relating to Indemnitee’s service at the request of the Company as a director, officer, employee, fiduciary, trustee, representative, partner or agent of any other McAfee Entity shall be reduced by any amount Indemnitee has actually received as payment of indemnification or advancement of Expenses from such other McAfee Entity, except to the extent that such indemnification payments and advance payment of Expenses when taken together with any such amount actually received from other McAfee Entities or under director and officer insurance policies maintained by one or more McAfee Entities are inadequate to fully pay all costs, Expenses or other items to the full extent that Indemnitee is otherwise entitled to indemnification or other payment hereunder.

(f) Except as provided in Sections 11(c), 11(d) and 11(e) of this Agreement, the rights to indemnification and advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time, whenever conferred or arising, be entitled under applicable Delaware corporate law, under the McAfee Entities’ organizational documents, or under any other agreement, vote of stockholders or resolution of directors of any McAfee Entity, or otherwise. Indemnitee’s rights under this Agreement are present contractual rights that fully vest upon Indemnitee’s first service as a director and/or officer of the Company. The Parties hereby agree that Sections 11(c), 11(d) and 11(e) of this Agreement shall be deemed exclusive and shall be deemed to modify, amend and clarify any right to indemnification or advancement provided to Indemnitee under any other contract, agreement or document with any McAfee Entity.
No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in Indemnitee’s Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the General Corporation Law of the State of Delaware (or other applicable law), whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the McAfee Entities’ organizational documents and this Agreement, it is the intent of the parties hereto that Indemnitee enjoy by this Agreement the greater benefits so afforded by such change. No change in applicable law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Delaware law as in effect on the date hereof or as such benefits may improve as a result of amendments to Delaware law that become effective after the date hereof. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

12. Employment Rights; Successors; Third Party Beneficiaries.

(a) This Agreement shall not be deemed an employment contract between the Company and Indemnitee. This Agreement shall continue in force as provided above after Indemnitee has ceased to serve as a director and/or officer of the Company or any other Corporate Status.

(b) This Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee’s heirs, executors and administrators. If the Company or any of its successors or assigns shall (i) consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfer all or substantially all of its properties and assets to any individual, corporation or other entity, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Company shall assume all of the obligations set forth in this Agreement.

(c) The Affiliate Indemnitors are express third party beneficiaries of this Agreement, are entitled to rely upon this Agreement, and may specifically enforce the Company’s obligations hereunder (including but not limited to the obligations specified in Section 11 of this Agreement) as though a party hereunder.

13. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be
affected or impaired thereby; (ii) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give
the maximum effect to the intent of the parties hereto; and (iii) to the fullest extent possible, the provisions of this Agreement (including, without
limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself
invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

14. Exception to Right of Indemnification or Advancement of Expenses. Notwithstanding any other provision of this Agreement and except as
provided in Section 7(a) of this Agreement or as may otherwise be agreed by the Company, Indemnitee shall not be entitled to indemnification or
advancement of Expenses under this Agreement with respect to any Proceeding brought by Indemnitee (other than (i) a Proceeding by Indemnitee (i) by
way of defense or counterclaim or other similar portion of a Proceeding, (ii) to enforce any other rights of Indemnitee to indemnification, advancement
or contribution from the Company under this Agreement, or under any other contract, by-laws or charter or under statute or other law, including any
rights under Section 145 of the Delaware General Corporation Law, or (iii) after a Change in Control), unless the bringing of such Proceeding or making
of such claim shall have been approved by the Board of Directors or similar governing body of the Company.

15. Definitions. For purposes of this Agreement:

(a) “Board of Directors” means the board of directors of the Company.

(b) “By-laws” means, in each case, the bylaws or similar governing document of the relevant entity as amended from time to time.

(c) “Certificate of Incorporation” means, in each case, the certificate of incorporation, articles of incorporation or similar constituting
document as amended from time to time.

(d) “Change in Control” shall be deemed to have occurred if (i) any “person” (as such term is used in Sections 13(d) and 14(d) of the
Securities Exchange Act of 1934, as amended), other than a trustee or other fiduciary holding securities under an employee benefit plan of
the Company or a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as
their ownership of stock of the Company, is or becomes the “Beneficial Owner” (as defined in Rule 13d-3 under said Act), directly or
indirectly, of securities of the Company representing 20% or more of the total voting power represented by the Company’s then
outstanding Voting Securities, or (ii) during any period of two consecutive years, individuals who at the beginning of such period constitute
the Board and any new director whose election by the Board or nomination for election by the Company’s stockholders was approved by a
vote of at least two-thirds (2/3) of the directors then in office who either were directors at the beginning of the period or whose
election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, or (iii) the
stockholders of the Company approve a merger or consolidation of the Company with any other corporation, other than a
merger or consolidation that would result in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving entity) at least 80% of the total voting power represented by the Voting Securities of the Company or such surviving entity outstanding immediately after such merger or consolidation, or the stockholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company (in one transaction or a series of transactions) of all or substantially all of the Company’s assets.

(e) “Corporate Status” describes the status of a person by reason of such person’s past, present or future service as a director, officer, employee, fiduciary, trustee, or agent of the Company (including, without limitation, one who serves at the request of the Company as a director, officer, employee, fiduciary, trustee or agent of any other McAfee Entity), in all cases whether or not Indemnitee is acting or serving in any such capacity or has such status at the time any Expenses are incurred for which indemnification, advancement or any other right can be provided by this Agreement.

(f) “Determination” means a determination that either (x) there is a reasonable basis for the conclusion that indemnification of Indemnitee is proper in the circumstances because Indemnitee met a/the particular standard(s) of conduct (a “Favorable Determination”) or (y) there is no reasonable basis for the conclusion that indemnification of Indemnitee is proper in the circumstances because Indemnitee met a/the particular standard(s) of conduct (an “Adverse Determination”). An Adverse Determination shall include the decision that a Determination was required in connection with indemnification and the decision as to the applicable standard of conduct.

(g) “Disinterested Director” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee and does not otherwise have an interest materially adverse to any interest of the Indemnitee.

(h) “Expenses” shall mean all direct and indirect costs, fees and expenses of any type or nature whatsoever and shall specifically include, without limitation, all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees and costs of experts, witness fees and costs, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness, in, or otherwise participating in, a Proceeding or an appeal resulting from a Proceeding, including, but not limited to, the premium for appeal bonds, attachment bonds or similar bonds and all...
interest, assessments and other charges paid or payable in connection with or in respect of any such Expenses, and shall also specifically include, without limitation, all reasonable attorneys’ fees and all other expenses incurred by or on behalf of Indemnitee in connection with preparing and submitting any requests or statements for indemnification, advancement, contribution or any other right provided by this Agreement. Expenses, however, shall not include amounts of judgments or fines against Indemnitee.

(i) “McAfee Entity” means the Company, any of its respective subsidiaries and any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise with respect to which Indemnitee serves as a director, officer, employee, partner, representative, fiduciary, trustee or agent, or in any similar capacity, at the request of the Company.

(j) “Independent Counsel” means, at any time, any law firm, or a member of a law firm, that (a) is experienced in matters of corporation law and (b) is not, at such time, or has not been in the five years prior to such time, retained to represent: (i) any McAfee Entity or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnities under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto and to be jointly and severally liable therefor.

(k) “Proceeding” includes any actual, threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation (formal or informal), inquiry, administrative hearing or any other actual, threatened, pending or completed proceeding, whether brought by or in the right of any McAfee Entity or otherwise and whether civil, criminal, administrative or investigative in nature, in which Indemnitee was, is, may be or will be involved as a party, witness or otherwise, by reason of Indemnitee’s Corporate Status or by reason of any action taken by Indemnitee or of any inaction on Indemnitee’s part while acting as director, officer, employee, fiduciary, trustee or agent of any McAfee Entity (in each case whether or not Indemnitee is acting or serving in any such capacity or has such status at the time any liability or expense is incurred for which indemnification or advancement of Expenses can be provided under this Agreement). If Indemnitee believes in good faith that a given situation may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.
“Subscription Agreement” shall mean that certain Subscription Agreement, dated as of September 6, 2016, by and among Intel Corporation, FTW, and TPG VII Manta Holdings, L.P., a Delaware limited partnership, as amended from time to time.

“Voting Securities” means any securities of the Company that vote generally in the election of directors.

16. **Construction.** Whenever required by the context, as used in this Agreement the singular number shall include the plural, the plural shall include the singular, and all words herein in any gender shall be deemed to include (as appropriate) the masculine, feminine and neuter genders.

17. **Reliance.** The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director and/or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director and/or officer of the Company.

18. **Modification and Waiver.** No supplement, modification or amendment of this Agreement shall be binding unless executed in a writing identified as such by all of the parties hereto. Except as otherwise expressly provided herein, the rights of a party hereunder (including the right to enforce the obligations hereunder of the other parties) may be waived only with the written consent of such party, and no waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

19. **Notice Mechanics.** All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee to:

[DIRECTOR/OFFICER CONTACT INFORMATION]
or to such other address as may have been furnished (in the manner prescribed above) as follows: (a) in the case of a change in address for notices to Indemnitee, furnished by Indemnitee to the Company and (b) in the case of a change in address for notices to the Company, furnished by the Company to Indemnitee.

20. Contribution. To the fullest extent permissible under Delaware corporate law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for reasonably incurred Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its other directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

21. Governing Law; Submission to Jurisdiction; Appointment of Agent for Service of Process. This Agreement and the legal relations among the parties shall, to the fullest extent permitted by law, be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Court of Chancery of the State of Delaware (the “Delaware Court”), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or otherwise inconvenient forum.

22. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.
23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement.

[Remainder of Page Intentionally Blank]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Company: MCAFEE CORP.
By: 
Name: 
Title: 

Indemnitee: 
Name: [NAME OF INDEMNITEE]

[Signature Page to Indemnification Agreement]
AMENDMENT NO. 4 TO FIRST LIEN CREDIT AGREEMENT

This AMENDMENT NO. 4 TO FIRST LIEN CREDIT AGREEMENT, dated as of October 12, 2020 (this “Amendment”), is entered into by and among McAfee, LLC, a Delaware limited liability company (the “Borrower”), the Guarantors party hereto, the Lenders party hereto, Morgan Stanley Senior Funding, Inc. (“MSSF”), as administrative agent (the “Administrative Agent”), the undersigned 2020 Incremental Revolving Lenders and the other undersigned Lenders constituting the 2020 Extending Revolving Lenders (as defined below). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower, McAfee Finance 2, LLC, a Delaware limited liability company (“Holdings”), the Administrative Agent and the lenders from time to time party thereto are party to that certain First Lien Credit Agreement, dated as of September 29, 2017 (as amended, supplemented or otherwise modified prior to the date hereof, the “Credit Agreement”); Capitalized terms not otherwise defined in this Amendment have the same meanings as specified in the Credit Agreement);

WHEREAS, the Borrower intends to consummate an initial public offering of securities of a Parent Company (the “2020 IPO”);

WHEREAS, the Borrower desires to extend the scheduled Maturity Date of a portion of the outstanding Revolving Loans (the “Existing Revolving Loans”) and a portion of the outstanding Revolving Commitments (the “Existing Revolving Commitments”) under the Revolving Facility;

WHEREAS, (a) the Borrower, (b) the undersigned Revolving Lenders, constituting the Extending Revolving Lenders on the date of this Amendment (the “2020 Extending Revolving Lenders”) in respect of the extended Revolving Loans and the Extended Revolving Commitments established hereby (such Extended Revolving Commitments, the “2020 Extended Revolving Commitments”, and the Revolving Loans under the 2020 Extended Revolving Commitments, the “2020 Extended Revolving Loans”) and (c) the Administrative Agent are entering into this Amendment in order to extend the scheduled Maturity Date of the Existing Revolving Loans and the Existing Revolving Commitments of the 2020 Extending Revolving Lenders (the foregoing, the “Maturity Extension”);

WHEREAS, substantially simultaneously with the Maturity Extension, pursuant to Section 2.14(1) of the Credit Agreement, the Borrower has delivered a request for a Revolving Commitment Increase to the Administrative Agent in an aggregate principal amount of $164,000,000, and the Borrower has requested that each financial institution signatory hereto as a 2020 Incremental Revolving Lender (in such capacity, each a “2020 Incremental Revolving Lender”) provide, pursuant to clause (c)(D)(x) of Section 2.14(4) of the Credit Agreement, an Incremental Revolving Commitment (the “2020 Incremental Revolving Commitment” and the Revolving Loans under the 2020 Incremental Revolving Commitments, the “2020 Incremental Revolving Loans”) to make Revolving Loans under the Amended Credit Agreement, which
Incremental Revolving Commitment shall be in the form of an increase to the 2020 Extended Revolving Commitments, and after giving effect to this Amendment, the 2020 Incremental Revolving Commitments and the 2020 Extended Revolving Commitments shall constitute the same Class of Revolving Commitments;

WHEREAS, in furtherance of the foregoing, the Borrower, the undersigned Revolving Lenders, Issuing Banks and the Administrative Agent (pursuant to its authority under Section 2.14(6) and 2.16(4) of the Credit Agreement) have agreed to amend the Credit Agreement pursuant to Section 2.14(6) and 2.16(4) of the Credit Agreement as hereinafter set forth; and

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Amendments; Extension of Maturity Date. Effective as of the Amendment No. 4 Extension Effective Date (as defined below) and subject to the satisfaction of the conditions precedent set forth in Section 4 hereof:

(a) The Credit Agreement shall be, effective as of the Amendment No. 4 Extension Effective Date, hereby 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 in the pages of the Credit Agreement attached as Exhibit A hereto (the “Amended Credit Agreement”).

(b) Exhibit B-3 to the Credit Agreement shall be, effective as of the Amendment No. 4 Extension Effective Date, hereby 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 in the pages of Exhibit B-3 of the Credit Agreement attached as Exhibit B hereto.

(c) Exhibit C to this Amendment shall be added to the Credit Agreement as Exhibit B-4 (Form of 2020 Extended Revolving Note) thereto.

(d) Schedule 2.01 of the Credit Agreement shall be, effective as of the Amendment No. 4 Extension Effective Date, hereby 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 in the pages of Schedule 2.01 of the Credit Agreement attached as Exhibit D hereto.
(e) The aggregate principal amount of the Existing Revolving Loans of each 2020 Extending Revolving Lender shall be converted into a 2020 Extended Revolving Loan with the same aggregate principal amount as the Existing Revolving Loans of such 2020 Extending Revolving Lender (in an amount not to exceed such Lender’s 2020 Extended Revolving Commitment after giving effect to the amendments described herein);

(f) The aggregate principal amount of the Existing Revolving Commitments of each 2020 Extending Revolving Lender shall be converted into 2020 Extended Revolving Commitments with the aggregate principal amount set forth in the pages of Schedule 2.01 of the Credit Agreement attached as Exhibit D hereto;

(g) The Existing Revolving Commitments of each Revolver Lender that does not deliver an executed signature page to this Amendment (each such Lender, a "Non-Extending Lender") and the Existing Revolving Commitments of each 2020 Extending Revolving Lender that are not converted into 2020 Extended Revolving Commitments pursuant to Section 1(f) shall be deemed to be an “Existing Revolving Class”, and the Existing Revolving Commitments of all Non-Extending Lenders and the Existing Revolving Commitments of each 2020 Extending Revolving Lender that are not converted into 2020 Extended Revolving Commitments pursuant to Section 1(f) shall be deemed to constitute the Closing Date Revolving Facility on and after the Fourth Amendment Extension Effective Date. For the avoidance of doubt, the Maturity Date of any Revolving Loans and Revolving Commitments outstanding immediately prior to the Fourth Amendment Extension Effective Date that are Revolving Loans and Revolving Commitments of Non-Extending Lenders or that are otherwise not converted into 2020 Extended Revolving Loans pursuant to Section 1(e) or 1(f) shall be the fifth anniversary of the Closing Date; and

(h) On the Amendment No. 4 Extension Effective Date, the Borrower, the Administrative Agent, the 2020 Incremental Revolving Lenders, the 2020 Extending Revolving Lenders and any applicable Issuing Banks party hereto shall enter into, and hereby agree to enter into, as may be deemed reasonably necessary by the Borrower and the Administrative Agent, documentation (the “Effective Date Assignment Documentation”) in accordance with the terms of the Credit Agreement that is in a form reasonably satisfactory to the Borrower and the Administrative Agent (which may be in the form of an Assignment and Assumption(s) pursuant to Exhibit D-1 of the Credit Agreement or other form reasonably satisfactory to the Borrower and the Administrative Agent, and which may be effective immediately prior to, substantially simultaneously with, or immediately after the amendments set forth herein) to allocate and/or reallocate Revolving Commitments among such Lenders (and/or to increase or decrease L/C Commitments of any Issuing Bank) to effectuate the final allocation of 2020 Extended Revolving Commitments (including 2020 Incremental Revolving Commitments) among such Lenders as set forth under the heading “Total Revolving Commitments” on Schedule 2.01 to the Amended Credit Agreement (the “Effective Date Assignments”).

Section 2. Representations and Warranties, No Default. The Borrower hereby represents and warrants that as of the Amendment No. 4 Effective Date, after giving effect to the amendments set forth in this Amendment, (i) no Default or Event of Default exists and is continuing and (ii) all representations and warranties of the Loan Parties contained in the Amended Credit Agreement and the other Loan Documents are true and correct in all material respects; provided that to the extent that such representations and warranties specifically refer to
an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

Section 3. Effectiveness of Amendment No. 4. This Amendment (other than Section 1 of this Amendment) shall become effective on the date (such date, if any, the “Amendment No. 4 Effective Date”) that the following conditions have been satisfied or waived:

   (i) Executed Amendment No. 4. The Administrative Agent, the 2020 Extending Revolving Lenders and the 2020 Incremental Revolving Lenders shall have received counterparts of this Amendment executed by the Borrower, each Guarantor, the Administrative Agent, each Issuing Bank party hereto, the 2020 Extending Revolving Lenders and the 2020 Incremental Revolving Lenders (it being agreed and acknowledged that this condition has been satisfied as of the date of this Amendment).

   (ii) Legal Opinions. The Administrative Agent shall have received a customary written opinion of Ropes & Gray LLP, counsel to the Loan Parties.

   (iii) Officer’s Certificate. The Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower dated the Amendment No. 4 Effective Date certifying as to the representations and warranties set forth in Section 2.

   (iv) Other Documents. The Administrative Agent shall have received such certificates of good standing or status (to the extent that such concepts exist) from the applicable secretary of state (or equivalent authority) of the jurisdiction of organization of each Loan Party (in each case, to the extent such concept exists in the applicable jurisdiction), certificates of customary Board of Directors resolutions or other customary corporate authorizing action, incumbency certificates and/or other customary certificates of Responsible Officers of each Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment.

Section 4. Effectiveness of Amended Credit Agreement. Section 1 of this Amendment shall become effective on the date (such date, if any, the “Amendment No. 4 Extension Effective Date”) that the following conditions have been satisfied or waived by no later than 11:59 p.m. New York City time on December 31, 2020:

   (a) Consummation of 2020 IPO. The 2020 IPO shall have been consummated;

   (b) Effective Date Assignments. The applicable parties hereto shall have entered into the Effective Date Assignment Documentation.
(c) Officer's Certificate. The Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower dated the Amendment No. 4 Extension Effective Date certifying as to the representations and warranties set forth in Section 2.

(d) Solvency Certificate. The Administrative Agent shall have received a solvency certificate from a Responsible Officer of Holdings (after giving effect to the transactions contemplated by this Amendment) based on and consistent with the form attached to the Credit Agreement as Exhibit I.

(e) Fees. The Borrower shall have paid all reasonable and documented out-of-pocket expenses of the Administrative Agent (including, without limitation, the Attorney Costs of the Administrative Agent to the extent provided for in Section 10.04 of the Credit Agreement) and any other consent fees payable to the Administrative Agent for the account of the Lenders party hereto in connection with this Amendment invoiced at least three (3) Business Days (unless otherwise agreed by the Borrower) prior to the Fourth Amendment Extension Effective Date.

This Amendment constitutes the Incremental Loan Request required pursuant to Section 2.14(1) of the Credit Agreement and the Revolving Extension Request required pursuant to Section 2.16(2) of the Credit Agreement.

Section 5. Costs and Expenses. The Borrower agrees to pay (a) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent (including the Attorney Costs of the Administrative Agent to the extent provided for in Section 10.04 of the Credit Agreement) in connection with the preparation, execution and delivery of this Amendment and any other instruments and documents to be delivered hereunder or in connection herewith, including all Attorney Costs of a single U.S. counsel to the Administrative Agent and (b) all reasonable and documented out-of-pocket expenses incurred by the 2020 Extending Revolving Lenders and the 2020 Incremental Revolving Lenders to the extent separately agreed between the 2020 Extending Revolving Lenders, the 2020 Incremental Revolving Lenders and the Borrower on or prior to the date hereof.

Section 6. Execution in Counterparts; Effectiveness. This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging (including in.pdf format) means shall be effective as delivery of a manually executed counterpart of this Amendment. The words “execution,” “signed,” “signature,” and words of like import in this Amendment shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
Section 7. **GOVERNING LAW.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Clauses (b) and (c) of Section 10.16 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

Section 8. **Headings.** The headings of this Amendment are included for convenience of reference only and shall not affect the interpretation of this Amendment.

Section 9. **Effect of Amendment.**

(a) In accordance with Sections 2.14 and 2.16 of the Amended Credit Agreement, and subject to the satisfaction of the conditions set forth in Section 4 hereof, on and as of the Fourth Amendment Extension Effective Date, each 2020 Extending Revolving Lender and each 2020 Incremental Revolving Lender hereby agrees that such 2020 Extending Revolving Lender and such 2020 Incremental Revolving Lender, as applicable, (i) shall have, as contemplated by this Amendment and the Amended Credit Agreement, (x) in the case of each 2020 Extending Revolving Lender, a 2020 Extended Revolving Commitment under the Amended Credit Agreement in an amount equal to the amount set forth opposite such 2020 Extending Revolving Lender’s name under the heading “2020 Extended Revolving Commitments” on Schedule 2.01 to the Amended Credit Agreement and (y) in the case of each 2020 Incremental Revolving Lender, a 2020 Incremental Revolving Commitment under the Amended Credit Agreement in an amount equal to the amount set forth opposite such 2020 Incremental Revolving Lender’s name under the heading “2020 Incremental Revolving Commitments” on Schedule 2.01 to the Amended Credit Agreement (for the avoidance of doubt, in each case, as may be adjusted pursuant to the Effective Date Assignments; it being understood that in any event, the sum of the “2020 Extended Revolving Commitments” and “2020 Incremental Revolving Commitments” shall equal the amount set forth under the heading “Total Revolving Commitments” on Schedule 2.01 to the Amended Credit Agreement and the other Loan Documents. The Borrower and the Administrative Agent hereby agree that from and after the Fourth Amendment Extension Effective Date, each 2020 Extending Revolving Lender and each 2020 Incremental Revolving Lender shall be deemed to be, and shall become, a “2020 Extending Revolving Lender” or a “2020 Incremental Revolving Lender”, as applicable, an “Additional Lender”, a “Revolving Lender”, a “Lender” and a “Secured Party” for all purposes of, and subject to all the obligations of a “2020 Incremental Revolving Lender”, an “Additional Lender”, a “Revolving Lender”, a “Lender” and a “Secured Party” under, the Amended Credit Agreement and the other Loan Documents. The Borrower and the Administrative Agent hereby agree that from and after the Fourth Amendment Extension Effective Date, each 2020 Extending Revolving Lender and each 2020 Incremental Revolving Lender shall be deemed to be, and shall become, a “2020 Extending Revolving Lender” and a “2020 Incremental Revolving Lender”, as applicable, an “Additional Lender”, a “Revolving Lender”, a “Lender” and a “Secured Party” for all purposes of, and with all the rights and remedies of a “2020 Extending Revolving Lender” or a “2020 Incremental Revolving Lender”, as applicable, an “Additional Lender”, a “Revolving Lender”, a “Lender” and a “Secured Party” under, the Amended Credit Agreement and the other Loan Documents.

(b) The Borrower hereby designates that the 2020 Incremental Revolving Commitments shall be incurred in reliance on clause (c)(D)(x) of Section 2.14(4) in the Credit Agreement.
(c) In accordance with Section 2.14 of the Credit Agreement, and subject to the satisfaction of the conditions set forth in Section 4 hereof, on and as of the Fourth Amendment Extension Effective Date, each 2020 Incremental Revolving Lender party hereto hereby agrees that such 2020 Incremental Revolving Lender shall make Revolving Loans to the Borrower pursuant to Section 2.01(2) of the Amended Credit Agreement from time to time on or after the Fourth Amendment Extension Effective Date during the period from the Fourth Amendment Extension Effective Date until the Maturity Date of the 2020 Extended Revolving Facility, in an aggregate principal amount not to exceed at any time outstanding the amount of its 2020 Extended Revolving Commitment under the Amended Credit Agreement.

(d) The 2020 Incremental Revolving Commitments shall constitute a Revolving Commitment Increase of the 2020 Extended Revolving Commitments and shall be of the same Class as the 2020 Extended Revolving Commitments. The terms, provisions and documentation of the 2020 Incremental Revolving Commitments shall be identical (including interest rate margins and interest rate floors) to the 2020 Extended Revolving Commitments as existing on the Fourth Amendment Extension Effective Date (after giving effect to Section 1 of this Amendment) and are in compliance with Sections 2.14(5)(b) of the Credit Agreement. Other than with respect to the Maturity Date, the terms, provisions and documentation of the 2020 Extended Revolving Commitments shall be identical (including interest rate margins and interest rate floors) to the Existing Revolving Commitments as existing on the Fourth Amendment Extension Effective Date (prior to giving effect to this Amendment). The 2020 Extended Revolving Loans shall be a new Class of Revolving Loans.

(e) On the Fourth Amendment Extension Effective Date, after giving effect to Section 1 of this Amendment, each of the 2020 Extending Revolving Lenders shall assign to each of the 2020 Incremental Revolving Lenders, and each of the 2020 Incremental Revolving Lenders shall purchase from each of the 2020 Extending Revolving Lenders, at the principal amount thereof, such interests in the 2020 Extended Revolving Loans outstanding on the Fourth Amendment Extension Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, the 2020 Extended Revolving Loans will be held by 2020 Extending Revolving Lenders and 2020 Incremental Revolving Lenders ratably in accordance with their Revolving Commitments after giving effect to the addition of such 2020 Incremental Revolving Commitments to the 2020 Extended Revolving Commitments.

(f) The provisions relating to participations under the Credit Agreement in Sections 2.16(5) and 2.14(7) in outstanding Letters of Credit and reallocation or assignment of any outstanding Revolving Loans (including on the Maturity Date of the Closing Date Revolving Facility) are incorporated by reference herein.

(g) All Letters of Credit outstanding under the Credit Agreement on the Fourth Amendment Extension Effective Date shall remain outstanding under the Amended Credit Agreement. Each Revolving Lender’s risk participation in each such Letter of Credit (and for the avoidance of doubt, Swing Line Loans) shall be determined in accordance with such Revolving Lender’s pro rata share, as if such Letter of Credit had been issued on the Fourth Amendment Extension Effective Date immediately after giving effect to Section 1 of this Amendment.
Except as expressly set forth herein, (i) this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders, the Administrative Agent or any other Agent, in each case under the Credit Agreement or any other Loan Document, and (ii) shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other Loan Document. Each and every term, condition, obligation, covenant and agreement contained in the Credit Agreement as amended hereby, or any other Loan Document as amended hereby, is hereby ratified and re-affirmed in all respects and shall continue in full force and effect. This Amendment shall constitute a Loan Document for purposes of the Credit Agreement and from and after the Amendment No. 4 Extension Effective Date, all references to the Credit Agreement in any Loan Document and all references in the Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, shall, unless expressly provided otherwise, refer to the Credit Agreement as amended by this Amendment. Each of the Loan Parties hereby consents to this Amendment and confirms that all obligations of such Loan Party under the Loan Documents to which such Loan Party is a party shall continue to apply to the Credit Agreement as amended hereby. The parties hereto acknowledge and agree that the amendment of the Credit Agreement pursuant to this Amendment and all other Loan Documents amended and/or executed and delivered in connection herewith shall not constitute a novation of the Credit Agreement and the other Loan Documents as in effect prior to the Amendment No. 4 Extension Effective Date.

Section 10. **Reaffirmation.** Each of the Loan Parties hereby consents to the amendment of the Credit Agreement described in Section 1 of this Amendment and hereby confirms its respective guarantees, pledges, grants of security interests, subordinations and other obligations, as applicable, under and subject to the terms of each of the Loan Documents to which it is party, and confirms, agrees and acknowledges that, notwithstanding the consummation of this Amendment, such guarantees, pledges, grants of security interests, subordinations and other obligations, and the terms of each of the Loan Documents to which it is a party, except as expressly modified by this Amendment, are not affected or impaired in any manner whatsoever and shall continue to be in full force and effect and shall also guarantee and secure all obligations as amended and reaffirmed pursuant to the Credit Agreement and this Amendment. Each of the Loan Parties confirms, acknowledges and agrees that the Lenders, the 2020 Extending Revolving Lenders providing the 2020 Extended Revolving Loans and the 2020 Incremental Revolving Lenders providing the 2020 Incremental Revolving Loans are “Lenders” and “Secured Parties” for all purposes under the Loan Documents. For the avoidance of doubt, each Loan Party hereby restates the provisions of Article II of the Security Agreement and agrees that all references in the Security Agreement to the “Secured Obligations” shall include the 2020 Extended Revolving Loans and the 2020 Incremental Revolving Loans.

Section 11. **WAIVER OF RIGHT OF TRIAL BY JURY.** EACH PARTY TO THIS AMENDMENT 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 AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
(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 AMENDMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.

[Remainder of page left intentionally blank]

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

MCAFEE, LLC

By: /s/ Alan Kohn
    Name: Alan Kohn
    Title: Treasurer

GUARANTORS:

MCAFEE FINANCE 2, LLC
MCAFEE PUBLIC SECTOR LLC
MCAFEE ACQUISITION CORP.
SKYHIGH NETWORKS ACQUISITION CORP.
SKYHIGH NETWORKS HOLDINGS CORP.
SKYHIGH NETWORKS, LLC
MCAFEE CONSUMER AFFAIRS NORTH, LLC
TUNNELBEAR, LLC

By: /s/ Alan Kohn
    Name: Alan Kohn
    Title: Vice President & Treasurer

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent

By: /s/ Lisa Hanson
Name: Lisa Hanson
Title: Vice President

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
MORGAN STANLEY SENIOR FUNDING, INC., as a 2020 Extending Revolving Lender, and Issuing Bank

By: /s/ Julie Lilienfeld
Name: Julie Lilienfeld
Title: Authorized Signatory

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
GOLDMAN SACHS BANK USA,
as a 2020 Extending Revolving Lender and a 2020
Incremental Revolving Lender

By: /s/ Rebecca Kratz
Name: Rebecca Kratz
Title: Authorized Signatory

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
Bank of America, N.A.,
as a 2020 Extending Revolving Lender, and
Issuing Bank

By: /s/ Mike Roane
Name: Mike Roane
Title: Director

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
Citibank, N.A.,
as a 2020 Extending Revolving Lender, a 2020
Incremental Revolving Lender, and Issuing Bank

By: /s/ Michael V. Moore
Name: Michael V. Moore
Title: Director & Vice President

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
Royal Bank of Canada,
as a 2020 Extending Revolving Lender

By: /s/ Nicholas Heslip
Name: Nicholas Heslip
Title: Authorized Signatory

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
DEUTSCHE BANK AG NEW YORK BRANCH,
as a 2020 Extending Revolving Lender

By: /s/ Michael Strobel
    Name: Michael Strobel
    Title: Vice President

By: /s/ Yumi Okabe
    Name: Yumi Okabe
    Title: Vice President

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
UBS AG Stamford Branch,
a 2020 Extending Revolving Lender

By: /s/ Houssem Daly
   Name: Houssem Daly
   Title: Associate Director

By: /s/ Kenneth Chin
   Name: Kenneth Chin
   Title: Director

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
HSBC Bank USA, N.A.,
as a 2020 Incremental Revolving Lender

By: /s/ Derick Duchodni
Name: Derick Duchodni
Title: Managing Director

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
Mizuho Bank, Ltd.,
as a 2020 Extending Revolving Lender, and a
2020 Incremental Revolving Lender

By: /s/ Tracy Rahn
Name: Tracy Rahn
Title: Executive Director

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
JPMorgan Chase Bank, N.A.,
as Issuing Bank

By: /s/ Matthew Cheung
Name: Matthew Cheung
Title: Vice President

[Signature Page to Amendment No. 4 to First Lien Credit Agreement]
Exhibit A

[see attached]
FIRST LIEN CREDIT AGREEMENT

Dated as of September 29, 2017

among

MCAFEE, LLC,
as the Borrower,

MCAFEE FINANCE 2, LLC,
as Holdings,

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent, Collateral Agent and Issuing Bank,

and

THE OTHER LENDERS PARTY HERETO

________________________________________
Morgan Stanley Senior Funding, Inc.,
JPMorgan Chase Bank N.A.,
Goldman Sachs Bank USA,
BofA Securities, Inc.,
Barclays Bank PLC,
Citigroup Global Markets Inc.,
Deutsche Bank Securities Inc.,
RBC Capital Markets¹,
UBS Securities LLC, and
Mizuho Bank, Ltd.,
as Joint Lead Arrangers and Joint Lead Bookrunners

¹ RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.
### Article I

**Definitions and Accounting Terms**

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B-1 USD Term Note
B-2 Euro Term Note
B-3 Closing Date Revolving Note
B-4 2020 Extended Revolving Note
C Compliance Certificate
D-1 Assignment and Assumption
D-2 Affiliated Lender Assignment and Assumption
E Guaranty
F Security Agreement
G-1 Equal Priority Intercreditor Agreement
G-2 First Lien/Second Lien Intercreditor Agreement
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I Solvency Certificate
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K Discount Range Prepayment Offer
L Solicited Discounted Prepayment Notice
M Acceptance and Prepayment Notice
N Specified Discount Prepayment Notice
O Solicited Discounted Prepayment Offer
P Specified Discount Prepayment Response
Q Intercompany Note
R Letter of Credit Report
This FIRST LIEN CREDIT AGREEMENT (this “Agreement”) is entered into as of September 29, 2017 by and among McAfee, LLC, a Delaware limited liability company (the “Borrower”), McAfee Finance 2, LLC, a Delaware limited liability company, as Holdings, Morgan Stanley Senior Funding, Inc., as administrative agent (in such capacity, including any successor thereto, the “Administrative Agent”) under the Loan Documents, as collateral agent (in such capacity, including any successor thereto, the “Collateral Agent”) under the Loan Documents and as an Issuing Bank, and each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”).

PRELIMINARY STATEMENTS

The Borrower has requested that (a) the Lenders extend credit to the Borrower in the form of $2,555.0 million of Closing Date USD Term Loans, €507.0 million of Closing Date Euro Term Loans and $500.0 million of Revolving Commitments on the Closing Date as first lien secured credit facilities and (b) from time to time on and after the Closing Date, the Lenders lend to the Borrower and the Issuing Banks issue Letters of Credit for the account of the Borrower, each to provide working capital for, and for other general corporate purposes of, the Borrower and its Subsidiaries, pursuant to the Revolving Commitments hereunder and pursuant to the terms of, and subject to the conditions set forth in, this Agreement.

On the Closing Date, the Borrower will enter into the Second Lien Credit Agreement pursuant to which the Borrower will obtain $600.0 million in initial aggregate principal amount of second lien term loans (the “Second Lien Initial Term Loans”).

The proceeds of the Closing Date Term Loans and the Closing Date Revolving Borrowings, together with the proceeds of the Second Lien Initial Term Loans and cash on hand, will be used on the Closing Date to fund the Transactions.

The applicable Lenders have indicated their willingness to lend, and the applicable Issuing Banks have indicated their willingness to issue Letters of Credit, in each case on the terms and subject to the 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

SECTION 1.01 Defined Terms. As used in this Agreement (including the introductory paragraph hereof and the preliminary statements hereto), the following terms have the meanings set forth below:

“2019 Dividend” means a Restricted Payment made on the Third Amendment Effective Date in an amount not to exceed $680,836,027.09.

“2019 Term B Euro Incremental Commitment” means, with respect to the 2019 Term B Euro Lender, its commitment to make a 2019 Term B Euro Incremental Loan on the Third Amendment Effective Date in an amount equal to €355,000,000.
“2019 Term B Euro Incremental Lender” means Bank of America, N.A., in its capacity as such.

“2019 Term B Euro Incremental Loan” means a 2019 Term B Euro Incremental Loan made by the 2019 Term B Euro Incremental Lender on the Third Amendment Effective Date pursuant to Section 2.01(1)(i).

“2019 Term B USD Incremental Commitment” means, with respect to the 2019 Term B USD Incremental Lender, its commitment to make a 2019 Term B USD Incremental Loan on the Third Amendment Effective Date in an amount equal to $300,000,000.

“2019 Term B USD Incremental Lender” means Bank of America, N.A., in its capacity as such.

“2019 Term B USD Incremental Loan” means a 2019 Term B USD Incremental Loan made by the 2019 Term B USD Incremental Lender on the Third Amendment Effective Date pursuant to Section 2.01(1)(h).

“2020 Extended Revolving Commitments” has the meaning specified in the Fourth Amendment, and includes the 2020 Incremental Revolving Commitments, unless the context otherwise requires.

“2020 Extended Revolving Facility” means, the Revolving Facility made available by the 2020 Extending Revolving Lenders on the Fourth Amendment Extension Effective Date.

“2020 Extended Revolving Loans” has the meaning specified in the Fourth Amendment.

“2020 Extending Revolving Lenders” has the meaning specified in the Fourth Amendment.

“2020 Incremental Revolving Commitments” has the meaning specified in the Fourth Amendment.

“2020 Incremental Revolving Lenders” has the meaning specified in the Fourth Amendment.

“2020 Incremental Revolving Loans” has the meaning specified in the Fourth Amendment.

“Acceptable Discount” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acceptable Non-USD Currency” means (i) Sterling and Euros and (ii) subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned) and each Lender under the applicable Revolving Facility, any other currency.
“Acceptable Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Acceptance and Prepayment Notice” means a notice of the Borrower’s acceptance of the Acceptable Discount in substantially the form of Exhibit M.

“Acceptance Date” has the meaning specified in Section 2.05(1)(e)(D)(2).

“Acquired Indebtedness” means, with respect to any specified Person,
(1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person, and
(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Additional Lender” means, at any time, any bank, other financial institution or institutional lender or investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.14, (b) Other Loans pursuant to a Refinancing Amendment in accordance with Section 2.15 or (c) Replacement Loans pursuant to Section 10.01; provided that each Additional Lender shall be subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed, in each case solely to the extent that any such consent would be required from the Administrative Agent under Section 10.07(b)(iii)(B) for an assignment of Loans to such Additional Lender, and in the case of Incremental Revolving Commitments and Other Revolving Commitments and the Issuing Bank, such approval not to be unreasonably withheld, conditioned or delayed, in each case solely to the extent such consent would be required for any assignment to such Additional Lender under Section 10.07(b)(iii).

“Additional Term B Euro Commitment” means, with respect to the Additional Term B Euro Lender, its commitment to make a Term B Euro Loan on the Second Amendment Effective Date in an amount equal to €694,835,645.83 minus the aggregate principal amount of all Converted Closing Date Euro Term Loans.

“Additional Term B Euro Lender” means Morgan Stanley Bank, N.A., in its capacity as such.

“Additional Term B Euro Loan” means a Term B Euro Loan made by the Additional Term B Euro Lender on the Second Amendment Effective Date pursuant to Section 2.01(1)(f).

“Additional Term B USD Commitment” means, with respect to the Additional Term B USD Lender, its commitment to make a Term B USD Loan on the Second Amendment Effective Date in an amount equal to $2,801,013,908.93 minus the aggregate principal amount of all Converted Closing Date USD Term Loans.

“Additional Term B USD Lender” means Morgan Stanley Bank, N.A., in its capacity as such.
“Additional Term B USD Loan” means a Term B USD Loan made by the Additional Term B USD Lender on the Second Amendment Effective Date pursuant to Section 2.01(1)(e).

“Administrative Agent” has the meaning specified in the introductory paragraph to this Agreement.

“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 the Borrower and the Lenders.

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

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Affiliate Transaction” has the meaning specified in Section 7.07.

“Affiliated Lender” means, at any time, any Lender that is an Investor or an Affiliate of an Investor (other than (a) Holdings, the Borrower or any Subsidiary, (b) any Debt Fund Affiliate or (c) any natural person) at such time.

“Affiliated Lender Assignment and Assumption” has the meaning specified in Section 10.07(h)(vi).

“Affiliated Lender Cap” has the meaning specified in Section 10.07(h)(iv).

“Agent Parties” has the meaning specified in Section 10.02(4).

“Agent-Related Distress Event” means, with respect to the Administrative Agent or any other Person that directly or indirectly controls the Administrative Agent (each, a “Distressed Agent”), (a) that such Distressed Agent is or becomes subject to a voluntary or involuntary case under any Debtor Relief Law, (b) a custodian, conservator, receiver, or similar official is appointed for such Distressed Agent or any substantial part of such Distressed Agent’s assets, or (c) such Distressed Agent is subject to a forced liquidation, makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Agent or its assets to be, insolvent or bankrupt; provided that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent or any Person that directly or indirectly controls the Administrative Agent by a Governmental Authority or an instrumentality thereof so long as such ownership interest does not result in or provide the Administrative Agent 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 the Administrative Agent (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with the Administrative Agent.
“Agent-Related Persons” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons’ Affiliates.

“Agents” means, collectively, the Administrative Agent, the Collateral Agent and the Supplemental Administrative Agents (if any).

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“AHYDO Payment” means any mandatory prepayment or redemption pursuant to the terms of any Indebtedness that is intended or designed to cause such Indebtedness not to be treated as an “applicable high yield discount obligation” within the meaning of Section 163(i) of the Code.

“All-In Yield” means, as to any Indebtedness, the yield thereof, whether in the form of interest rate, margin, OID, upfront fees, a Eurodollar Rate floor, Base Rate floor or EURIBOR floor (with such increased amount being determined in the manner described in the final proviso of this definition), or otherwise, in each case, incurred or payable by the Borrower ratably to all lenders of such Indebtedness; provided that OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of incurrence of the applicable Indebtedness); provided, further, that “All-In Yield” shall not include arrangement fees, structuring fees, commitment fees, underwriting fees, success fees, advisory fees, ticking fees, consent or amendment fees and any similar fees (regardless of how such fees are computed and whether shared or paid, in whole or in part, with or to any or all lenders) and any other fees not generally paid ratably to all lenders of such Indebtedness; provided further that, with respect to any Loans of an applicable Class that includes a Eurodollar Rate floor, Base Rate floor or EURIBOR floor, (1) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the Applicable Rate for such Loans of such Class for the purpose of calculating the All-In Yield and (2) to the extent that the Reference Rate on the date that the All-In Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the All-In Yield.

“Annual Financial Statements” means the audited combined balance sheets and related audited combined statements of operations, comprehensive operations, cash flows and equity of the McAfee Business (derived from the financial statements of Intel Corporation as if the McAfee Business had operated on a standalone basis) for the fiscal year ended December 31, 2016 and the period ended April 3, 2017.

“All-In Yield” has the meaning specified in Section 2.05(1)(e)(C)(2).

“All-In Yield” means, in respect of the Revolving Facility, with respect to any Revolving Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Facility represented by such Revolving Lender’s Revolving Commitments at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Revolving Lender to make Revolving Loans and the obligation of the Issuing Banks to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Commitments have otherwise expired in full, then the Applicable Percentage of each Revolving Lender in respect of the Revolving Facility shall be determined based on the Applicable Percentage of such Revolving Lender in respect of the Revolving Facility most recently in effect, giving effect to any subsequent assignments.
“Applicable Rate” means a percentage per annum equal to:

(a) (x) with respect to Term B USD Loans, (i) 3.75% for Eurodollar Rate Loans and (ii) 2.75% for Base Rate Loans and (y) with respect to Term B Euro Loans, 3.50%.

(b) with respect to Revolving Loans and unused Revolving Commitments under the Closing Date Revolving Facility and Letter of Credit fees (i) until delivery of a Compliance Certificate for the first fiscal quarter ending after the Second Amendment Effective Date pursuant to Section 6.02(1), (A) 3.75% for Eurodollar Rate Loans and Letter of Credit fees, (B) 2.75% for Base Rate Loans and (C) 0.50% for the Commitment Fee Rate for unused Revolving Commitments and (ii) thereafter, the following percentages per annum, based upon the First Lien Net Leverage Ratio as specified in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(1):

<table>
<thead>
<tr>
<th>Pricing Level</th>
<th>First Lien Net Leverage Ratio</th>
<th>Eurodollar Rate and Letter of Credit Fees</th>
<th>Base Rate</th>
<th>Commitment Fee Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>&gt;3.50:1.00</td>
<td>3.75%</td>
<td>2.75%</td>
<td>0.50%</td>
</tr>
<tr>
<td>2</td>
<td>≤3.50:1.00 and &gt; 3.00:1.00</td>
<td>3.50%</td>
<td>2.50%</td>
<td>0.375%</td>
</tr>
<tr>
<td>3</td>
<td>≤3.00:1.00</td>
<td>3.25%</td>
<td>2.25%</td>
<td>0.25%</td>
</tr>
</tbody>
</table>

Any increase or decrease in the Applicable Rate resulting from a change in the First Lien Net 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(1); provided that, at the option of the Required Facility Lenders under the Closing Date Revolving Facility and the 2020 Extended Revolving Facility, “Pricing Level 1” (as set forth above) shall apply as of (x) the first Business Day after the date on which a Compliance Certificate was required to have been delivered but was not delivered, and shall continue to so apply to and including the date on which such Compliance Certificate is so delivered (and thereafter the pricing level otherwise determined in accordance with this definition shall apply) or (y) the first Business Day after an Event of Default under Section 8.01(1) shall have occurred and be continuing, and shall continue to so apply to but excluding the date on which such Event of Default is cured or waived (and thereafter the pricing level otherwise determined in accordance with this definition shall apply).

“Appropriate Lender” means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class and (b) with respect to Letters of Credit, (i) the relevant Issuing Banks and (ii) the relevant Revolving Lenders.

“Approved Fund” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“Asset Sale” means:

1. the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions of property or assets of the Borrower or any Restricted Subsidiary (each referred to in this definition as a “disposition”); or

2. the issuance or sale of Equity Interests (other than Preferred Stock or Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.02 and directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable Law) of any Restricted Subsidiary (other than to the Borrower or another Restricted Subsidiary), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of:

(i) Cash Equivalents or Investment Grade Securities,

(ii) obsolete, damaged or worn out property or assets, any disposition of inventory or goods (or other assets) held for sale and property or assets no longer used or useful in the ordinary course,

(iii) assets no longer economically practicable or commercially reasonable to maintain (as determined in good faith by the management of the Borrower),

(iv) improvements made to leased real property to landlords pursuant to customary terms of leases entered into in the ordinary course of business and

(v) assets for purposes of charitable contributions or similar gifts to the extent such assets are not material to the ability of the Borrower and its Restricted Subsidiaries, taken as a whole, to conduct its business in the ordinary course;

(b) the disposition of all or substantially all of the assets of the Borrower in a manner permitted pursuant to Section 7.03;

(c) any disposition in connection with the making of any Restricted Payment that is permitted to be made, and is made, under Section 7.05, any Permitted Investment or any acquisition otherwise permitted under this Agreement;

(d) any disposition of property or assets or issuance or sale of Equity Interests of any Restricted Subsidiary with an aggregate fair market value for any individual transaction or series of related transactions of less than $40.0 million;

(e) any disposition of property or assets or issuance of securities by a Restricted Subsidiary to the Borrower or by the Borrower or a Restricted Subsidiary to a Restricted Subsidiary;

(f) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Similar Business;
(g) (i) the lease, assignment or sublease, license or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice and (ii) the exercise of termination rights with respect to any lease, sublease, license or sublicense or other agreement;

(h) any issuance, disposition or sale of Equity Interests in, or Indebtedness, assets or other securities of, an Unrestricted Subsidiary;

(i) foreclosures, condemnation, expropriation, eminent domain or any similar action (including for the avoidance of doubt, any Casualty Event) with respect to assets;

(j) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility, sales of receivables in connection with Receivables Financing Transactions or the disposition of an account receivable in connection with the collection or compromise thereof in the ordinary course of business or consistent with industry practice or in bankruptcy or similar proceedings;

(k) any financing transaction with respect to property built or acquired by the Borrower or any Restricted Subsidiary after the Closing Date, including asset securitizations permitted hereunder;

(l) the sale, lease, assignment, license, sublease or discount of inventory, equipment, accounts receivable, notes receivable or other current assets in the ordinary course of business or consistent with industry practice or the conversion of accounts receivable to notes receivable or other dispositions of accounts receivable in connection with the collection thereof;

(m) the licensing or sublicensing of intellectual property or other general intangibles in the ordinary course of business or consistent with industry practice;

(n) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business or consistent with industry practice;

(o) the unwinding of any Hedging Obligations;

(p) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(q) the lapse, abandonment or other disposition of intellectual property rights in the ordinary course of business or consistent with industry practice, which in the reasonable good faith determination of the Borrower, are not material to the conduct of the business of the Borrower and its Restricted Subsidiaries taken as a whole;

(r) the granting of a Lien that is permitted under Section 7.01;

(s) the issuance of directors’ qualifying shares and shares of Capital Stock of Foreign Subsidiaries issued to foreign nationals as required by applicable Law;

(t) the disposition of any assets (including Equity Interests) (i) acquired in a transaction permitted hereunder, which assets are (x) not used or useful in the principal business of the Borrower and its Restricted Subsidiaries or (y) non-core assets or surplus or unnecessary to the business or operations of the Borrower and its Restricted Subsidiaries or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the good faith determination of the Borrower to consummate any acquisition permitted hereunder;
(u) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property;

(v) dispositions of property in connection with any Sale-Leaseback Transaction;

(w) the settlement or early termination of any Permitted Bond Hedge Transaction and the settlement or early termination of any related Permitted Warrant Transaction;

(x) the sales of property or assets for an aggregate fair market value since the date of this Agreement not to exceed the greater of $155.0 million and 20.0% of Consolidated EBITDA of the Borrower for the most recently ended Test Period (calculated on a pro forma basis) determined at the time of the making of such disposition; and

(y) the sales of property or assets for an aggregate fair market value not to exceed $60.0 million in any calendar year with unused amounts in any calendar year being carried over to successive calendar years.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D-1 or any other form approved by the Administrative Agent.

“Attorney Costs” means all reasonable fees, expenses and disbursements of any law firm or other external legal counsel, to the extent documented in reasonable detail and invoiced.

“Attributable Indebtedness” means, on any date, in respect of any Capitalized Lease Obligation of any Person, the amount thereof that would appear as a liability on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“Auction Agent” means (a) the Administrative Agent or (b) any other financial institution or advisor engaged by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Term Loan Prepayment pursuant to Section 2.05(1)(e); provided that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); provided further that neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“Australian Dollars” means the lawful currency of Australia.

“Auto-Extension Letter of Credit” has the meaning specified in Section 2.03(2)(c).

“Available Incremental Amount” has the meaning specified in Section 2.14(4)(c).
“Available LC Currency” means (i) with respect to Letters of Credit issued after the Closing Date, Dollars, Euros, Sterling, Yen and Australian Dollars and (ii) with respect to Existing Letters of Credit, Dollars, Euros, Sterling, Yen, Australian Dollars, Shekels and Rupees.

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

“Bail-In Legislation” means, 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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bankruptcy Code” has the meaning specified in Section 8.02.

“Base Rate” means for any day a fluctuating rate per annum (subject solely in the case of the Term B USD Loans to a floor of 1.00% 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 announced from time to time by the Administrative Agent as its “prime rate” and (c) the Eurodollar Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day). The “prime rate” is a rate set by the Administrative Agent based upon various factors including the Administrative Agent’s costs and desired return, general economic conditions and 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 rate announced by the Administrative Agent shall take effect at the opening of business on the day specified in the announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Article III hereof, then the Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Basket” means any amount, threshold, exception or value (including by reference to the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio, the Interest Coverage Ratio, Consolidated EBITDA or Total Assets) permitted or prescribed with respect to any Lien, Indebtedness, Asset Sale, Investment, Restricted Payment, transaction, action, judgment or amount under any provision in this Agreement or any other Loan Document.

“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.

“Big Boy Letter” means a letter from a Lender acknowledging that (1) an assignee may have information regarding Holdings, the Borrower and any Subsidiary of the Borrower, their ability to perform the Obligations or any other material information that has not previously been disclosed to the Administrative Agent and the Lenders (“Excluded Information”), (2) the Excluded Information may not be available to such Lender, (3) such Lender has independently and without reliance on any other party made its own analysis and determined to assign Term Loans to such assignee pursuant to Section 10.07(h) or (l) notwithstanding its lack of knowledge of the Excluded Information and (4) such Lender waives and releases any claims it may have against the Administrative Agent, such assignee, Holdings, the Borrower and the Subsidiaries of the Borrower with respect to the nondisclosure of the Excluded Information; or otherwise in form and substance reasonably satisfactory to such assignee, the Administrative Agent and assigning Lender.
“Board of Directors” means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the Board of Directors of such entity, or, in either case, any committee thereof duly authorized to act on behalf of such Board of Directors. Unless otherwise provided, “Board of Directors” means the Board of Directors of the Borrower.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrower Offer of Specified Discount Prepayment” means any offer by any Borrower Party to make a voluntary prepayment of Loans at a specified discount to par pursuant to Section 2.05(1)(e)(B).

“Borrower Parties” means the collective reference to Holdings, the Borrower and each Subsidiary of the Borrower and “Borrower Party” means any of them.

“Borrower Solicitation of Discount Range Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Loans at a specified range of discounts to par pursuant to Section 2.05(1)(e)(C).

“Borrower Solicitation of Discounted Prepayment Offers” means the solicitation by any Borrower Party of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Loans at a discount to par pursuant to Section 2.05(1)(e)(D).

“Borrowing” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurodollar Rate Loans or EURIBOR Rate Loans, having the same Interest Period.

“Broker-Dealer Regulated Subsidiary” means any Subsidiary of the Borrower that is registered as a broker-dealer under the Exchange Act or any other applicable Laws requiring such registration.

“Business Day” means any day that is not a Legal Holiday and (i) with respect to any interest rate settings as to a Eurodollar Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurodollar Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, any day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market and (ii) with respect to any interest rate settings as to a EURIBOR Rate Loan, any fundings, disbursements, settlements and payments in respect of any such EURIBOR Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such EURIBOR Rate Loan, any day on which dealings in deposits in Euros are conducted by and between banks in the European interbank market.

“Canadian Dollars” means the lawful currency of Canada.

“Capital Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Lease Obligations) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower and the Restricted Subsidiaries.
“Capital Stock” means:

1. in the case of a corporation, corporate stock or shares in the capital of such corporation;
2. in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
3. in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
4. any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into or exchangeable for Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital or finance lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP and, for the avoidance of doubt, shall not include any operating lease or other Non-Finance Lease Obligation.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

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

“Cash Collateral” has the meaning specified in the definition of “Cash Collateralize.”

“Cash Collateral Account” means an account held at, and subject to the sole dominion and control of, the Collateral Agent.

“Cash Collateralize” means, in respect of an Obligation, to provide and pledge cash or Cash Equivalents in Dollars as collateral, at a location and pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent or the relevant Issuing Bank with respect to any Letter of Credit, as applicable (and “Cash Collateralization” has a corresponding meaning). “Cash Collateral” has a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means:

1. Dollars;
2. (a) Euros, Yen, Canadian Dollars, Sterling or any national currency of any participating member state of the EMU;
(b) in the case of any Foreign Subsidiary or any jurisdiction in which the Borrower or any Restricted Subsidiary conducts business, such local currencies held by it from time to time in the ordinary course of business or consistent with industry practice;

(3) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 36 months or less from the date of acquisition;

(4) certificates of deposit, time deposits and eurodollar time deposits with maturities of three years or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding three years and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than $500.0 million in the case of U.S. banks and $100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;

(5) repurchase obligations for underlying securities of the types described in clauses (3) and (4) above or clauses (7) and (8) below entered into with any financial institution or recognized securities dealer meeting the qualifications specified in clause (4) above;

(6) commercial paper and variable or fixed rate notes rated at least P-2 by Moody’s or at least A-2 by S&P (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) and in each case maturing within 36 months after the date of acquisition thereof;

(7) marketable short-term money market and similar liquid funds having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower);

(8) securities issued or directly and fully and unconditionally guaranteed by any state, commonwealth or territory of the United States or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof having maturities of not more than 36 months from the date of acquisition thereof;

(9) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from either Moody’s or S&P (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) with maturities of 36 months or less from the date of acquisition;

(10) Indebtedness or Preferred Stock issued by Persons with a rating of “A” or higher from S&P or “A2” or higher from Moody’s (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower) with maturities of 36 months or less from the date of acquisition;

(11) Investments with average maturities of 36 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s (or, if at any time neither Moody’s nor S&P is rating such obligations, an equivalent rating from another Rating Agency selected by the Borrower);
(12) investment funds investing substantially all of their assets in securities of the types described in clauses (1) through (11) above; and
(13) solely with respect to any Captive Insurance Subsidiary, any investment that the Captive Insurance Subsidiary is not prohibited to make in accordance with applicable Law.

In the case of Investments by any Foreign Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents will also include (i) investments of the type and maturity described in clauses (1) through (13) above of foreign obligors, which investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (13) and in this paragraph.

Notwithstanding the foregoing, Cash Equivalents will include amounts denominated in currencies other than those set forth in clauses (1) and (2) above, provided that such amounts, except amounts used to pay non-Dollar denominated obligations of the Borrower or any Restricted Subsidiary in the ordinary course of business, are expected by the Borrower to be converted into any currency listed in clause (1) or (2) above as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts (and solely to the extent so converted on or prior to such tenth (10th) Business Day).

"Cash Management Agreement" means any agreement entered into from time to time by Holdings, the Borrower or any Restricted Subsidiary in connection with cash management services for collections, other Cash Management Services and for operating, payroll and trust accounts of such Person, including automatic clearing house services, controlled disbursement services, electronic funds transfer services, information reporting services, lockbox services, stop payment services and wire transfer services.

"Cash Management Bank" means any Person that is an Agent, a Lender or an Affiliate of an Agent or Lender on the Closing Date or at the time it entered into a Secured Cash Management Agreement, whether or not such Person subsequently ceases to be an Agent, a Lender or an Affiliate of an Agent or Lender.

"Cash Management Obligations" means obligations owed by Holdings, the Borrower or any Restricted Subsidiary to any Cash Management Bank in connection with, or in respect of, any Cash Management Services.

"Cash Management Services" means (a) commercial credit cards, merchant card services, purchase or debit cards, including non-card e-payables services, (b) treasury management services (including controlled disbursement, overdraft, automatic clearing house fund transfer services, return items and interstate depository network services), (c) foreign exchange, netting and currency management services and (d) any other demand deposit or operating account relationships or other cash management services, including under any Cash Management Agreements.

"Casualty Event" means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.
“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption of any law, rule, regulation or treaty (excluding the taking effect after the Closing Date of a law, rule, regulation or treaty adopted prior to the Closing Date), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd–Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203, H.R. 4173), all Laws relating thereto and all interpretations and applications thereof and (ii) 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 regulatory authorities, in each case pursuant to Basel III, shall, for the purpose of this Agreement, be deemed to be adopted subsequent to the Closing Date.

“Change of Control” means the occurrence of any of the following after the Closing Date:

(1) at any time prior to the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, the Permitted Holders ceasing to beneficially own (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), in the aggregate, directly or indirectly, at least a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower; or

(2) at any time following the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, (a) any Person (other than a Permitted Holder) or (b) Persons (other than one or more Permitted Holders) constituting a “group” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), becoming the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) (excluding any employee benefit plan of such Person and its subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), directly or indirectly, of Equity Interests of the Borrower representing more than forty percent (40%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower and the percentage of aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of the Borrower beneficially owned, directly or indirectly, in the aggregate by the Permitted Holders (it being understood and agreed that for purposes of measuring beneficial ownership held by any Person that is not a Permitted Holder, Equity Interests held by any Permitted Holder will be excluded);

(3) any “Change of Control” (or any comparable term) in any document pertaining to the Second Lien Credit Facility or any Refinancing Indebtedness thereof, in each case with an aggregate outstanding principal amount in excess of the Threshold Amount; or

(4) the Borrower ceases to be directly or indirectly wholly owned by Holdings (or any successor or Parent Company that has become a Guarantor in lieu of Holdings);

unless, in the case of clause (1) or (2) above, the Permitted Holders have, at such time, directly or indirectly, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the board of directors of the Borrower.

“Charge” means any charge, fee, expense, expenditure, cost, loss, accrual, reserve of any kind and any other deduction included in the calculation of Consolidated Net Income.
“Class” (a) when used with respect to Lenders, refers to whether such Lenders have Loans or Commitments with respect to a particular Class of Loans or Commitments, (b) when used with respect to Commitments, refers to whether such Commitments are Term B USD Loan Commitments, Term B Euro Loan Commitments, Closing Date Revolving Commitments, 2020 Extended Revolving Commitments, Incremental Revolving Commitments, Other Revolving Commitments, Incremental Term Commitments, Commitments in respect of any Class of Replacement Loans, Extended Revolving Commitments of a given Extension Series or Other Term Loan Commitments of a given Class of Other Loans, in each case not designated part of another existing Class and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Closing Date USD Term Loans, Closing Date Euro Term Loans, Term B USD Loans, Term B Euro Loans, Revolving Loans under the Closing Date Revolving Facility, 2020 Extended Revolving Loans, Incremental Term Loans, Incremental Revolving Loans, Other Revolving Loans, Replacement Loans, Extended Term Loans, Loans made pursuant to Extended Revolving Commitments, or Other Term Loans, in each case not designated part of another existing Class. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have different terms and conditions shall be construed to be in different Classes. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class. For the avoidance of doubt, the Term B USD Loans and the Term B Euro Loans shall each constitute a separate Class of Loans.

“Closing Date” means the first date on which all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01, and the Closing Date Term Loans are made to the Borrower pursuant to Section 2.01(1)(a) and (b), which date was September 29, 2017.

“Closing Date Euro Term Loans” means all Euro Term Loans outstanding under this Agreement immediately prior to the Second Amendment Effective Date.

“Closing Date Loans” means the Closing Date Term Loans and any Closing Date Revolving Borrowing.

“Closing Date Revolving Borrowing” means one or more Borrowings of Revolving Loans on the Closing Date pursuant to Section 2.01(2) in accordance with the requirements specified or referred to in Section 6.14; provided, that, without limitation, Letters of Credit may be issued on the Closing Date to backstop or replace letters of credit outstanding on the Closing Date (including deemed issuances of Letters of Credit under this Agreement resulting from an existing issuer of letters of credit outstanding on the Closing Date agreeing to become an Issuing Bank under this Agreement).

“Closing Date Revolving Facility” means the applicable Revolving Facility made available by the Revolving Lenders as of the Closing Date.

“Closing Date Revolving Note” means a promissory note of the Borrower payable to any Revolving Lender or its registered assigns, in substantially the form of Exhibit B-3 hereto, evidencing the aggregate Indebtedness of the Borrower to such Revolving Lender resulting from the Revolving Loans made by such Revolving Lender.

“Closing Date Term Loans” means the Closing Date USD Term Loans and the Closing Date Euro Term Loans.

“Closing Date USD Term Loans” means all USD Term Loans outstanding under this Agreement immediately prior to the Second Amendment Effective Date.

“Collateral” means all the “Collateral” (or equivalent term) as defined in any Collateral Document and the Mortgaged Properties, if any.

“Collateral Agent” has the meaning specified in the introductory paragraph to this Agreement.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(1) the Collateral Agent shall have received each Collateral Document required to be delivered (a) on the Closing Date pursuant to Section 4.01(1)(c) or (b) pursuant to the Security Agreement or Sections 6.11 or 6.13 at such time required by the Security Agreement or by such Sections to be delivered, in each case, duly executed by each Loan Party that is party thereto;

(2) all Obligations shall have been unconditionally guaranteed by (a) Holdings (or any successor thereto), (b) each Restricted Subsidiary of the Borrower that is a wholly owned Material Subsidiary (other than any Excluded Subsidiary), which as of the Closing Date shall include those that are listed on Schedule 1.01(1) hereto and (c) any Restricted Subsidiary of the Borrower that Guarantees (or is the borrower or issuer of) (i) the Second Lien Term Loans (or any Refinancing Indebtedness in respect thereof having an aggregate principal amount in excess of the Threshold Amount), (ii) any Junior Indebtedness, (iii) any Permitted Incremental Equivalent Debt or (iv) any Credit Agreement Refinancing Indebtedness (the Persons in the preceding clauses (a) through (c) collectively, the “Guarantors”);

(3) except to the extent otherwise provided hereunder or under any Collateral Document, the Obligations and the Guaranty shall have been secured by a perfected security interest, subject only to Liens permitted by Section 7.01, in

(a) all the Equity Interests of the Borrower,

(b) all Equity Interests of each direct, wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) that is directly owned by any Loan Party and

(c) 65% of the issued and outstanding Equity Interests of each class of each (i) wholly owned Material Domestic Subsidiary that is (a) a Foreign Subsidiary Holdco and (b) directly owned by a Loan Party and (ii) wholly owned Material Foreign Subsidiary, in each case, that is directly owned by a Loan Party (in each case, to the extent such Material Domestic Subsidiary or Material Foreign Subsidiary is not an Excluded Subsidiary (other than by virtue of being a Foreign Subsidiary Holdco or Foreign Subsidiary, as applicable));

(4) except to the extent otherwise provided hereunder or under any Collateral Document, including subject to Liens permitted by Section 7.01, and in each case subject to exceptions and limitations otherwise set forth in this Agreement and the Collateral Documents, the Obligations and the Guaranty shall have been secured by a security interest in substantially all tangible and intangible personal property of the Borrower and each Guarantor (including accounts other than Securitization Assets), inventory, equipment, investment property, contract rights, applications and registrations of intellectual property filed in the United States, other general intangibles, and proceeds of the foregoing (in each case, other than Excluded Assets), in each case,
(a) that has been perfected (to the extent such security interest may be perfected) by

(i) delivering certificated securities and instruments, in which a security interest can be perfected by physical control, in each case to the extent expressly required hereunder or the Security Agreement (solely in respect of any promissory note in excess of $25.0 million, Indebtedness of any Restricted Subsidiary that is not a Guarantor that is owing to any Loan Party (which may be evidenced by the Intercompany Note and pledged to the Collateral Agent) and certificated Equity Interests of the wholly owned Restricted Subsidiaries that are Material Subsidiaries otherwise required to be pledged pursuant to the Collateral Documents to the extent required under clause (3) above),

(ii) filing financing statements under the Uniform Commercial Code of any applicable jurisdiction,

(iii) making any necessary filings with the United States Patent and Trademark Office or United States Copyright Office or

(iv) filings in the applicable real estate records with respect to Mortgaged Properties (or any fixtures related to Mortgaged Properties) to the extent required by the Collateral Documents and

(b) with the priority required by the Collateral Documents; provided that any such security interests in the Collateral shall be subject to the terms of the Intercreditor Agreements to the extent expressly required by this Agreement; and

(5) subject to the exceptions and limitations set forth in this Agreement, the Collateral Agent shall have received counterparts of a Mortgage, together with the other deliverables described in Section 6.11(2)(b), with respect to each Material Real Property listed on Schedule 1.01(2) to the extent required to be delivered pursuant to Section 6.11 or Section 6.13 (the “Mortgaged Properties”) duly executed and delivered by the record owner of such property within the time periods set forth in said Sections; provided that (i) to the extent any Mortgaged Property is located in a jurisdiction which imposes mortgage recording taxes, intangibles tax, documentary tax or similar recording fees or taxes, (a) the relevant Mortgage shall not secure an amount in excess of the fair market value of the Mortgaged Property subject thereto and (b) the relevant Mortgage shall not secure the Indebtedness in respect of Letters of Credit or the Revolving Facility to the extent those jurisdictions impose such aforementioned taxes on paydowns or re-advances applicable to such Indebtedness unless it is feasible to limit recovery to a capped amount that would not be subject to re-borrowing and (ii) no flood insurance or compliance with any flood insurance laws shall be required with respect to any Mortgaged Property.

The foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, the creation, perfection or maintenance of pledges of, or security interests in, Mortgages on, or the obtaining of Mortgage Policies, surveys, abstracts or appraisals or taking other actions with respect to, any Excluded Assets.

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The Collateral Agent may grant extensions of time for the creation, perfection or maintenance of security interests in, or the execution or delivery of any Mortgage and the obtaining of title insurance, surveys or Opinions of Counsel with respect to, particular assets (including extensions beyond the Closing Date for the creation, perfection or maintenance of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation, perfection or maintenance cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

No actions required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in any assets or to perfect or make enforceable such security interests in any assets (including any intellectual property registered or applied for in any non-U.S. jurisdiction) (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction). No perfection through control agreements or perfection by “control” shall be required with respect to any assets (other than to the extent required under clause (4)(a)(i) above). There shall be no (x) Guaranties governed under the laws of any non-U.S. jurisdiction, (y) requirement to obtain any landlord waivers, estoppels or collateral access letters or (z) requirement to perfect a security interest in any letter of credit rights, other than by the filing of a UCC financing statement.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages (if any), each of the collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent, Collateral Agent or the Lenders pursuant to Sections 4.01(1)(c), 6.11 or 6.13 and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitment” means a Revolving Commitment, Incremental Revolving Commitment, Additional Term B USD Commitment, Additional Term B Euro Commitment, Incremental Term Commitment, Other Revolving Commitment, Other Term Loan Commitment, Extended Revolving Commitment of a given Extension Series, or any commitment in respect of Replacement Loans, as the context may require.

“Commitment Fee Rate” means a percentage per annum equal to the Applicable Rate set forth in the “Commitment Fee Rate” column of the chart in the definition of “Applicable Rate.”

“Committed Loan Notice” means a notice of (1) a Borrowing with respect to a given Class of Loans, (2) a conversion of Loans of a given Class from one Type to the other or (3) a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans of a given Class, pursuant to Section 2.02(1), which, if in writing, shall be substantially in the form of Exhibit A, or such other form as may be approved by the Administrative Agent and the Borrower (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent and the Borrower), 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.), as amended from time to time and any successor statute.

“Compensation Period” has the meaning specified in Section 2.12(3)(b).
“Compliance Certificate” means a certificate substantially in the form of Exhibit C and which certificate shall in any event be a certificate of a Financial Officer of the Borrower:

(1) certifying as to whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto (in each case, other than any Default with respect to which the Administrative Agent has otherwise obtained notice in accordance with Section 6.03(1)),

(2) in the case of financial statements delivered under Section 6.01(1), setting forth reasonably detailed calculations of (i) Excess Cash Flow for each fiscal year commencing with the financial statements for the fiscal year ending on or about December 29, 2018 and (ii) the Net Proceeds received during the applicable period (after the Closing Date in the case of the fiscal year ending on or about December 30, 2017) by or on behalf of the Borrower or any Restricted Subsidiary in respect of any Asset Sale or Casualty Event subject to prepayment pursuant to Section 2.05(2)(b)(i) and the portion of such Net Proceeds that has been invested or is intended to be reinvested in accordance with Section 2.05(2)(b)(ii),

(3) commencing with the certificate delivered pursuant to Section 6.02(1) for the first full fiscal quarter ending after the Closing Date, (x) if on the last day of the relevant fiscal quarter there are outstanding Revolving Loans and Letters of Credit (excluding (i) undrawn Letters of Credit in an aggregate amount of up to $30.0 million and (ii) Letters of Credit (whether drawn or undrawn) to the extent Cash Collateralized or backstopped on terms reasonably acceptable to the applicable Issuing Bank) in an aggregate principal amount exceeding 35% of the aggregate principal amount of all Revolving Commitments under all outstanding Revolving Facilities (including any Incremental Revolving Facilities), setting forth a calculation of the First Lien Net Leverage Ratio as of the last day of the most recent Test Period, or (y) if the First Lien Net Leverage Ratio as of the last day of the most recent Test Period would result in a change in the applicable “Pricing Level” as set forth in the definition of “Applicable Rate,” setting forth a calculation of such First Lien Net Leverage Ratio.

“Consolidated Current Assets” means, as at any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees, derivative financial instruments and any assets in respect of Hedge Agreements, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding (A) the current portion of any Funded Debt, (B) the current portion of interest, (C) accruals for current or deferred taxes based on income or profits, (D) accruals of any costs or expenses related to restructuring reserves or severance, (E) Revolving Loans and L/C Obligations under this Agreement or any other revolving loans and letter of credit obligations under any other revolving credit facility, (F) the current portion of any Capitalized Lease Obligation, (G) deferred revenue arising from cash receipts that are earmarked for specific projects, (H) liabilities in respect of unpaid earn-outs, (I) the current portion of any other long-term liabilities, (J) accrued litigation settlement costs, (K) any liabilities in respect of Hedge Agreements and (L) deferred revenue, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.
“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense of such Person and its Restricted Subsidiaries, including the amortization of intangible assets, deferred financing fees, debt issuance costs, commissions, fees and expenses and the amortization of Capitalized Software Expenditures of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period:

(1) increased (without duplication) by the following, in each case (other than clauses (h), (l), (q), and (r)) to the extent deducted (and not added back) in determining Consolidated Net Income for such period:

(a) total interest expense and, to the extent not reflected in such total interest expense, any losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such Hedging Obligations or such derivative instruments, and bank and letter of credit fees, letter of guarantee and bankers’ acceptance fees and costs of surety bonds in connection with financing activities, together with items excluded from the definition of “Consolidated Interest Expense” pursuant to the definition thereof; plus

(b) provision for taxes based on income, profits, revenue or capital, including federal, foreign and state income, franchise, excise, value added and similar taxes, property taxes and similar taxes, and foreign withholding taxes paid or accrued during such period (including any future taxes or other levies that replace or are intended to be in lieu of taxes, and any penalties and interest related to taxes or arising from tax examinations) and the net tax expense associated with any adjustments made pursuant to the definition of “Consolidated Net Income,” and any payments to a Parent Company in respect of such taxes permitted to be made hereunder; plus

(c) Consolidated Depreciation and Amortization Expense for such period; plus

(d) any other non-cash Charges, including any write-offs or write-downs reducing Consolidated Net Income for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, (i) the Borrower in its sole discretion may determine not to add back such non-cash Charge in the current period and (ii) to the extent the Borrower does decide to add back such non-cash Charge, the cash payment in respect thereof, with the exception of any cash payments related to the settlement of deferred compensation balances awarded prior to the Closing Date, in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

(e) Charges consisting of income attributable to minority interests and non-controlling interests of third parties in any non-wholly-owned Restricted Subsidiary, excluding cash distributions in respect thereof, and the amount of any reductions in arriving at Consolidated Net Income resulting from the application of Accounting Standards Codification Topic No. 810, Consolidation; plus
(f) (i) the amount of board of director fees and any management, monitoring, consulting, transaction, advisory and other fees (including transaction and termination fees) and indemnities and expenses paid or accrued in such period under the Management Services Agreement or otherwise to the extent permitted under Section 7.07 and (ii) the amount of payments made to optionholders of such Person or any Parent Company in connection with, or as a result of, any distribution being made to equityholders of such Person or its Parent Companies, which payments are being made to compensate such optionholders as though they were equityholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted hereunder; plus

(g) Charges, including any loss or discount, related to the sale of receivables, Securitization Assets and related assets to any Securitization Subsidiary in connection with a Qualified Securitization Facility; plus

(h) cash receipts (or any netting arrangements resulting in reduced cash Charges) not representing Consolidated EBITDA or Consolidated Net Income in any prior period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to clause (2) below for any previous period and not added back; plus

(i) any Charges pursuant to any management equity plan, stock option plan or any other management or employee benefit plan, agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of such Person or net cash proceeds of an issuance of Equity Interests of such Person (other than Disqualified Stock); plus

(j) any net pension or other post-employment benefit Charges representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification Topic 715—Compensation—Retirement Benefits, and any other items of a similar nature, plus

(k) the amount of earnout obligation expense incurred in connection with (including adjustments thereto) any acquisitions and Investments, whether consummated prior to or after the Closing Date; plus

(l) the amount of “run rate” cost savings, synergies and operating expense reductions (and revenue enhancements in the case of price increases instituted prior to the Closing Date) related to restructurings, cost savings initiatives, operational changes or other initiatives or recommended (in reasonable detail) by any quality of earnings or similar diligence report made available to the Administrative Agent conducted by financial advisors (which financial advisors are nationally recognized or reasonably acceptable to the Administrative Agent (it being understood and agreed that any of the “Big Four” accounting firms are acceptable)) that are projected by the Borrower in good faith to result from actions either taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) within 18 months after the end of such period (which cost savings, synergies and operating expense...
reductions (and revenue enhancements) shall be calculated on a pro forma basis as though such cost savings, synergies and operating expense reductions (and revenue enhancements) had been realized on the first day of such period, net of the amount of actual benefits realized from such actions during such period (it is understood and agreed that “run rate” means the full recurring benefit that is associated with any action taken or with respect to which substantial steps have been taken or are expected to be taken, whether prior to or following the Closing Date) (which adjustments may be incremental to (but not duplicative of) pro forma cost savings, synergies or operating expense reduction adjustments made pursuant to Section 1.07); provided that such cost savings, synergies and operating expenses are reasonably identifiable and factually supportable; provided, that the aggregate amount of any such “run rate” adjustments added back pursuant to this clause (l) and Section 1.07 shall not exceed in the aggregate 25% of Consolidated EBITDA for such period (as calculated before giving effect to any such “run rate” adjustments), plus

(m) for periods occurring prior to the Closing Date, any corporate allocations made to Borrower or any of its Restricted Subsidiaries in excess of the costs incurred by the McAfee Business on a standalone basis; plus

(n) any payments in the nature of compensation or expense reimbursement made to independent board members; plus

(o) (i) for periods occurring prior to the Closing Date, internal software development costs expensed during the period and (ii) for periods occurring after the Closing Date, internal software development costs that are expensed during the period but could have been capitalized in accordance with GAAP; plus

(p) any loss from discontinued operations (but if such operations are classified as discontinued due to the fact that they are being held for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the extent such operations are actually disposed of); plus

(q) adjustments, exclusions and add-backs consistent with Regulation S-X of the SEC; plus

(r) without duplication of revenues recognized in any other period, the net amount, if any, of the difference between (to the extent the amount in the following clause (i) exceeds the amount in the following clause (ii)): (i) the deferred revenue of such Person and its Restricted Subsidiaries as of the last day of such period (the “Determination Date”) and (ii) the deferred revenue of such Person and its Restricted Subsidiaries as of the date that is 12 months prior to the Determination Date, in each case, calculated without giving effect to adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) related to the application of recapitalization accounting or purchase accounting; and

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(b) the amount of any income consisting of losses attributable to non-controlling interests of third parties in any non-wholly-owned Restricted Subsidiary added to (and not deducted from) Consolidated Net Income in such period; and

(c) any net income from discontinued operations (but if such operations are classified as discontinued due to the fact that they are being held for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the extent such operations are actually disposed of).

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the fiscal quarters ended on October 1, 2016, December 31, 2016, April 1, 2017 and July 1, 2017, Consolidated EBITDA for such fiscal quarters shall be $161.021 million, $257.868 million, $175.604 million and $170.962 million, respectively (the “Deemed EBITDA Numbers”), in each case, as may be subject to add-backs and adjustments (without duplication and other than add-backs and adjustments related to the Transactions) pursuant to the definition of “Consolidated EBITDA” and appropriate exclusions in the definition of “Consolidated Net Income” (for the avoidance of doubt, without duplication of add-backs, adjustments and exclusions already incorporated in arriving at such Deemed EBITDA Numbers) and Section 1.07 for the applicable Test Period. For the avoidance of doubt, Consolidated EBITDA shall be calculated, including pro forma adjustments, in accordance with Section 1.07.

“Consolidated First Lien Secured Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of (i) Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness, in each case secured by a first priority lien on the Collateral on a pari passu basis with the Term B Loans and (ii) other Capitalized Lease Obligations and purchase money Indebtedness of the Loan Parties in excess of the Threshold Amount and secured by a first priority lien; provided, Consolidated First Lien Secured Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees and performance or similar bonds, except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the cash interest expense (including that attributable to Capitalized Lease Obligations), net of cash interest income, with respect to Indebtedness of such Person and its Restricted Subsidiaries for such period, other than Non-Recourse Indebtedness, including commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net cash costs under hedging agreements (other than in connection with the early termination thereof);
excluding, in each case:

(i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clauses (2)(a) and (2)(b) above (including as a result of the effects of acquisition method accounting or pushdown accounting),

(ii) interest expense attributable to the movement of the mark-to-market valuation of obligations under Hedging Obligations or other derivative instruments, including pursuant to FASB Accounting Standards Codification Topic 815, Derivatives and Hedging,

(iii) costs associated with incurring or terminating Hedging Obligations and cash costs associated with breakage in respect of hedging agreements for interest rates,

(iv) commissions, discounts, yield, make-whole premium and other fees and charges (including any interest expense) incurred in connection with any Non-Recourse Indebtedness,

(v) “additional interest” owing pursuant to a registration rights agreement with respect to any securities,

(vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions,

(vii) penalties and interest relating to taxes,

(viii) accretion or accrual of discounted liabilities not constituting Indebtedness,

(ix) interest expense attributable to a Parent Company resulting from push-down accounting,

(x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting,

(xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto in connection with the Transactions, any acquisition or Investment and

(xii) annual agency fees paid to any administrative agents and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or collateral trust arrangements related thereto), including the Facilities and the Second Lien Credit Facilities.

For purposes of this definition, interest on a Capitalized Lease Obligation will be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the net income (loss) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding (and excluding the effect of), without duplication,
extraordinary, one-time, non-recurring or unusual gains or Charges (including relating to any strategic initiatives and accruals and reserves in connection with such gains or Charges and including legal fees, expenses, settlements and judgments) and special items; restructuring Charges; accruals or reserves (including restructuring and integration costs related to acquisitions and adjustments to existing reserves, and in each case, whether or not classified as such under GAAP); Charges related to any reconstruction, decommissioning, recommissioning or reconfiguration of facilities and fixed assets for alternative uses; exit, separation, transition and start-up stand-alone Charges associated with the separation of the McAfee Business from Intel Corporation; Excluded TPG/Intel Costs; Public Company Costs; Charges related to the integration, consolidation, opening, pre-opening and closing of facilities and fixed assets; severance and relocation costs and expenses; special compensation Charges, consulting fees; signing, retention or completion bonuses and charges, and executive recruiting costs; Charges incurred in connection with strategic initiatives; transition Charges and duplicative running and operating Charges; Charges in connection with non-ordinary course product and intellectual property development; Charges incurred in connection with acquisitions (or purchases of assets) prior to or after the Closing Date (including integration costs); business optimization Charges (including Charges relating to business optimization programs, new systems design, Charges related to systems establishment, implementation, integration and upgrades and project start-up); accruals and reserves; Charges attributable to the implementation of cost-savings initiatives and operating improvements and consolidations; curtailments and modifications to pension and post-employment employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments);

the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period whether effected through a cumulative effect adjustment or a retroactive application, in each case in accordance with GAAP;

Transaction Expenses;

any gain (loss) on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business);

the Net Income for such period of any Person that is an Unrestricted Subsidiary and, solely for the purpose of determining the amount available for Restricted Payments under clause (3)(a) of Section 7.05(a), the Net Income for such period of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting; provided that the Consolidated Net Income of a Person will be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or to the extent converted into cash or Cash Equivalents) to such Person or a Restricted Subsidiary thereof in respect of such period;

solely for the purpose of determining Excess Cash Flow and the amount available for Restricted Payments under clause (3)(a) of Section 7.05(a), the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived (or the Borrower reasonably believes such restriction could be waived and is using commercially reasonable efforts to pursue such waiver); provided that Consolidated Net Income of a Person will be increased by the amount of dividends or other distributions or other payments actually paid in cash or Cash Equivalents (or to the extent converted into cash or Cash Equivalents) to such Person or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein;
(7) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) related to the application of recapitalization accounting or purchase accounting (including in the inventory, property and equipment, software, goodwill, intangible assets, in process research and development, deferred revenue and debt line items);

(8) income (loss) from the early extinguishment or conversion of (a) Indebtedness, (b) Hedging Obligations or (c) other derivative instruments;

(9) any impairment Charges or asset write-off or write-down in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;

(10) (a) any equity based or non-cash compensation charge or expense, including any such charge or expense arising from grants of stock appreciation, equity incentive programs or similar rights, stock options, restricted stock or other rights to, and any cash charges associated with the rollover, acceleration or payout of, Equity Interests by management of such Person or of a Restricted Subsidiary or any Parent Company, (b) noncash compensation expense resulting from the application of Accounting Standards Codification Topic No. 718, Compensation—Stock Compensation or Accounting Standards Codification Topic 505-50, Equity-Based Payments to Non-Employees, and (c) any income (loss) attributable to deferred compensation plans or trusts;

(11) any Charges during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, disposition, incurrence or repayment of Indebtedness (including such fees, expenses or charges related to the syndication and incurrence of any Indebtedness, including the Second Lien Credit Facility and any Facilities hereunder), issuance of Equity Interests (including by any direct or indirect parent of the Borrower), recapitalization, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of any Indebtedness, including the Second Lien Credit Documents and the Loan Documents) and including, in each case, any such transaction whether consummated on, after or prior to the Closing Date and any such transaction undertaken but not completed, and any charges or nonrecurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful or consummated (including, for the avoidance of doubt, the effects of expensing all transaction related expenses in accordance with Accounting Standards Codification Topic No. 805, Business Combinations);

(12) accruals and reserves that are established or adjusted in connection with the Transactions, an Investment or an acquisition that are required to be established or adjusted as a result of the Transactions, such Investment or such acquisition, in each case in accordance with GAAP;

(13) any expenses, charges or losses to the extent covered by insurance that are, directly or indirectly, reimbursed or reimbursable by a third party, and any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any acquisition, Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement;
(14) any non-cash gain (loss) attributable to the mark to market movement in the valuation of Hedging Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—Derivatives and Hedging or mark to market movement of other financial instruments pursuant to FASB Accounting Standards Codification Topic 825—Financial Instruments;

(15) any net realized or unrealized gain or loss (after any offset) resulting in such period from currency transaction or translation gains or losses, including those related to currency remeasurements of Indebtedness (including any net loss or gain resulting from (a) Hedging Obligations for currency exchange risk and (b) resulting from intercompany indebtedness) and any other foreign currency transaction or translation gains and losses;

(16) any adjustments resulting from the application of Accounting Standards Codification Topic No. 460, Guarantees, or any comparable regulation;

(17) any non-cash rent expense;

(18) [reserved];

(19) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures; and

(20) earn-out and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments.

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, Consolidated Net Income will include the amount of proceeds received or receivable from business interruption insurance, the amount of any expenses or charges incurred by such Person or its Restricted Subsidiaries during such period that are, directly or indirectly, reimbursed or reimbursable by a third party, and amounts that are covered by indemnification or other reimbursement provisions in connection with any acquisition, Investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder.

Notwithstanding the foregoing, for the purpose of Section 7.05(a) (other than clause (3)(d) of Section 7.05(a)), there will be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by such Person and its Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from such Person and its Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by such Person or any Restricted Subsidiary, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under clause (3)(d) of Section 7.05(a).

“Consolidated Secured Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of (i) Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness, in each case secured by a lien on the Collateral and (ii) other Capitalized Lease Obligations and purchase money Indebtedness of the Loan Parties in excess of the Threshold Amount and secured by a lien; provided, Consolidated Secured Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees and performance or similar bonds,
except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

“Consolidated Total Debt” means, as of any date of determination, subject to the definition of “Designated Revolving Commitments,” the aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet on a consolidated basis in accordance with GAAP, consisting only of Indebtedness for borrowed money, Capitalized Lease Obligations and purchase money Indebtedness; provided, Consolidated Total Debt will not include Non-Recourse Indebtedness, undrawn amounts under revolving credit facilities and Indebtedness in respect of any (1) letter of credit, bank guarantees and performance or similar bonds, except to the extent of obligations in respect of drawn standby letters of credit which have not been reimbursed within three (3) Business Days and (2) Hedging Obligations. The Dollar-equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar-equivalent principal amount of such Indebtedness.

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

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other monetary obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent:

1. to purchase any such primary obligation or any property constituting direct or indirect security therefor;
2. to advance or supply funds:
   a. for the purchase or payment of any such primary obligation or
   b. to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
3. to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Contract Consideration” has the meaning specified in clause (2)(k) of the definition of “Excess Cash Flow.”

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.
“Controlled Investment Affiliate” means, as to any Person, any other Person, other than any Investor, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower or other companies.

“Converted Closing Date Euro Term Loan” means each Closing Date Euro Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date Euro Term Loans being converted to Term B Euro Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was €650,802,180.40).

“Converted Closing Date Term Loans” means the Converted Closing Date USD Term Loans and the Converted Closing Date Euro Term Loans.

“Converted Closing Date USD Term Loan” means each Closing Date USD Term Loan held by a Second Amendment Consenting Lender on the Second Amendment Effective Date that has consented to its Closing Date USD Term Loans being converted to Term B USD Loans (or, if less, the amount notified to such Lender by the Administrative Agent) (which amount was $2,703,592,110.32).

“Convertible Indebtedness” means Indebtedness of the Borrower (which may be guaranteed by the Guarantors) permitted to be incurred hereunder that is either (a) convertible into common equity of the Borrower (and cash in lieu of fractional shares) or cash (in an amount determined by reference to the price of such common equity) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common equity of the Borrower or cash (in an amount determined by reference to the price of such common equity).

“Corrective Extension Amendment” has the meaning specified in Section 2.16(6).

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Agreement Refinanced Debt” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“Credit Agreement Refinancing Indebtedness” means (a) Permitted Equal Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt or (c) Permitted Unsecured Refinancing Debt; provided that, in each case, such Indebtedness is issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) to Refinance, in whole or in part, existing Loans (or, if applicable, unused Commitments) or any then-existing Credit Agreement Refinancing Indebtedness (“Credit Agreement Refinanced Debt”); provided, further, that (i) the terms of any such Indebtedness (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates), interest margins, rate floors, fees, funding discounts, original issue discounts and prepayment or redemption premiums and terms) shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith) or (B) if otherwise not consistent with the terms of such Credit Agreement Refinanced Debt, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Credit Agreement Refinanced Debt, except with respect to covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such Refinancing, (ii) any such Indebtedness shall have a maturity date that is no earlier than the Credit Agreement Refinanced Debt and a Weighted Average Life to Maturity equal to or greater than that of the
Credit Agreement Refinanced Debt as of the date of determination, (iii) such Indebtedness shall not have a greater principal amount (or shall not have a greater accreted value, if applicable) than the principal amount (or accreted value, if applicable) of the Credit Agreement Refinanced Debt plus accrued interest, fees and premiums (including tender premium) and penalties (if any) thereon and fees, expenses, original issue discount and upfront fees incurred in connection with such refinancing plus the amount of any other Indebtedness permitted under one or more other Baskets under Section 7.02 (which shall be deemed a utilization of any such Baskets), (iv) such Credit Agreement Refinanced Debt shall be repaid, defeased or satisfied and discharged, and all accrued interest, fees and premiums (if any) in connection therewith shall be paid, within five (5) Business Days after the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained with the Net Proceeds received from the incurrence or issuance of such Indebtedness and (v) any mandatory prepayments of (I) any Permitted Junior Priority Refinancing Debt may not be made except to the extent that prepayments are not prohibited hereunder and to the extent required hereunder or pursuant to the terms of any Permitted Equal Priority Refinancing Debt, first made or offered to the holders of the Term Loans constituting First Lien Obligations and any such permitted Equal Priority Refinancing Debt, and (II) any Permitted Equal Priority Refinancing Debt in respect of events described in Section 2.05(2)(a), (b) and (d)(i), may be made on a pro rata basis, less than a pro rata basis or greater than a pro rata basis (but not greater than a pro rata basis as compared to any Class of Term Loans constituting First Lien Obligations with an earlier maturity date unless the Credit Agreement Refinanced Debt was so entitled to participate on a greater than a pro rata basis) with each Class of Term Loans constituting First Lien Obligations under Section 2.05(2)(a), (b) and (d)(i), provided, further, that “Credit Agreement Refinancing Indebtedness” may be incurred in the form of a bridge or other interim credit facility intended to be Refinanced with (or which converts into or is exchanged for) long-term indebtedness (and such bridge or other interim credit facility shall be deemed to satisfy clause (ii) of the second proviso in this definition so long as (x) such credit facility includes customary “rollover” provisions and (y) assuming such credit facility were to be extended pursuant to such “rollover” provisions, such extended credit facility would comply with clause (ii) above) and in which case, on or prior to the first anniversary of the incurrence of such “bridge” or other interim credit facility, clause (v) of the preceding proviso in this definition shall not prohibit the inclusion of customary terms for “bridge” facilities, including customary mandatory prepayment, repurchase or redemption provisions.

“Credit Extension” means each of the following: (i) a Borrowing and (ii) an L/C Credit Extension.

“Cure Amount” has the meaning specified in Section 8.04(1).

“Cure Expiration Date” has the meaning specified in Section 8.04(1)(a).

“Debt Fund Affiliate” means any Affiliate of an Investor that is a bona fide diversified debt fund that is not (a) a natural person or (b) Holdings, the Borrower or any Subsidiary of the Borrower.

“Debt Representative” means, with respect to any series of Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent or representative under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“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.
“Declined Proceeds” has the meaning specified in Section 2.05(2)(g).

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

“Default Rate” means (i) with respect to any amounts denominated in Dollars, an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans plus (c) 2.00% per annum; provided that with respect to the outstanding principal amount of any Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.02(3)) plus 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws and (ii) with respect to any amounts denominated in Euros, an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to Euro Term Loans (giving effect to Section 2.02(3)) plus 2.00% per annum, to the fullest extent permitted by applicable Laws.

“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 2.17(2), any Lender that (a) has refused (which refusal may be given verbally or in writing and has not been retracted) or failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of L/C Obligations, within one Business Day of the date required to be funded by it hereunder, (b) has failed to pay over to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, (c) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit, (d) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (e) has, or has a direct or indirect parent company that has, either (i) admitted in writing that it is insolvent or (ii) become subject to a Lender-Related Distress Event. Any determination by the Administrative Agent as to whether a Lender is a Defaulting Lender shall be conclusive absent manifest error.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a subsequent sale, redemption or repurchase of, or collection or payment on, such Designated Non-Cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Borrower, any Restricted Subsidiary thereof or any Parent Company (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Borrower or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on or promptly after the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (3) of Section 7.05(a).

“Designated Revolving Commitments” means any commitments to make loans or extend credit on a revolving basis (or delayed draw basis) to the Borrower or any Restricted Subsidiary by any Person other than the Borrower or any Restricted Subsidiary that have been designated in an Officer’s Certificate delivered to the Administrative Agent as “Designated Revolving Commitments” until such time

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as the Borrower subsequently delivers an Officer’s Certificate to the Administrative Agent to the effect that such commitments will no longer constitute “Designated Revolving Commitments”; provided that, during such time (including at the time of the incurrence of such Designated Revolving Commitments), (i) except for purposes of the definition of “Applicable Rate,” the First Lien Net Leverage Ratios set forth in Section 2.05(2)(a) and Section 2.05(2)(b) and determining actual compliance with the Financial Covenant, such Designated Revolving Commitments will be deemed an incurrence of Indebtedness on such date and will be deemed outstanding for purposes of calculating the Interest Coverage Ratio, Total Net Leverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the availability of any Baskets hereunder and (ii) commencing on the date such Designated Revolving Commitments are established after giving pro forma effect to the incurrence of the entire committed amount of the Indebtedness thereunder (but without netting any cash proceeds thereof), such committed amount under such Designated Revolving Commitments may thereafter be borrowed (and reborrowed, if applicable), in whole or in part, from time to time, without further compliance with any Basket or financial ratio or test under this Agreement (including the Interest Coverage Ratio, Total Net Leverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio).

“Discharge” means, with respect to any Indebtedness, the repayment, prepayment, repurchase (including pursuant to an offer to purchase), redemption, defeasance or other discharge of such Indebtedness, in any such case in whole or in part.

“Discount Prepayment Accepting Lender” has the meaning assigned to such term in Section 2.05(1)(e)(B)(2).

“Discount Range” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Prepayment Amount” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Prepayment Notice” means a written notice of a Borrower Solicitation of Discount Range Prepayment Offers made pursuant to Section 2.05(1)(e)(C)(1) substantially in the form of Exhibit J.

“Discount Range Prepayment Offer” means the written offer by a Lender, substantially in the form of Exhibit K, submitted in response to an invitation to submit offers following the Auction Agent’s receipt of a Discount Range Prepayment Notice.

“Discount Range Prepayment Response Date” has the meaning assigned to such term in Section 2.05(1)(e)(C)(1).

“Discount Range Proration” has the meaning assigned to such term in Section 2.05(1)(e)(C)(3).

“Discounted Prepayment Determination Date” has the meaning assigned to such term in Section 2.05(1)(e)(D)(3).

“Discounted Prepayment Effective Date” means in the case of a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer, five (5) Business Days following the Specified Discount Prepayment Response Date, the Discount Range Prepayment Response Date or the Solicited Discounted Prepayment Response Date, as applicable, in accordance with Section 2.05(1)(e)(B), Section 2.05(1)(e)(C) or Section 2.05(1)(e)(D), respectively, unless a shorter period is agreed to between the Borrower and the Auction Agent.
“Discounted Term Loan Prepayment” has the meaning assigned to such term in Section 2.05(1)(e)(A).

“disposition” has the meaning set forth in the definition of “Asset Sale.”

“Disqualified Institution” means (a) any competitor of the Borrower or its Subsidiaries identified in writing by or on behalf of the Borrower to (i) the Arrangers on or prior to the Closing Date or (ii) the Administrative Agent from time to time after September 6, 2017, (b) those particular banks, financial institutions, other institutional lenders and other Persons identified by the Borrower to the Arrangers in writing (as provided herein) on or prior to the Closing Date (or related funds of any such Persons) and (c) any Affiliate of the entities described in the preceding clauses (a) or (b) that are either (w) reasonably identifiable as such on the basis of their name or (x) are identified as such in writing by or on behalf of the Borrower to (i) the Arrangers on or prior to the Closing Date or (ii) the Administrative Agent from time to time after the Closing Date (other than bona fide debt funds primarily investing in loans); provided that any Person that is a Lender or a Participant and subsequently becomes a Disqualified Institution (but was not a Disqualified Institution at the time it became a Lender or a Participant, as applicable) shall be deemed to not be a Disqualified Institution hereunder (in the case of any such Participant that is not a Lender, solely with respect to the participations held by such Participant). The identity of Disqualified Institutions may be communicated by the Administrative Agent to a Lender upon request, but will not be otherwise posted or distributed to any Person.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain), in whole or in part, in each case prior to the date 91 days after the earlier of the then Latest Maturity Date or the date the Loans are no longer outstanding and the Commitments have been terminated; provided that if such Capital Stock is issued pursuant to any plan for the benefit of future, current or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower or its Subsidiaries or any Parent Company or by any such plan to such employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof), such Capital Stock will not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s, officer’s, management member’s, consultant’s or independent contractor’s termination, death or disability; provided further any Capital Stock held by any future, current or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries, any Parent Company, or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an “affiliate” by the Board of Directors (or the compensation committee thereof), in each case pursuant to any equity subscription or equity holders’ agreement, management equity plan or stock option plan or any other management or employee benefit plan or agreement will not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or any Subsidiary in order to satisfy applicable statutory or regulatory obligations or as a
result of such employee’s, director’s, officer’s, management member’s, consultant’s or independent contractor’s termination, death or disability. For the purposes hereof, the aggregate principal amount of Disqualified Stock will be deemed to be equal to the greater of its voluntary or involuntary liquidation preference and maximum fixed repurchase price, determined on a consolidated basis in accordance with GAAP, and the “maximum fixed repurchase price” of any Disqualified Stock that does not have a fixed repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which the Consolidated Total Debt, Consolidated First Lien Secured Debt or Consolidated Secured Debt, as applicable, will be required to be determined pursuant to this Agreement, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined in good faith by the Borrower.

“Distressed Agent” shall have the meaning provided in the definition of the term Agent-Related Distress Event.

“Distressed Person” shall have the meaning provided in the definition of the term Lender-Related Distress Event.

“Dollar” and “$” mean lawful money of the United States.

“Dollar Amount” means with respect to any L/C Obligation (or any risk participation therein), (A) if denominated in Dollars, the amount thereof and (B) if denominated in an Available LC Currency other than Dollars, the equivalent amount thereof converted to Dollars as determined by the Administrative Agent on the basis of the Spot Rate.

“Domestic Subsidiary” means any direct or indirect Subsidiary of the Borrower that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“ECF Payment Amount” has the meaning specified in Section 2.05(2)(a).

“ECF Percentage” has the meaning specified in Section 2.05(2)(a).

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

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

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

“Eligible Assignee” has the meaning specified in Section 10.07(a).

“EMU” means the economic and monetary union as contemplated in the Treaty on European Union.
“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, soil, surface and sub-surface strata, and natural resources such as wetlands, flora and fauna.

“Environmental Claim” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations (other than internal reports prepared by any Loan Party or any of its Subsidiaries (a) in the ordinary course of such Person’s business or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceedings with respect to any Environmental Liability or Environmental Law (hereinafter “Claims”), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Law” means any and all Laws relating to pollution or the protection of the Environment or, to the extent relating to exposure to Hazardous Materials, human health.

“Environmental Liability” means any liability (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its 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 or (e) any contract or other written agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“Equal Priority Intercreditor Agreement” means, to the extent executed in connection with the incurrence of Indebtedness secured by Liens on the Collateral which are intended to rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), at the option of the Borrower and the Administrative Agent acting together in good faith, either (a) an intercreditor agreement substantially in the form of Exhibit G-1, together with any material changes thereto which are reasonably acceptable to the Administrative Agent and which material changes, at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof, (b) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), in each case with such modifications thereto as the Administrative Agent and the Borrower may agree or (c) any other intercreditor agreement posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such intercreditor agreement within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement is reasonable and to have consented to such intercreditor agreement and to the Administrative Agent’s execution thereof.
“Equity Interests” means, with respect to any Person, the Capital Stock of such Person and all warrants, options or other rights to acquire Capital Stock of such Person, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock of such Person.

“Equity Offering” means any public or private sale of common equity or Preferred Stock of the Borrower or any Parent Company (excluding Disqualified Stock), other than:

1. public offerings with respect to the Borrower’s or any Parent Company’s common equity registered on Form S-4 or Form S-8;
2. issuances to any Restricted Subsidiary of the Borrower; and
3. any such public or private sale that constitutes an Excluded Contribution.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of withdrawal liability or written notification that a Multiemployer Plan is “insolvent” (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement in writing of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the imposition of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or Multiemployer Plan, other than for the payment of PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) a failure to satisfy the minimum funding standard (within the meaning of Section 302 of ERISA or Section 412 of the Code) with respect to a Pension Plan, whether or not waived; (h) the application for a minimum funding waiver under Section 302(c) of ERISA with respect to a Pension Plan; (i) the imposition of a lien under Section 303(k) of ERISA or Section 430(k) of the Code with respect to any Pension Plan; (j) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 303 of ERISA or Section 430 of the Code); or (k) the occurrence of a nonexempt prohibited transaction with respect to any Pension Plan maintained or contributed to by any Loan Party or any of their respective ERISA Affiliates (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could result in liability to any Loan Party.

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.
“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.

“EURIBOR Rate” means for any Interest Period with respect to a EURIBOR Rate Loan, the rate per annum equal to the Euro Interbank Offered Rate (“EURIBOR”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Reuters screen page (or such other commercially available source providing quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, two (2) Business Days prior to the commencement of such Interest Period, for Euro deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower; provided, further, that if such rate is not available at such time for any reason, then the “EURIBOR Rate” for such Interest Period shall be (a) a comparable successor or alternative interbank rate for deposits in Euros that is, at such time, broadly accepted as the prevailing market practice for syndicated leveraged loans of this type in lieu of the “EURIBOR Rate” and is reasonably acceptable to the Borrower and the Administrative Agent or (b) if no such broadly accepted comparable successor interbank rate exists at such time, a successor or alternative index rate as the Administrative Agent and the Borrower may reasonably determine and which successor or alternative index rate described in this clause (b), at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before effectiveness thereof and, if the Required Lenders shall not have objected to such successor or alternative index rate within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that such successor or alternative index rate is reasonable and to have consented to the effectiveness of such successor or alternative index rate; provided, further, that in no event shall the EURIBOR Rate for the Term B Euro Loans be less than 0%.

“EURIBOR Rate Loan” means a Loan that bears interest at a rate based on the EURIBOR Rate.

“Euro" or “euro” means the single currency of participating member states of the EMU.

“Euro Amortization Percentage” means the percentage equal to the product of (x) 0.25% multiplied by (y) the result of €507,000,000.00 divided by €505,732,500.00.

“Euro Term Lender” means a Term Lender with a Closing Date Euro Term Loan Commitment or an outstanding Euro Term Loan.

“Euro Term Loan” means each Term Loan denominated in Euros.

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen

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(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at or about 11:00 a.m., London time, two (2) Business Days prior to such date for Dollar deposits with a term of one (1) month commencing that day;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower; provided, further, that if such rate is not available at such time for any reason, then the “LIBOR Rate” for such Interest Period shall be (a) a comparable successor or alternative interbank rate for deposits in Dollars that is, at such time, broadly accepted as the prevailing market practice for syndicated leveraged loans of this type in lieu of the “LIBOR Rate” and is reasonably acceptable to the Borrower and the Administrative Agent or (b) if no such broadly accepted comparable successor interbank rate exists at such time, a successor or alternative index rate as the Administrative Agent and the Borrower may reasonably determine and which successor or alternative index rate described in this clause (b), at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before effectiveness thereof and, if the Required Lenders shall not have objected to such successor or alternative index rate within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that such successor or alternative index rate is reasonable and to have consented to the effectiveness of such successor or alternative index rate; provided, further, that in no event shall (x) the Eurodollar Rate for the Term B USD Loans that bear interest at a rate based on clauses (a) and (b) of this definition be less than 0% or (y) the Eurodollar Rate for Revolving Loans that bear interest at a rate based on clauses (a) and (b) of this definition be less than 0%.

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

“Event of Default” has the meaning specified in Section 8.01.

“Excess Cash Flow” means, for any period, an amount equal to the excess of:

(1) the sum, without duplication, of:

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

(b) an amount equal to the amount of all non-cash charges (including depreciation and amortization) for such period to the extent deducted in arriving at such Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period,

(c) decreases in Consolidated Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa) and, without duplication, decreases in long-term accounts receivable and increases in the long-term portion of deferred revenue (except as a result of the reclassification of items from short-term to long-term);
term to long-term or vice versa), in each case, for such period (other than any such decreases or increases, as applicable, arising from acquisitions or Asset Sales outside the ordinary course of assets by the Borrower or any Restricted Subsidiary during such period or the application of recapitalization or purchase accounting),

(d) [reserved];

(e) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid in such period and

(f) cash receipts in respect of Hedge Agreements during such fiscal year to the extent not otherwise included in such Consolidated Net Income; over

(2) the sum, without duplication, of:

(a) an amount equal to the amount of all non-cash credits (including, to the extent constituting non-cash credits, amortization of deferred revenue acquired as a result of the Original Transactions or any Permitted Acquisition, Investment permitted hereunder or any similar transaction) included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (1)(b) above) and cash losses, charges (including any reserves or accruals for potential cash charges in any future period), expenses, costs and fees excluded by virtue of the definition of “Consolidated Net Income,”

(b) without duplication of amounts deducted pursuant to clause (k) below in prior fiscal years, the amount of Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property accrued or made in cash during such period, in each case except to the extent financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(c) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Restricted Subsidiaries (including (i) the principal component of payments in respect of Capitalized Lease Obligations, (ii) all scheduled principal repayments of Loans, Permitted Incremental Equivalent Debt and Credit Agreement Refinancing Indebtedness (or any Indebtedness representing Refinancing Indebtedness of any of the foregoing in accordance with the corresponding provisions of the governing documentation thereof), the Second Lien Term Loans, “Permitted Incremental Equivalent Debt,” any “Other Loans” and “Credit Agreement Refinancing Indebtedness” (each, as defined in the Second Lien Credit Agreement as in effect on the date hereof) and any other Indebtedness outstanding pursuant to Section 7.02 (or any Indebtedness representing Refinancing Indebtedness of any of the foregoing in accordance with the corresponding provisions of the governing documentation thereof), in each case to the extent such payments are permitted hereunder and actually made and (iii) the amount of any scheduled repayment of Term Loans pursuant to Section 2.07, mandatory prepayment of Term Loans pursuant to Section 2.05(2)(b), any mandatory prepayments of Second Lien Term Loans pursuant to Section 2.05(2) of the Second Lien Credit Agreement (or any Indebtedness representing Refinancing Indebtedness in respect thereof in accordance with the corresponding provisions of the governing documentation thereof) and any mandatory Discharge of (I) Permitted Incremental Equivalent Debt or Credit Agreement Refinancing Indebtedness (or any Indebtedness representing Refinancing Indebtedness of any of the...
foregoing in accordance with the corresponding provisions of the governing documentation thereof), (II) “Permitted Incremental Equivalent Debt,” any “Other Loans” and “Credit Agreement Refinancing Indebtedness” (each, as defined in the Second Lien Credit Agreement as in effect on the date hereof) and (III) of any other Indebtedness outstanding pursuant to Section 7.02 (or any Indebtedness representing Refinancing Indebtedness in respect thereof in accordance with the corresponding provisions of the governing documentation thereof) pursuant to the corresponding provisions of the governing documentation thereof, in each case, to the extent required due to an Asset Sale or Casualty Event that resulted in an increase to Consolidated Net Income for such period and not in excess of the amount of such increase, but excluding (x) all other prepayments of Term Loans or Second Lien Term Loans, (y) all prepayments of Revolving Loans and all prepayments in respect of any other revolving credit facility, except to the extent there is an equivalent permanent reduction in commitments thereunder and (z) payments on any Junior Indebtedness, except in each case to the extent permitted to be paid pursuant to Section 7.05) made during such period, in each case, except to the extent financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(d) [Reserved],

(e) increases in Consolidated Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa) and, without duplication, increases in long-term accounts receivable and decreases in the long-term portion of deferred revenue (except as a result of the reclassification of items from short-term to long-term or vice versa), in each case, for such period (other than any such increases or decreases, as applicable, arising from acquisitions or Asset Sales outside the ordinary course by the Borrower or any Restricted Subsidiary during such period or the application of recapitalization or purchase accounting),

(f) cash payments by the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and the Restricted Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income,

(g) without duplication of amounts deducted pursuant to clause (k) below in prior fiscal years, the amount of cash consideration paid by the Borrower and the Restricted Subsidiaries (on a consolidated basis) in connection with investments made during such period (including Permitted Acquisitions, investments constituting Permitted Investments and investments made pursuant to Section 7.05), except to the extent such investments were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(h) the amount of Restricted Payments paid in cash during such period (other than Restricted Payments made pursuant to Section 7.05(b)(15)), except to the extent such Restricted Payments were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),
(i) the aggregate amount of expenditures (including expenditures for the payment of financing fees) paid in cash during such period to the extent that such expenditures are not expensed during such period or are not deducted in calculating Consolidated Net Income, except to the extent such expenditures were financed with the proceeds of Funded Debt (other than any Indebtedness under any revolving credit facilities) of the Borrower or any Restricted Subsidiary (unless such Indebtedness has been repaid),

(j) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Restricted Subsidiaries during such period that are made in connection with any prepayment or redemption of Indebtedness to the extent (x) such premium, make-whole or penalty payments were not expensed during such period or are not deducted in calculating Consolidated Net Income and (y) such prepayments or redemptions reduced Excess Cash Flow pursuant to clause (2)(c) above or reduced the mandatory prepayment required by Section 2.05(2)(a),

(k) without duplication of amounts deducted from Excess Cash Flow in other periods, and at the option of the Borrower, (1) the aggregate consideration required to be paid in cash by the Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period and (2) any planned cash expenditures by the Borrower or any of its Restricted Subsidiaries (the "Planned Expenditures"), in the case of each of the preceding clauses (1) and (2), relating to Permitted Acquisitions or other investments, Capital Expenditures, Restricted Payments, acquisitions of intellectual property, any scheduled payment of Indebtedness that was permitted by the terms of this Agreement to be incurred and paid or permitted tax distributions, in each case, to be consummated or made, as applicable, during the period of four consecutive fiscal quarters of the Borrower following the end of such period (except to the extent financed with the proceeds of long-term Indebtedness (other than revolving Indebtedness)); provided that to the extent that the aggregate amount of internally generated cash flow actually utilized to finance such Permitted Acquisitions or other investments, Capital Expenditures, Restricted Payments, acquisitions of intellectual property, permitted scheduled payments of Indebtedness that were permitted by the terms of this Agreement to be incurred and paid or permitted tax distributions during such following period of four consecutive fiscal quarters is less than the Contract Consideration and Planned Expenditures, the amount of such shortfall shall be added to the calculation of Excess Cash Flow, at the end of such period of four consecutive fiscal quarters,

(l) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period plus the amount of distributions with respect to taxes made in such period under Section 7.05(b)(14), to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period,

(m) cash expenditures in respect of Hedging Obligations during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income,

(n) any fees, expenses or charges incurred during such period (including the Transaction Expenses), or any amortization thereof for such period, in connection with any acquisition, investment, disposition, incurrence or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of this Agreement, the other
Loan Documents, the Second Lien Credit Documents and related documents with respect to any other Indebtedness) and including, in each case, any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful, and

(o) at the option of the Borrower, any amounts in respect of investments (including Permitted Acquisitions, Investments constituting Permitted Investments and Investments made pursuant to Section 7.05) and Restricted Payments (including related earnouts and similar payments) which could have been deducted pursuant to clauses (g) or (h) above if made in such period, but which are made after the end of such period and prior to the date upon which a mandatory prepayment for such period would be required under Section 2.05(2)(a) (which amounts, if so deducted in accordance with this clause (o), shall not affect the calculation of Excess Cash Flow in any future period).


“Excluded Assets” means (i) (x) any fee-owned real property (other than Material Real Property), (y) any leasehold interest in real property and (z) any improved fee-owned real property (whether already mortgaged, or is required or intended to be mortgaged, at any time of determination) located in a flood hazard area or such property or mortgage thereon would be subject to any flood insurance due diligence, flood insurance requirements or compliance with any flood insurance laws (it being agreed that (A) if it is subsequently determined that any such improved real property subject to, or otherwise required or intended to be subject to, a mortgage is or might be located in a flood hazard area, such property shall be deemed to constitute an Excluded Asset until a determination is made that such property is not located in a flood hazard area and does not require flood insurance, and (B) if there is an existing mortgage on such property, such mortgage shall be released if located in a special flood hazard area and would require flood insurance or if it cannot determined whether such leasehold interest in real property is located in a special flood hazard area or would require flood insurance if the time or information necessary to make such determination would (as determined by the Borrower in good faith) delay or impair the intended date of funding any Loan or effectiveness of any amendment or supplement under this Agreement), (ii) motor vehicles and other assets subject to certificates of title, except to the extent a security interest therein can be perfected by the filing of a UCC financing statement, (iii) all commercial tort claims that are not expected to result in a judgment or settlement payment in excess of $25.0 million (as determined by the Borrower in good faith), (iv) any governmental or regulatory licenses, authorizations, certificates, charters, franchises, approvals and consents (whether Federal, State, Provincial or otherwise) to the extent a security interest therein is prohibited or restricted thereby or requires any consent or authorization from a Governmental Authority not obtained (without any requirement to obtain such consent or authorization) other than to the extent such prohibition or restriction is ineffective under the UCC or other applicable Law notwithstanding such prohibition and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC, (v) assets to the extent the pledge thereof or grant of security interests therein (x) is prohibited or restricted by any applicable Law, rule or regulation or would require any consent, approval or authorization of any governmental or regulatory authority not obtained (without any requirement to obtain such any consent, approval or authorization) (other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law notwithstanding such prohibition), (y) would cause the destruction, invalidation or abandonment of such asset under applicable Law (solely with respect to any intellectual property), or (z) is prohibited or restricted by any contract or would require any consent, approval, license or other authorization of any third party (other than Holdings or its Subsidiaries) pursuant to a contract, in each case, existing on the Closing Date or at the time of the acquisition of such asset and was not incurred in
contemplation thereof (other than in the case of capital leases and purchase money financings) not obtained after giving effect to the anti-assignment provisions of the UCC, (vi) margin stock and Equity Interests in any Person that is not the Borrower or a wholly owned Restricted Subsidiary of the Borrower, (vii) Equity Interests in Immaterial Subsidiaries and Excluded Subsidiaries (other than first tier Foreign Subsidiaries and first tier Foreign Subsidiary Holdcos that are Restricted Subsidiaries; provided that in the case of any first tier Foreign Subsidiary or first tier Foreign Subsidiary Holdco, the pledge of the Equity Interests of such Subsidiary shall be limited to no more than 65% of the total issued and outstanding Equity Interests of a Foreign Subsidiary or Foreign Subsidiary Holdco), (viii) any lease, license or agreement (not otherwise subject to clause (v) above) or any property that is subject to a capital lease, purchase money security interest or similar arrangement, in each case permitted by this Agreement, to the extent that a grant of a security interest therein (a) would violate or invalidate such lease, license or agreement or purchase money security interest or similar arrangement or create a right of termination in favor of any other party thereto (other than Holdings or any of its Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Law or (b) would require governmental or regulatory approval, consent or authorization not obtained (without any requirement to obtain such approval, consent or authorization), other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law notwithstanding such prohibition), (ix) [reserved], (x) letter of credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest therein is accomplished by the filing of a UCC financing statement, (xi) any intent-to-use trademark applications filed in the United States Patent and Trademark Office, pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. Section 1051, prior to the accepted filing of a “Statement of Use” and issuance of a “Certificate of Registration” pursuant to Section 1(d) of the Lanham Act or an accepted filing of an “Amendment to Allege Use” whereby such intent-to-use trademark application is converted to a “use in commerce” application pursuant to Section 1(c) of the Lanham Act, (xii) assets where the burden or cost (including any adverse tax consequences) of obtaining a security interest therein or perfection thereof exceeds the practical benefit to the Lenders afforded thereby as reasonably determined between the Borrower and the Administrative Agent, (xiii) any assets to the extent a security interest in such assets or perfection thereof would result in material adverse tax consequences to the Borrower, any Parent Company or any Restricted Subsidiary as reasonably determined by the Borrower in good faith, in consultation with the Administrative Agent, (xiv) any assets located in or governed by any non-U.S. jurisdiction law or regulation (other than (x) Equity Interests and intercompany debt of Foreign Subsidiaries otherwise required to be pledged pursuant to the Collateral Documents and (y) assets that can be perfected by the filing of a UCC financing statement), including any intellectual property located in a non-U.S. jurisdiction and (xv) cash and Cash Equivalents (except to the extent constituting identifiable proceeds of Collateral which is perfected by the filing of a UCC financing statement), deposit, securities, commodities and other accounts, securities entitlements and related assets held in such account except, in each case, to the extent a security interest therein is perfected by filing of a UCC financing statement and other than any Cash Collateral, Cash Collateral Account or other cash or assets deposited with a Secured Party as Collateral.

"Excluded Contribution" means net cash proceeds or the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Borrower from:

(1) contributions to its common equity capital;
(2) dividends, distributions, fees and other payments from any joint ventures that are not Restricted Subsidiaries; and
(3) the sale (other than to a Restricted Subsidiary of the Borrower or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Borrower;

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in each case, designated as Excluded Contributions pursuant to an Officer’s Certificate and that are excluded from the calculation set forth in clause (3) of Section 7.05(a); provided that Excluded Contributions shall not include Cure Amounts.

“Excluded Proceeds” means, with respect to any Asset Sale or Casualty Event, the sum of, (1) any Net Proceeds therefrom that constitute Declined Proceeds and (2) any Net Proceeds therefrom that otherwise are waived by the Required Facility Lenders from the requirement to be applied to prepay the applicable Term Loans pursuant to Section 2.05(2)(b).

“Excluded Subsidiaries” means all of the following and “Excluded Subsidiary” means any of them:

1. any Subsidiary that is not a direct, wholly owned Subsidiary of the Borrower or a Subsidiary Guarantor,
2. any Foreign Subsidiary,
3. any Foreign Subsidiary Holdco,
4. any Domestic Subsidiary that is a Subsidiary of any (i) Foreign Subsidiary or (ii) Foreign Subsidiary Holdco,
5. any Subsidiary (including any regulated entity that is subject to net worth or net capital or similar capital and surplus restrictions) that is prohibited or restricted by applicable Law or by Contractual Obligation (including in respect of assumed Indebtedness permitted hereunder) existing on the Closing Date (or, with respect to any Subsidiary acquired by the Borrower or a Restricted Subsidiary after the Closing Date (and so long as such Contractual Obligation was not incurred in contemplation of such acquisition), on the date such Subsidiary is so acquired) from providing a Guaranty (including any Broker-Dealer Regulated Subsidiary) or if such Guaranty would require governmental (including regulatory) or third party (other than any Loan Party or their respective Subsidiaries) consent, approval, license or authorization not obtained,
6. any special purpose vehicle (or similar entity), receivables subsidiary or any Securitization Subsidiary,
7. any Captive Insurance Subsidiary or not-for-profit Subsidiary,
8. any Subsidiary that is not a Material Subsidiary,
9. any Subsidiary where the Borrower and the Administrative Agent reasonably determine that the burden or cost (including any adverse tax consequences) of providing the Guaranty will outweigh the benefits to be obtained by the Lenders therefrom, and
10. any Unrestricted Subsidiary.

“Excluded Swap Obligation” means, with respect to any Loan Party, (a) 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 (each such obligation, a “Swap Obligation”).
f, and to the extent that, all or a portion of the guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (i) by virtue of such Loan Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to Section 3.02 of the Guaranty and any other “keepwell, support or other agreement” for the benefit of such Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act, at the time the guarantee of such Loan Party, or a grant by such Loan Party of a security interest, becomes effective with respect to such Swap Obligation, or (ii) in the case of a Swap Obligation that is subject to a clearing requirement pursuant to section 2(b) of the Commodity Exchange Act, because such Loan Party is a “financial entity,” as defined in section 2(b)(7)(C) of the Commodity Exchange Act, at the time the guarantee of (or grant of such security interest by, as applicable) such Loan Party becomes or would become effective with respect to such Swap Obligation, or (b) any other Swap Obligation designated as an “Excluded Swap Obligation” of such Loan Party as specified in any agreement between the relevant Loan Parties and hedge counterparty applicable to such Swap Obligations. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest becomes excluded in accordance with the first sentence of this definition.

“Excluded Taxes” means, with respect to each Agent and each Lender,

(1) any tax imposed on (or measured by) such Agent or Lender’s net income or profits (or franchise or net worth tax in lieu of such tax on net income or profits) imposed by a jurisdiction as a result of such Agent or Lender being organized under the laws of or having its principal office or applicable Lending Office located in such jurisdiction or as a result of any other present or former connection between such Agent or Lender and the jurisdiction (including as a result of such Agent or Lender carrying on a trade or business, having a permanent establishment or being a resident for tax purposes in such jurisdiction), other than a connection arising solely from such Agent or Lender having executed, delivered, enforced, 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 any Loan or Loan Document,

(2) any branch profits tax under Section 884(a) of the Code, or any similar tax, imposed by any jurisdiction described in clause (1),

(3) other than with respect to and to the extent that any Lender becomes a party hereto pursuant to the Borrower’s request under Section 3.07, any U.S. federal tax that is withheld or required to be withheld on amounts payable to or for the account of a Lender with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date such Lender (i) acquires such interest in the applicable Commitment if, or if such Lender did not fund the applicable Loan pursuant to a prior Commitment, on the date such Lender acquires the applicable interest in such Loan (or where the Lender is a partnership for U.S. federal income tax purposes, pursuant to a Law in effect on the later of the date on which such Lender acquires such interest or the date on which the affected partner becomes a partner of such Lender), or (ii) designates a new Lending Office (or where the Lender is a partnership for U.S. federal income tax purposes, pursuant to a Law in effect on the later of the date on which the Lender designates a new Lending Office or, if applicable, the date on which the affected partner designates a new Lending Office) except, in the case of a Lender or partner that designates a new Lending Office or is an assignee, to the extent that such Lender or partner (or its assignor, if any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts from a Loan Party with respect to such U.S. federal tax pursuant to Section 3.01,
(4) any withholding tax attributable to such Lender’s failure to comply with Section 3.01(3),
(5) any tax imposed under FATCA,
(6) any U.S. federal backup withholding under Section 3406 of the Code, and
(7) any interest, additions to taxes and penalties with respect to any taxes described in clauses (1) through (6) of this definition.

“Excluded TPG/Intel Costs” means all Charges in connection with services, including consulting arrangements, provided by any employee of TPG Capital L.P. and/or Intel Corporation or any of their respective Affiliates (other than any such Charges incurred under the TSA).

“Existing Letters of Credit” means any letters of credit or bank guaranties outstanding on the Closing Date described in Schedule 1.01(3).

“Existing Revolving Class” has the meaning specified in Section 2.16(2).

“Existing Term Loan Class” has the meaning specified in Section 2.16(1).

“Extended Revolving Commitments” has the meaning specified in Section 2.16(2).

“Extended Revolving Loan Maturity Date” has the meaning specified in the definition of “Maturity Date”.

“Extended Term Loans” has the meaning specified in Section 2.16(1).

“Extending Lender” means an Extending Revolving Lender or an Extending Term Lender, as the case may be.

“Extending Revolving Lender” has the meaning specified in Section 2.16(3).

“Extending Term Lender” has the meaning specified in Section 2.16(3).

“Extension” means the establishment of an Extension Series by amending a Loan pursuant to Section 2.16 and the applicable Extension Amendment.

“Extension Amendment” has the meaning specified in Section 2.16(4).

“Extension Election” has the meaning specified in Section 2.16(3).

“Extension Minimum Condition” means a condition to consummating any Extension that a minimum amount (to be determined and specified in the relevant Extension Request, in the Borrower’s sole discretion) of any or all applicable Classes be submitted for Extension.

“Extension Request” means any Term Loan Extension Request or any Revolving Extension Request, as the case may be.
“Extension Series” means any Term Loan Extension Series or a Revolving Extension Series, as the case may be.

“Facilities” means the Closing Date USD Term Loans, Closing Date Euro Term Loans, the Term B USD Loans, the Term B Euro Loans, the Revolving Facility, a given Extension Series of Extended Revolving Commitments, a given Class of Other Term Loans, a given Extension Series of Extended Term Loans, a given Class of Incremental Term Loans, a given Class of Incremental Revolving Commitments, any Other Revolving Loan (or Commitment) or a given Class of Replacement Loans, as the context may require, and “Facility” means any of them.

“fair market value” means, with respect to any asset or liability, the fair market value of such asset or liability as determined by the Borrower in good faith.

“FATCA” means Sections 1471 through 1474 of the Code as in effect on the date hereof or any amended or successor version thereof that is substantively comparable and not materially more onerous to comply with (and, in each case, any current or future regulations promulgated thereunder or official interpretations thereof), any applicable intergovernmental agreement entered into in respect thereof, and any provision of law or administrative guidance implementing or interpreting such provisions, including any agreements entered into pursuant to any such intergovernmental agreement or Section 1471(b)(1) of the Code as of the date hereof (or any amended or successor version described above).

“FCPA” has the meaning specified in Section 5.01.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for the day for such transactions received by the Administrative Agent from three depository institutions of recognized standing selected by it. For the avoidance of doubt, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Financial Covenant” means the covenant specified in Section 7.12(1).

“Financial Covenant Cross Default” has the meaning specified in Section 8.01(2).

“Financial Covenant Event of Default” has the meaning specified in Section 8.01(2).

“Financial Officer” means, with respect to a Person, the chief financial officer, accounting officer, treasurer, controller or other senior financial or accounting officer of such Person, as appropriate.

“First Amendment” means that certain Amendment No. 1 to First Lien Credit Agreement, dated as of January 3, 2018, among the Borrower, the Administrative Agent and the Initial Incremental Term Lenders party thereto.

“First Amendment Effective Date” means January 3, 2018.

“First Lien Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated First Lien Secured Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

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“First Lien Obligations” means the Obligations, the Permitted Incremental Equivalent Debt and the Credit Agreement Refinancing Indebtedness, in each case, that are, or purported to be, secured by the Collateral on an equal priority basis (but without regard to the control of remedies) with Liens on the Collateral securing the Term B Loans. For the avoidance of doubt, “First Lien Obligations” shall include the Term B Loans, the Closing Date Revolving Facility and the 2020 Extended Revolving Facility.

“First Lien/Second Lien Intercreditor Agreement” means any of (a) the First Lien/Second Lien Intercreditor Agreement in substantially in the form of Exhibit G-2, dated as of the Closing Date, among the Collateral Agent, the Loan Parties, JPMorgan Chase Bank, N.A., as Second Priority Representative for the Second Priority Debt Parties (each, as defined therein) and each additional representative party thereto from time to time, (b) an intercreditor agreement substantially in the form of Exhibit G-2, together with any material changes thereto which are reasonably acceptable to the Borrower and the Administrative Agent and which material changes, at the discretion of the Administrative Agent, may be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof, (c) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement, in each case with such modifications thereto as the Administrative Agent and the Borrower may agree or (d) any other intercreditor agreement posted to the Lenders not less than five (5) Business Days before execution thereof, and if the Required Lenders shall not have objected to such intercreditor agreement within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement is reasonable and to have consented to such intercreditor agreement and to the Administrative Agent’s execution thereof.

“Flood Insurance Laws” means, collectively, (i) National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“floor” means, with respect to any reference rate of interest, any fixed minimum amount specified for such rate.

“Foreign Asset Sale” has the meaning specified in Section 2.05(2)(h).

“Foreign Casualty Event” has the meaning specified in Section 2.05(2)(h).

“Foreign Lender” means a Lender that is not a United States person within the meaning of Section 7701(a)(30) of the Code.
“Foreign Plan” means any employee benefit plan, program or agreement maintained or contributed to by, or entered into with, the Borrower or any Subsidiary of the Borrower with respect to employees employed outside the United States (other than benefit plans, programs or agreements that are mandated by applicable Laws).

“Foreign Subsidiary” means any direct or indirect Restricted Subsidiary of the Borrower that is not a Domestic Subsidiary.

“Foreign Subsidiary Holdco” means a Subsidiary substantially all of whose assets consists (directly or indirectly) of the Capital Stock or indebtedness of one or more Foreign Subsidiaries.

“Fourth Amendment” means that certain Amendment No. 4 to First Lien Credit Agreement, dated as of October 12, 2020, among the Borrower, the Administrative Agent, the 2020 Extending Revolving Lenders and the 2020 Incremental Revolving Lenders.

“Fourth Amendment Extension Effective Date” has the meaning specified in the Fourth Amendment.

“Fronting Exposure” means, at any time there is a Defaulting Lender, with respect to an Issuing Bank, 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.

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

“Funded Debt” means all Indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“GAAP” means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, as in effect from time to time. At any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP will thereafter be construed to mean IFRS (except as otherwise provided in this Agreement); provided, however, that any such election, once made, will be irrevocable; provided, further that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Borrower’s election to apply IFRS will remain as previously calculated or determined in accordance with GAAP. The Borrower will give notice of any such election made in accordance with this definition to the Administrative Agent. Notwithstanding any other provision contained herein, 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or the Loan Parties at “fair value”, as defined therein.
Notwithstanding the foregoing, if at any time any change occurs after the Closing Date in GAAP (or IFRS) or in the application thereof that, in each case, would affect the computation of any financial ratio or financial requirement, or compliance with any covenant, set forth in any Loan Document (including, but not limited to, the impact of Accounting Standards Update 2016-2, Revenue from Contracts with Customers (Topic 606) or similar revenue recognition policies promulgated after the Closing Date), and the Borrower shall so request (regardless of whether any such request is given before or after such change), the Administrative Agent, the Lenders and the Borrower will negotiate in good faith to amend (subject to the approval of the Required Lenders) such ratio, requirement or covenant to preserve the original intent thereof in light of such change in GAAP (or IFRS); provided that until so amended, (a) such ratio, requirement or covenant shall continue to be computed in accordance with GAAP (or IFRS) without giving effect to such change therein and (b) if reasonably requested by the Administrative Agent with respect to periods ending prior to the date that is one year after the effectiveness of such change, the Borrower shall provide to the Administrative Agent (for distribution to the Lenders), together with any financial statements to be delivered pursuant to Section 6.01, a summary reconciliation between calculations of any such ratios or requirements required to be included in the corresponding Compliance Certificate to be delivered pursuant to Section 6.02(4) made before and after giving effect to such change in GAAP (or IFRS). For the avoidance of doubt, subject to the requirements of the foregoing clause (b), the operation of this paragraph shall otherwise have no effect with respect to any financial statements required to be delivered pursuant to Section 6.01 unless the Borrower otherwise elects.

“General Debt Basket Reallocated Amount” means any amount that, at the option of the Borrower, has been reallocated from Section 7.02(b)(12)(b) to clause (A)(1) of the Available Incremental Amount, which shall be deemed to be a utilization of the Basket set forth in Section 7.02(b)(12)(b).

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, local, or otherwise, 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).

“Granting Lender” has the meaning specified in Section 10.07(g).

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business or consistent with industry practice), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

“Guarantee” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing any Indebtedness or other monetary 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 monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary 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 monetary obligation or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or
performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with the Transaction or any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantor” has the meaning specified in clause (2) of the definition of “Collateral and Guarantee Requirement.” For avoidance of doubt, the Borrower may, in its sole discretion, cause any Parent Company or Restricted Subsidiary that is not required to be a Guarantor to Guarantee the Obligations by causing such Parent Company or Restricted Subsidiary to execute a joinder to the Guaranty (substantially in the form provided therein or as the Administrative Agent, the Borrower and such Guarantor may otherwise agree), and any such Parent Company or Restricted Subsidiary shall be a Guarantor hereunder for all purposes; provided that (i) in the case of any Parent Company or Restricted Subsidiary organized in a foreign jurisdiction, the Administrative Agent shall be reasonably satisfied with the jurisdiction of organization of such Parent Company or Restricted Subsidiary and (ii) the Administrative Agent shall have received at least two (2) Business Days prior to the effectiveness of such joinder (or such later date as reasonably agreed by the Administrative Agent) all documentation and other information in respect of such Guarantor required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

“Guaranty” means (a) the Guaranty substantially in the form of Exhibit E made by Holdings and each Subsidiary Guarantor, (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11 and (c) each other guaranty and guaranty supplement delivered by any Parent Company or Restricted Subsidiary pursuant to the second sentence of the definition of “Guarantor.”

“Hazardous Materials” means all explosive or radioactive substances or wastes, and all other substances, wastes, pollutants and contaminants and chemicals in any form, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and infectious or medical wastes, to the extent any of the foregoing are regulated pursuant to, or can form the basis for liability under, any Environmental Law.

“Hedge Agreement” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.
“Hedge Bank” means any Person party to a Secured Hedge Agreement that is an Agent, a Lender, an Arranger or an Affiliate of any of the foregoing on the Closing Date or at the time it enters into such Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, an Arranger or an Affiliate of any of the foregoing.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Hedge Agreement. For the avoidance of doubt, any Permitted Convertible Indebtedness Call Transaction will not constitute Hedging Obligations.

“Holdings” has the meaning specified in the introductory paragraph to this Agreement.

“Honor Date” has the meaning specified in Section 2.03(3)(a).

“Identified Participating Lenders” has the meaning specified in Section 2.05(1)(e)(C)(3).

“Identified Qualifying Lenders” has the meaning specified in Section 2.05(1)(e)(D)(3).

“IFRS” means international financial reporting standards and interpretations issued by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

“Immaterial Subsidiary” means any Restricted Subsidiary of the Borrower that is not a Material Subsidiary.

“Immediate Family Members” means with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including, in each case, adoptive relationships) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“Incremental Amendment” has the meaning specified in Section 2.14(6).

“Incremental Amounts” has the meaning specified in clause (1) of the definition of Refinancing Indebtedness.

“Incremental Commitments” has the meaning specified in Section 2.14(1).

“Incremental Facility Closing Date” has the meaning specified in Section 2.14(4).

“Incremental Lenders” has the meaning specified in Section 2.14(3).

“Incremental Loan” has the meaning specified in Section 2.14(2).

“Incremental Loan Request” has the meaning specified in Section 2.14(1).
“Incremental Revolving Commitments” has the meaning specified in Section 2.14(1).

“Incremental Revolving Facility” has the meaning specified in Section 2.14(1).

“Incremental Revolving Lender” has the meaning specified in Section 2.14(3).

“Incremental Revolving Loan” has the meaning specified in Section 2.14(2).

“Incremental Term Commitments” has the meaning specified in Section 2.14(1).

“Incremental Term Lender” has the meaning specified in Section 2.14(3).

“Incremental Term Loan” has the meaning specified in Section 2.14(2).

“Indebtedness” means, with respect to any Person, without duplication:

(1) any indebtedness (including principal and premium) of such Person, whether or not contingent:
   (a) in respect of borrowed money;
   (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof);
   (c) representing the deferred and unpaid balance of the purchase price of any property (including Capitalized Lease Obligations) due more than twelve months after such property is acquired, except (i) any such balance that constitutes an obligation in respect of a commercial letter of credit, a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business or consistent with industry practice, (ii) any earn-out obligations until such obligation is reflected as a liability on the balance sheet (excluding any footnotes thereto) of such Person in accordance with GAAP and is not paid within 60 days after becoming due and payable and (iii) accruals for payroll and other liabilities accrued in the ordinary course of business; or
   (d) representing the net obligations under any Hedging Obligations;

if and to the extent that any of the foregoing Indebtedness (other than obligations in respect of letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any Parent Company appearing upon the balance sheet of the Borrower solely by reason of push-down accounting under GAAP will be excluded;

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of this definition of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business or consistent with industry practice; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of this definition of a third Person secured by a Lien on any asset owned by such first
Person, whether or not such Indebtedness is assumed by such first Person; provided that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination and (ii) the amount of such Indebtedness of such other Person; provided that notwithstanding the foregoing, Indebtedness will be deemed not to include:

(i) Contingent Obligations incurred in the ordinary course of business or consistent with industry practice,

(ii) reimbursement obligations under commercial letters of credit (provided that unreimbursed amounts under commercial letters of credit will be counted as Indebtedness three (3) Business Days after such amount is drawn),

(iii) obligations under or in respect of Qualified Securitization Facilities,

(iv) accrued expenses,

(v) deferred or prepaid revenues,

(vi) any Non-Financing Lease Obligation, and

(vii) asset retirement obligations and obligations in respect of reclamation and workers compensation (including pensions and retiree medical care);

provided further that Indebtedness will be calculated without giving effect to the effects of Accounting Standards Codification Topic No. 815, Derivatives and Hedging, and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

“Independent Assets or Operations” means, with respect to any Parent Company, that Parent Company’s total assets, revenues, income from continuing operations before income taxes and cash flows from operating activities (excluding in each case amounts related to its investment in the Borrower and the Restricted Subsidiaries), determined in accordance with GAAP and as shown on the most recent balance sheet of such Parent Company, is more than 3.0% of such Parent Company’s corresponding consolidated amount.

“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that, in the good faith judgment of the Borrower, is qualified to perform the task for which it has been engaged.

“Information” has the meaning specified in Section 10.09.

“Initial Incremental Euro Term Lender” means, at any time, any Lender that has an Initial Incremental Euro Term Loan Commitment or an Initial Incremental Euro Term Loan at such time.
“Initial Incremental Euro Term Loan Commitment” means, as to each Initial Incremental Euro Term Lender, its obligation to make an Initial Incremental Euro Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Initial Incremental Euro Term Lender’s name on Schedule 2.01(a) under the caption “Initial Incremental Euro Term Loan Commitment”.

“Initial Incremental Euro Term Loans” means the Term Loans made by each Initial Incremental Euro Term Lender on the First Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(d). From and after the First Amendment Effective Date, the Initial Incremental Euro Term Loans shall constitute Closing Date Euro Term Loans for all purposes under this Agreement and the other Loan Documents.

“Initial Incremental Term Lenders” means, collectively, the Initial Incremental USD Term Lenders and the Initial Incremental Euro Term Lenders.

“Initial Incremental Term Loan Commitments” means, collectively, the Initial Incremental USD Term Loan Commitments and the Initial Incremental Euro Term Loan Commitments.

“Initial Incremental Term Loans” means, collectively, the Initial Incremental USD Term Loans and the Initial Incremental Euro Term Loans. From and after the First Amendment Effective Date, the Initial Incremental Term Loans shall constitute Closing Date Term Loans for all purposes under this Agreement and the other Loan Documents.

“Initial Incremental USD Term Lender” means, at any time, any Lender that has an Initial Incremental USD Term Loan Commitment or an Initial Incremental USD Term Loan at such time.

“Initial Incremental USD Term Loan Commitment” means, as to each Initial Incremental USD Term Lender, its obligation to make an Initial Incremental USD Term Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Initial Incremental USD Term Lender’s name on Schedule 2.01(a) under the caption “Initial Incremental USD Term Loan Commitment”.

“Initial Incremental USD Term Loans” means the Term Loans made by each Initial Incremental USD Term Lender on the First Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(c). From and after the First Amendment Effective Date, the Initial Incremental USD Term Loans shall constitute Closing Date USD Term Loans for all purposes under this Agreement and the other Loan Documents.

“Intellectual Property Security Agreements” has the meaning specified in the Security Agreement.

“Intercompany Note” means the Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit Q executed by the Borrower and each Restricted Subsidiary of the Borrower party thereto.

“Intercreditor Agreement” means, as applicable, any First Lien/Second Lien Intercreditor Agreement and any Equal Priority Intercreditor Agreement.

“Interest Coverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period to (b) Consolidated Interest Expense of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.
“Interest Payment Date” means, (a) as to any Loan of any Class other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the applicable Maturity Date of the Loans of such Class; provided that if any Interest Period for a Eurodollar Rate Loan or EURIBOR Rate 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; (b) as to any Base Rate Loan of any Class, the last Business Day of each March, June, September and December and the applicable Maturity Date of the Loans of such Class; and (c) with respect to all Closing Date Term Loans (including Converted Closing Date Term Loans), the Second Amendment Effective Date.

“Interest Period” means, as to each Eurodollar Rate Loan and EURIBOR Rate Loan, the period commencing on the date such Eurodollar Rate Loan or EURIBOR Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan or EURIBOR Rate Loan, as applicable, and ending on the date one, two, three or six months thereafter (or, with respect to the initial Interest Period for the Term B Loans, the period set forth in Sections 2.01(1)(e) and (f), or, with respect to the initial Interest Period for the 2019 Term B USD Incremental Loans and 2019 Term B Euro Incremental Loans, the period set forth in Sections 2.01(1)(h) and (i)), or to the extent consented to by each applicable Lender, twelve months, as selected by the Borrower in its Committed Loan Notice; provided that:

(1) 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 immediately preceding Business Day;

(2) 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

(3) no Interest Period shall extend beyond the applicable Maturity Date for the Class of Loans of which such Eurodollar Rate Loan or EURIBOR Rate Loan is a part.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency selected by the Borrower.

“Investment Grade Securities” means:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or debt instruments constituting loans or advances among the Borrower and its Subsidiaries;

(3) investments in any fund that invests substantially all of its assets in investments of the type described in clauses (1) and (2) of this definition which fund may also hold immaterial amounts of cash pending investment or distribution; and
(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, credit card and debit card receivables, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, members of management, consultants and independent contractors, in each case made in the ordinary course of business or consistent with industry practice), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person. For purposes of the definitions of “Permitted Investments” and “Unrestricted Subsidiary” and Section 7.05,

(1) “Investments” will include the portion (proportionate to the Borrower’s Equity Interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Borrower’s “Investment” in such Subsidiary at the time of such redesignation; minus
(b) the portion (proportionate to the Borrower’s Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time will be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment.

“Investor” means any of (i) TPG Capital, L.P., Thoma Bravo, LLC, GIC Pte Ltd., StepStone Group LP, Fisher Lynch Co-Investment Partnership II, L.P., Performance Equity Management, any of their respective Affiliates and funds or partnerships managed or advised by any of them or any of their respective Affiliates but not including, however, any portfolio company of any of the foregoing and (ii) Intel Corporation and any of its Affiliates.

“IP Rights” has the meaning specified in Section 5.15.

“IRS” means Internal Revenue Service of the United States.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuing Bank” means Morgan Stanley Senior Funding, Inc., JPMorgan Chase Bank, N.A., Citibank, N.A. and Bank of America, N.A., in each case, in its capacity as an issuer of Letters of Credit hereunder and solely with respect to its L/C Commitment, together with its permitted successors and assigns and any other Revolving Lender that becomes an Issuing Bank in accordance with
Section 2.03(12). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by any Affiliate of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.03 with respect to such Letters of Credit).

“Issuing Bank Document” means with respect to any Letter of Credit, the L/C Application, and any other document, agreement and instrument entered into by any Issuing Bank and the Borrower (or any of its Subsidiaries) or in favor of such Issuing Bank and relating to such Letter of Credit.

“Junior Indebtedness” means any Indebtedness of any Loan Party that by its terms is contractually subordinated in right of payment or security to the Obligations of such Loan Party arising under the Loans or the Guaranty (including, for the avoidance of doubt, the Second Lien Term Loans).

“Junior Lien Debt” has the meaning specified in clause (39) of the definition of “Permitted Liens”.

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

“L/C 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 relevant Issuing Bank.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed prior to the Honor Date or refinanced as a Revolving Borrowing.

“L/C Commitment” means, with respect to any Person, the amount set forth opposite the name of such Person on Schedule 2.01 under the caption “L/C Commitment.”

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

“L/C Expiration Date” means the day that is five (5) Business Days prior to the scheduled Maturity Date then in effect for the applicable Revolving Facility (or, if such day is not a Business Day, the next preceding Business Day).

“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 the stated amount thereof in effect at such time. 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.

“L/C Sublimit” means an amount equal to the lesser of (a) $50.0 million and (b) the aggregate amount of the Revolving Commitments. The L/C Sublimit is part of, and not in addition to, the Revolving Facility.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity.
or expiration date of any Incremental Loan, any Incremental Revolving Commitment, any Other Loan, any Other Revolving Commitments, any Replacement Loan, any Extended Term Loan or any Extended Revolving Commitment, in each case as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all international, foreign, federal, state and local laws (including common law), statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, 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.

“Legal Holiday” means Saturday, Sunday or a day on which commercial banking institutions are not required to be open in the State of New York or at the place of payment.

“Lender” has the meaning specified in the introductory paragraph to this Agreement and, as context requires (including for purposes of the definition of “Secured Parties”), includes any Issuing Bank and its successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” For the avoidance of doubt, each Additional Lender is a Lender to the extent any such Person has executed and delivered a Refinancing Amendment, an Incremental Amendment or an amendment in respect of Replacement Loans, as the case may be, and to the extent such Refinancing Amendment, Incremental Amendment or amendment in respect of Replacement Loans shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender.

Notwithstanding the foregoing, no Disqualified Institution that purports to become a Lender hereunder (notwithstanding the provisions of this Agreement that prohibit Disqualified Institutions from becoming Lenders) without the Borrower’s written consent shall be entitled to any of the rights or privileges enjoyed by the other Lenders with respect to voting, information and lender meetings; provided that the Loans of any such Disqualified Institution shall not be excluded for purposes of making a determination of Required Lenders if the action in question affects such Disqualified Institution in a disproportionately adverse manner than its effect on the other Lenders; provided, further, that if any assignment or participation is made to any Disqualified Institution without the Borrower’s prior written consent in violation of clause (v) of Section 10.07(b) the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate any Revolving Commitment of such Disqualified Institution and repay all obligations of the Borrower owing to such Disqualified Institution in connection with such Revolving Commitment, (B) in the case of outstanding Term Loans held by Disqualified Institutions, purchase or prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and/or (C) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in Section 10.07), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

“Lender-Related Distress Event” means, with respect to any Lender or any direct or indirect parent company of such Lender (each, a “Distressed Person”), (a) that such Distressed Person is or becomes subject to a voluntary or involuntary case under any Debtor Relief Law, (b) a custodian, conservator, receiver, or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, (c) such Distressed Person is subject to a forced liquidation, makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be,
insolvent or bankrupt or (d) that such Distressed Person becomes the subject of a Bail-in Action; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in any Lender or any direct or indirect parent company of a Lender by a Governmental Authority or an instrumentality thereof 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 or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Letter of Credit” means any letter of credit or bank guaranty (or similar document with respect to any Letter of Credit denominated in an Available LC Currency other than Dollars) issued hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; provided, however, that any commercial letter of credit issued hereunder shall provide solely for cash payment upon presentation of a sight draft.

“LIBOR” has the meaning specified in the definition of “Eurodollar Rate.”

“Lien” means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event will an operating lease be deemed to constitute a Lien.

“Limited Condition Transactions” means any (1) Permitted Acquisition or other Investment or similar transaction (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise) permitted hereunder by the Borrower or one or more of its Restricted Subsidiaries, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness and (3) any Restricted Payment requiring irrevocable notice in advance thereof (other than in connection with any Restricted Payment to any Permitted Holders or any other beneficial owners of the Borrower).

“Loan” means an extension of credit under Article II by a Lender (x) to the Borrower in the form of a Term Loan or (y) to the Borrower in the form of a Revolving Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment, Extension Amendment or amendment in respect of Replacement Loans, (d) the Guaranty, (e) the Collateral Documents, (f) the Intercreditor Agreements and (g) each L/C Application.

“Loan Increase” means a Term Loan Increase or Revolving Commitment Increase.

“Loan Parties” means, collectively, (a) Holdings, (b) the Borrower and (c) each Subsidiary Guarantor.
“Management Services Agreement” means the management services agreement or similar agreements among one or more of the Investors or certain of their respective management companies associated with it or their advisors, if applicable, and the Borrower (or any Parent Company).

“Management Stockholders” means the members of management (and their Controlled Investment Affiliates and Immediate Family Members and any permitted transferees thereof) of the Borrower (or a Parent Company) who are holders of Equity Interests of any Parent Company on the Closing Date.

“Margin Stock” has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

“Market Capitalization” means an amount equal to (i) the total number of issued and outstanding shares of common Equity Interests of the Borrower or the applicable Parent Company, as applicable, on the date of the declaration of a Restricted Payment permitted pursuant to Section 7.05(b)(8) multiplied by (ii) the arithmetic mean of the closing prices per share of such common Equity Interests on the principal securities exchange on which such common Equity Interests are traded for the 30 consecutive trading days immediately preceding the date of declaration of such Restricted Payment.

“Material Adverse Effect” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Lenders, the Collateral Agent or the Administrative Agent under the Loan Documents.

“Material Domestic Subsidiary” means any Domestic Subsidiary that is a Material Subsidiary.

“Material Foreign Subsidiary” means any Foreign Subsidiary that is a Material Subsidiary.

“Material Real Property” means any fee-owned real property located in the United States and owned by any Loan Party with a fair market value in excess of $75.0 million on the Closing Date (if owned by a Loan Party on the Closing Date) or at the time of acquisition (if acquired by a Loan Party after the Closing Date).

“Material Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each Restricted Subsidiary of the Borrower (a) whose Total Assets at the last day of the most recent Test Period (when taken together with the Total Assets of the Restricted Subsidiaries of such Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of Total Assets of the Borrower and the Restricted Subsidiaries at such date or (b) whose gross revenues for such Test Period (when taken together with the gross revenues of the Restricted Subsidiaries of such Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; provided that if at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its reasonable discretion), all Restricted Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in the preceding clause (a) or (b) comprise in the aggregate more than (when taken together with the Total Assets of the Restricted Subsidiaries of such Subsidiaries at the last day of the most recent Test Period) 7.5% of Total Assets of the Borrower and the Restricted Subsidiaries as of the last day of the most recent Test Period or more than (when taken together with the gross revenues of the Restricted Subsidiaries of
such Subsidiaries for such Test Period) 7.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period, then the Borrower shall, not later than sixty (60) days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more Restricted Subsidiaries as “Material Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 with respect to any such Restricted Subsidiaries (to the extent applicable), in each case, other than any Restricted Subsidiaries that otherwise constitute Excluded Subsidiaries. At all times prior to the delivery of the aforementioned financial statements, such determinations shall be made based on the Pro Forma Financial Statements.

“Maturity Date” means (i) with respect to the Term B Loans that have not been extended pursuant to Section 2.16, the seventh anniversary of the Closing Date (the “Original Term Loan Maturity Date”); (ii) with respect to the Closing Date Revolving Facility, to the extent not extended pursuant to Section 2.16 after the Fourth Amendment Extension Effective Date, the fifth anniversary of the Closing Date (the “Original Revolving Facility Maturity Date”); (iii) with respect to the 2020 Extended Revolving Facility, to the extent not extended pursuant to Section 2.16 after the Fourth Amendment Extension Effective Date, the seventh anniversary of the Closing Date (the “Extended Revolving Loan Maturity Date”); (iv) with respect to any Class of Extended Term Loans or Extended Revolving Commitments, the final maturity date as specified in the applicable Extension Amendment; (v) with respect to any Other Term Loans or Other Revolving Commitments, the final maturity date as specified in the applicable Refinancing Amendment; (vi) with respect to any Class of Replacement Loans, the final maturity date as specified in the applicable amendment to this Agreement in respect of such Replacement Loans; and (vii) with respect to any Incremental Loans or Incremental Revolving Commitments, the final maturity date as specified in the applicable Incremental Amendment; provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately succeeding such day.

“Maximum Rate” has the meaning specified in Section 10.11.

“McAfee Business” means the business conducted by Foundation Technology Worldwide LLC and its Subsidiaries.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Mortgage Policies” has the meaning specified in Section 6.11(2)(b)(ii).

“Mortgaged Properties” has the meaning specified in paragraph (5) of the definition of “Collateral and Guarantee Requirement.”

“Mortgages” means collectively, the deeds of trust, trust deeds, hypothecs, deeds to secure debt and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, including such modifications as may be required by local laws, pursuant to Section 6.13(2) and any other deeds of trust, trust deeds, hypothecs, deeds to secure debt or mortgages executed and delivered pursuant to Section 6.11.

“Multiemployer Plan” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.
“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means:

(1) with respect to any Asset Sale or any Casualty Event, the aggregate cash and Cash Equivalents received by the Borrower or any Restricted Subsidiary in respect of any Asset Sale or Casualty Event, including any cash and Cash Equivalents received upon the sale or other disposition of any Designated Non-Cash Consideration received in any Asset Sale, net of the costs relating to such Asset Sale or Casualty Event and the sale or disposition of such Designated Non-Cash Consideration, including legal, accounting and investment banking fees, payments made in order to obtain a necessary consent or required by applicable Law, brokerage and sales commissions, title insurance premiums, related search and recording charges, survey costs and mortgage recording tax paid in connection therewith, all dividends, distributions or other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of any such Asset Sale or Casualty Event by a Restricted Subsidiary, the amount of any purchase price or similar adjustment claimed by any Person to be owed by the Borrower or any Restricted Subsidiary, until such time as such claim will have been settled or otherwise finally resolved, or paid or payable by the Borrower or any Restricted Subsidiary, in either case in respect of such Asset Sale or Casualty Event, any relocation expenses incurred as a result thereof, costs and expenses in connection with unwinding any Hedging Obligation in connection therewith, other fees and expenses, including title and recording expenses, taxes paid or payable (including any additional Tax Distributions to be made as a result of the transactions giving rise to such cash and cash equivalents received) as a result thereof or any transactions occurring or deemed to occur to effectuate a payment under this Agreement, amounts required to be applied to the repayment of principal, premium, if any, and interest on Indebtedness (other than the First Lien Obligations and Indebtedness secured by Liens that are expressly subordinated to the Liens securing the Obligations) secured by a Lien on such assets and required to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by the Borrower or any Restricted Subsidiary as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that (a) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed $25.0 million and (b) no such net cash proceeds shall constitute Net Proceeds under this clause (1) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed $50.0 million (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds under this clause (1)); and

(2) (a) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary, any Permitted Equity Issuance by the Borrower or any Parent Company or any contribution to the common equity capital of the Borrower, the excess, if any, of (i) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (ii) all taxes paid or reasonably estimated to be payable, and all fees (including investment banking fees, attorneys’ fees, accountants’ fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses incurred, in each case by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (b) with respect to any Permitted Equity Issuance by any Parent Company, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.
“Net Proceeds Percentage” has the meaning specified in Section 2.05(b)(2)(b).

“Non-Consenting Lender” has the meaning specified in Section 3.07.

“Non-Converted Closing Date Euro Term Loans” means each Closing Date Euro Term Loan (or portion thereof) other than a Converted Closing Date Euro Term Loan.

“Non-Converted Closing Date Term Loans” means each Closing Date USD Term Loan (or portion thereof) other than a Converted Closing Date USD Term Loan.

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

“Non-Excluded Taxes” means all 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.

“Non-Extension Notice Date” has the meaning specified in Section 2.03(2)(c).

“Non-Financing Lease Obligation” means a lease obligation that is not required to be accounted for as a financing or capital lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease (including any lease that would not have been a capital lease under GAAP as of December 31, 2017) shall be considered a Non-Financing Lease Obligation.

“Non-Recourse Indebtedness” means Indebtedness that is non-recourse to the Borrower and the Restricted Subsidiaries.

“Note” means a Term Note or Revolving Note, as the context may require.

“Notice of Intent to Cure” has the meaning specified in Section 8.04.

“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 or Letter of Credit, 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, fees and other amounts that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and other amounts are allowed claims in such proceeding,

(2) obligations (other than Excluded Swap Obligations) of any Loan Party or Restricted Subsidiary arising under any Secured Hedge Agreement and
(3) Cash Management Obligations under each Secured Cash Management Agreement. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees (including Letter of Credit fees), Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document.

Notwithstanding the foregoing, (a) unless otherwise agreed to by the Borrower and any applicable Hedge Bank or Cash Management Bank, the obligations of Holdings, the Borrower or any Subsidiary under any Secured Hedge Agreement and under any Secured Cash Management Agreement shall be secured and guaranteed pursuant to the Collateral Documents and the Guaranty only to the extent that, and for so long as, the other Obligations are so secured and guaranteed and (b) any release of Collateral or Guarantors effected in the manner permitted by this Agreement and any other Loan Document shall not require the consent of the holders of Hedging Obligations under Secured Hedge Agreements or of the holders of Cash Management Obligations under Secured Cash Management Agreements.

“OFAC” has the meaning specified in Section 5.17.

“Offered Amount” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Offered Discount” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Offered Amount” means the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Borrower or any other Person, as the case may be.

“Officer’s Certificate” means a certificate signed on behalf of a Person by an Officer of such Person.

“OID” means original issue discount.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Administrative Agent. Counsel may be an employee of or counsel to the Borrower or the Administrative Agent.

“ordinary course of business” means activity conducted in the ordinary course of business of the Borrower and any Restricted Subsidiary.

“Organizational Documents” means

1. with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);
2. with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and
3. 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 and 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 and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Revolving Facility Maturity Date” has the meaning specified in the definition of “Maturity Date.”

“Original Term Loan Maturity Date” has the meaning specified in the definition of “Maturity Date.”


“Other Applicable ECF” means Excess Cash Flow or a comparable measure as determined in accordance with the documentation governing Other Applicable Indebtedness.

“Other Applicable Indebtedness” means Permitted Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or any other Indebtedness secured on a pari passu basis with the Obligations, together with Refinancing Indebtedness in respect of any of the foregoing that is secured on a pari passu basis with the Obligations.

“Other Applicable Net Proceeds” means Net Proceeds or a comparable measure as determined in accordance with the documentation governing Other Applicable Indebtedness.

“Other Commitments” means Other Revolving Commitments and/or Other Term Loan Commitments.

“Other Loans” means one or more Classes of Other Revolving Loans and/or Other Term Loans that result from a Refinancing Amendment.

“Other Revolving Commitments” means one or more Classes of Revolving Commitments hereunder that result from a Refinancing Amendment.

“Other Revolving Loans” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“Other Taxes” means all present or future stamp or documentary Taxes, intangible, recording, filing, excise (that is not based on net income), property or similar Taxes arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed with respect to an assignment, grant of participation, designation of a new office for receiving payments by or on account of the Borrower or other transfer (other than an assignment, designation or other transfer at the request of the Borrower).

“Other Term Loan Commitments” means one or more Classes of Term Loan commitments hereunder that result from a Refinancing Amendment.

“Other Term Loans” means one or more Classes of Term Loans that result from a Refinancing Amendment.
"Outstanding Amount" means (a) with respect to the Term Loans and Revolving Loans on any date, the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans and Revolving Loans (including any refinancing of outstanding Unreimbursed Amounts under Letters of Credit or L/C Credit Extensions as a Revolving Borrowing), as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the outstanding principal amount thereof on such date after giving effect to any related L/C Credit Extension occurring on such date and any other changes thereto as of such date, including as a result of any reimbursements of outstanding Unreimbursed Amounts under related Letters of Credit (including any refinancing of outstanding Unreimbursed Amounts under related Letters of Credit or related L/C Credit Extensions as a Revolving Borrowing) or any reductions in the maximum amount available for drawing under related Letters of Credit taking effect on such date.

"Overnight Rate" means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent or an Issuing Bank, as applicable, in accordance with banking industry rules on interbank compensation.

"Parent Company" means any Person that is a direct or indirect parent (which may be organized as, among other things, a partnership) of Holdings and/or the Borrower (for the avoidance of doubt, in the case of the Borrower, including Holdings), as applicable.

"Pari Passu Lien Debt" has the meaning specified in clause (39) of the definition of "Permitted Liens."

"Participant" has the meaning specified in Section 10.07(d).

"Participant Register" has the meaning specified in Section 10.07(e).

"Participating Lender" has the meaning specified in Section 2.05(1)(e)(C)(2).

"Partnership Audit Rules" means Chapter 63 of the Code, as amended by the Bipartisan Budget Act of 2015 (and any Treasury regulations or other guidance that may be promulgated in the future relating thereto) and, in each case, any analogous provisions of state, local, and non-U.S. law.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time in the preceding five plan years.

"Perfection Certificate" has the meaning specified in the Security Agreement.

"Permitted Acquisition" has the meaning specified in clause (3) of the definition of “Permitted Investments.”

"Permitted Asset Swap" means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Borrower or any Restricted Subsidiary and another Person; provided that any cash or Cash Equivalents received in connection with a Permitted Asset Swap that constitutes an Asset Sale must be applied in accordance with Section 2.05(2)(b)(i).
“Permitted Bond Hedge Transaction” means any call or capped call option (or substantively equivalent derivative transaction) on the Borrower’s common equity purchased by the Borrower in connection with the issuance of any Convertible Indebtedness; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Borrower from the sale of such Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

“Permitted Convertible Indebtedness Call Transaction” means any Permitted Bond Hedge Transaction and any Permitted Warrant Transaction.

“Permitted Equal Priority Refinancing Debt” means any secured Indebtedness incurred by the Borrower and/or any Guarantor in the form of one or more series of senior secured notes, bonds or debentures or first lien secured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness is secured by Liens on all or a portion of the Collateral on a basis that is equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies) and is not secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos to the definition of “Credit Agreement Refinancing Indebtedness,” (iii) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors and (iv) the applicable Loan Parties, the holders of such Indebtedness (or their Debt Representative) and the Administrative Agent and/or Collateral Agent shall be party to an Intercreditor Agreement providing that the Liens on the Collateral securing such obligations shall rank equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies).

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of the Borrower or any Parent Company.

“Permitted Holder” means (1) any of the Investors and Management Stockholders and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) of which any of the foregoing are members; provided that in the case of such group and without giving effect to the existence of such group or any other group, such Investors and Management Stockholders, collectively, have, directly or indirectly, beneficial ownership of more than 50.0% of the total voting power of the Voting Stock of the Borrower or any Permitted Parent held by such group and (2) any Person acting in the capacity of an underwriter (solely to the extent that and for so long as such Person is acting in such capacity) in connection with a public or private offering of Capital Stock of the Borrower or any Parent Company.

“Permitted Incremental Equivalent Debt” means Indebtedness issued, incurred or otherwise obtained by the Borrower and/or any Guarantor in respect of one or more series of senior unsecured notes, senior secured first lien or junior lien notes or subordinated notes (in each case whether issued in a public offering, Rule 144A or other private placement or bridge financing in lieu of the foregoing (and any Registered Equivalent Notes issued in exchange therefor) or otherwise), first lien or junior lien loans, unsecured or subordinated loans or secured or unsecured mezzanine Indebtedness that, in each case, if secured, will be secured by Liens on the Collateral on an equal priority (but without regard to the control of remedies) or junior priority basis with the Liens on Collateral securing the First Lien Obligations under this Agreement, and that are issued or made in lieu of Incremental Commitments; provided that:
(i) the terms of any such Indebtedness (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates), interest margins, rate floors, fees, funding discounts, original issue discounts and prepayment or redemption premiums and terms) shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith) or (B) if otherwise not consistent with the terms of the Term B Loans, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of the Term B Loans, except with respect to (1) covenants and other terms applicable to any period after the Latest Maturity Date of the Term B Loans or (2) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary contained herein, if any such terms of such Indebtedness contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility;

(ii) the aggregate principal amount of all Permitted Incremental Equivalent Debt shall not exceed the Available Incremental Amount at the time of incurrence (it being understood that for purposes of this clause (ii), references in Section 2.14(4)(c)(B) and Section 2.14(4)(c)(D) (other than the first proviso thereto) to Incremental Loans or Incremental Revolving Commitments shall be deemed to be references to Permitted Incremental Equivalent Debt);

(iii) such Permitted Incremental Equivalent Debt shall not be subject to any Guarantee by any Person other than a Loan Party;

(iv) in the case of Permitted Incremental Equivalent Debt that is secured, the obligations in respect thereof shall not be secured by any Lien on any asset of the Borrower or any Restricted Subsidiary other than any asset constituting Collateral;

(v) if such Permitted Incremental Equivalent Debt is secured, such Permitted Incremental Equivalent Debt shall be subject to the applicable Intercreditor Agreement(s);

(vi) such Permitted Incremental Equivalent Debt (a) shall not mature earlier than the Original Term Loan Maturity Date and (b) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Term B Loans on the date of incurrence of such Permitted Incremental Equivalent Debt;

(vii) any mandatory prepayments of (I) any Permitted Incremental Equivalent Debt that comprises junior lien or unsecured notes or loans may not be made except to the extent that prepayments of such debt are not prohibited hereunder and to the extent required hereunder or pursuant to the terms of any Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement, first made or offered to the holders of the Term Loans constituting First Lien Obligations and any such Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement, and (II) any Permitted Incremental Equivalent Debt that is secured on a pari passu basis with the First Lien Obligations under this Agreement in respect of events described in Section 2.05(2)(a), (b) and (d)(i) may be made on a pro rata basis, less than a pro rata basis or greater than a pro rata basis (but not greater than a pro rata basis as compared to any Class of Term Loans constituting First Lien Obligations with an earlier maturity date) with the Term Loans constituting First Lien Obligations; and
(viii) in the case of Permitted Incremental Equivalent Debt consisting of syndicated Dollar-denominated (or Euro-denominated) term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, the All-In Yield of the Term B USD Loans (in the case of any such Dollar-denominated Permitted Incremental Equivalent Debt) or Term B Euro Loans (in the case of any such Euro-denominated Permitted Incremental Equivalent Debt) shall be subject to the adjustment in the manner set forth in the proviso to Section 2.14(5)(c) (to the extent then applicable), determined for purposes of this clause (viii) as if the Permitted Incremental Equivalent Debt were Incremental Term Loans;

provided, further, that “Permitted Incremental Equivalent Debt” may be incurred in the form of a bridge or other interim credit facility intended to be refinanced or replaced with long term indebtedness (so long as such credit facility includes customary “rollover provisions” that satisfy the requirements of clause (vi) above following such rollover), in which case, on or prior to the first anniversary of the incurrence of such “bridge” or other credit facility, clause (vi) of the first proviso in this definition shall not prohibit the inclusion of customary terms for “bridge” facilities, including customary mandatory prepayment, repurchase or redemption provisions.

“Permitted Indebtedness” means Indebtedness permitted to be incurred in accordance with Section 7.02.

“Permitted Investments” means:

(1) any Investment in the Borrower or any Restricted Subsidiary;

(2) any Investment(s) in Cash Equivalents or Investment Grade Securities and Investments that were Cash Equivalents or Investment Grade Securities when made;

(3) (a) any Investment by the Borrower or any Restricted Subsidiary in any Person that is engaged (directly or through entities that will be Restricted Subsidiaries) in a Similar Business if as a result of such Investment (i) such Person becomes a Restricted Subsidiary or (ii) such Person, in one transaction or a series of related transactions, is amalgamated, merged or consolidated with or into, or transfers or conveys substantially all of its assets or assets constituting a business unit, a line of business or a division of such Person, to, or is liquidated into, the Borrower or a Restricted Subsidiary (a “Permitted Acquisition”); provided that immediately after giving pro forma effect to any such Investment, no Event of Default under Section 8.01(1) or Section 8.01(6) shall have occurred and be continuing; and

(b) any Investment held by such Person described in the preceding clause (a); provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, transfer or conveyance;

(4) any Investment in securities or other assets not constituting Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made in accordance with Section 7.04 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the Closing Date or made pursuant to binding commitments in effect on the Closing Date, in each of the foregoing cases with respect to any such Investment or binding commitment in effect on the Closing Date in excess of $15.0 million, as set
forth on Schedule 7.05, or an Investment consisting of any extension, modification, replacement, renewal or reinvestment of any Investment or binding commitment existing on the Closing Date; provided that the amount of any such Investment or binding commitment may be increased only (a) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (b) as otherwise permitted under this Agreement;

(6) any Investment acquired by the Borrower or any Restricted Subsidiary:

(a) in exchange for any other Investment, accounts receivable or indorsements for collection or deposit held by the Borrower or any Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of, or settlement of delinquent accounts and disputes with or judgments against, the issuer of such other Investment or accounts receivable (including any trade creditor or customer);

(b) in satisfaction of judgments against other Persons;

(c) as a result of a foreclosure by the Borrower or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default; or

(d) as a result of the settlement, compromise or resolution of (i) litigation, arbitration or other disputes or (ii) obligations of trade creditors or customers that were incurred in the ordinary course of business or consistent with industry practice of the Borrower or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer;

(7) Hedging Obligations permitted under Section 7.02(b)(10);

(8) any Investment in a Similar Business taken together with all other Investments made pursuant to this clause (8) that are at that time outstanding not to exceed (as of the date such Investment is made) the greater of (a) $270.0 million and (b) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(9) Investments the payment for which consists of Equity Interests (other than Disqualified Stock) of the Borrower or any Parent Company; provided that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of Section 7.05(a);

(10) (a) guarantees of Indebtedness permitted under Section 7.02, performance guarantees and Contingent Obligations incurred in the ordinary course of business or consistent with industry practice, and (b) the creation of Liens on the assets of the Borrower or any Restricted Subsidiary in compliance with Section 7.01;

(11) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 7.07(b) (except transactions described in clauses (2), (5), (9), (15) or (22) of such Section);
(12) Investments consisting of purchases and acquisitions of inventory, supplies, material, services, equipment or similar assets or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(13) Investments, taken together with all other Investments made pursuant to this clause (13) that are at that time outstanding, not to exceed (as of the date such Investment is made) the greater of (i) $270.0 million and (ii) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(14) Investments in or relating to a Securitization Subsidiary that, in the good faith determination of the Borrower, are necessary or advisable to effect any Qualified Securitization Facility (including distributions or payments of Securitization Fees) or any repurchase obligation in connection therewith (including the contribution or lending of Cash Equivalents to Subsidiaries to finance the purchase of such assets from the Borrower or any Restricted Subsidiary or to otherwise fund required reserves);

(15) loans and advances to, or guarantees of Indebtedness of, officers, directors, employees, consultants, independent contractors and members of management not in excess of $25.0 million outstanding at any one time, in the aggregate;

(16) loans and advances to employees, directors, officers, members of management, independent contractors and consultants for business-related travel expenses, moving expenses, payroll advances and other similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or consistent with industry practice or to future, present and former employees, directors, officers, members of management, independent contractors and consultants (and their Controlled Investment Affiliates and Immediate Family Members) to fund such Person's purchase of Equity Interests of the Borrower or any Parent Company;

(17) advances, loans or extensions of trade credit or prepayments to suppliers or loans or advances made to distributors, in each case, in the ordinary course of business or consistent with past practice or consistent with industry practice by the Borrower or any Restricted Subsidiary;

(18) any Investment in any Subsidiary or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business or consistent with industry practice;

(19) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with industry practice;

(20) Investments made in the ordinary course of business or consistent with industry practice in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors;

(21) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with industry practice;
(22) the purchase or other acquisition of any Indebtedness of the Borrower or any Restricted Subsidiary to the extent not otherwise prohibited hereunder;

(23) Investments in Unrestricted Subsidiaries or joint ventures, taken together with all other Investments made pursuant to this clause (23) that are at that time outstanding, without giving effect to the sale of an Unrestricted Subsidiary or joint venture to the extent the proceeds of such sale do not consist of, or have not been subsequently sold or transferred for, Cash Equivalents or marketable securities, not to exceed (as of the date such Investment is made) the greater of (i) $230.0 million and (ii) 30.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of making of such Investment for the most recently ended Test Period (calculated on a pro forma basis);

(24) Investments in the ordinary course of business or consistent with industry practice consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers;

(25) any Investment by any Captive Insurance Subsidiary in connection with its provision of insurance to the Borrower or any of its Subsidiaries, which Investment is made in the ordinary course of business or consistent with industry practice of such Captive Insurance Subsidiary, or by reason of applicable Law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(26) Investments made as part of, to effect or resulting from the Transactions;

(27) Investments of assets relating to non-qualified deferred payment plans in the ordinary course of business or consistent with industry practice;

(28) intercompany current liabilities owed to Unrestricted Subsidiaries or joint ventures incurred in the ordinary course of business or consistent with industry practice in connection with the cash management operations of the Borrower and its Subsidiaries;

(29) acquisitions of obligations of one or more directors, officers or other employees or consultants or independent contractors of any Parent Company, the Borrower, or any Subsidiary of the Borrower in connection with such director’s, officer’s, employee’s consultant’s or independent contractor’s acquisition of Equity Interests of the Borrower or any direct or indirect parent of the Borrower, to the extent no cash is actually advanced by the Borrower or any Restricted Subsidiary to such directors, officers, employees, consultants or independent contractors in connection with the acquisition of any such obligations;

(30) Investments constituting promissory notes or other non-cash proceeds of dispositions of assets to the extent permitted under Section 7.04;

(31) Investments resulting from pledges and deposits permitted pursuant to the definition of “Permitted Liens”;

(32) loans and advances to any direct or indirect parent of the Borrower in lieu of and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof) Restricted Payments to the extent permitted to be made in cash to such parent in accordance with Section 7.05 at such time, such Investment being treated for purposes of the applicable clause of Section 7.05, including any limitations, as if a Restricted Payment were made pursuant to such applicable clause;
(33) any Investments if on a pro forma basis after giving effect to such Investment, the Total Net Leverage Ratio would be equal to or less than 4.50 to 1.00 as of the last day of the Test Period most recently ended; and

(34) Permitted Bond Hedge Transactions.

“Permitted Junior Priority Refinancing Debt” means secured Indebtedness incurred by the Borrower and/or any Guarantor in the form of one or more series of junior lien secured notes, bonds or debentures or junior lien secured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness is secured by a Lien on all or a portion of the Collateral on a junior priority basis to the Liens on Collateral securing the First Lien Obligations under this Agreement and is not secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness,” (iii) the holders of such Indebtedness (or their Debt Representative) and the Administrative Agent and/or the Collateral Agent shall be party to an Intercreditor Agreement providing that the Liens on Collateral securing such obligations shall rank junior to the Liens on Collateral securing the First Lien Obligations under this Agreement, and (iv) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

“Permitted Liens” means, with respect to any Person:

(1) Liens created pursuant to any Loan Document;
(2) Liens, pledges or deposits made in connection with:
   (a) workers’ compensation laws, unemployment insurance, health, disability or employee benefits or other social security laws or similar legislation or regulations,
   (b) insurance-related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) or indemnification obligations of (including obligations in respect of letters of credit, bank guarantees or similar documents or instruments for the benefit of) insurance carriers providing property, casualty or liability insurance or otherwise supporting the payment of items set forth in the foregoing clause (a) or
   (c) bids, tenders, contracts, statutory obligations, surety, indemnity, warranty, release, appeal or similar bonds, or with regard to other regulatory requirements, completion guarantees, stay, customs and appeal bonds, performance bonds, bankers’ acceptance facilities, and other obligations of like nature (including those to secure health, safety and environmental obligations) (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash, Cash Equivalents or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent, contested taxes or import duties and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same,
in each case incurred in the ordinary course of business or consistent with industry practice;

(3) Liens imposed by law, such as landlords’, carriers’, warehousemen’s, materialmen’s, repairmen’s, construction, mechanics’ or other similar Liens, or landlord Liens specifically created by contract (a) for sums not yet overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue, are unfiled and no other action has been taken to enforce such Liens or (b) being contested in good faith by appropriate actions or other Liens arising out of or securing judgments or awards against such Person with respect to which such Person will then be proceeding with an appeal or other proceedings for review if such Liens are adequately bonded or adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(4) Liens for taxes, assessments or other governmental charges not yet overdue or not yet payable or not subject to penalties for nonpayment or which are being contested in good faith by appropriate actions if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(5) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal or similar bonds, instruments or obligations or with respect to regulatory requirements or letters of credit or bankers acceptance issued, and completion guarantees provided, in each case, pursuant to the request of and for the account of such Person in the ordinary course of its business or consistent with past practice or industry practice;

(6) survey exceptions, encumbrances, ground leases, easements, restrictions, protrusions, encroachments or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties that were not incurred in connection with Indebtedness and that do not in the aggregate materially impair their use in the operation of the business of such Person and exceptions on Mortgage Policies insuring Liens granted on Mortgaged Properties;

(7) Liens securing obligations in respect of Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to clauses (A) or (B) of the definition of Permitted Ratio Debt, clause (4), (12)(b), (13), (14)(a)(A), (14)(a)(B), (15), (23) or (31) of Section 7.02(b) or, with respect to assumed or acquired Indebtedness not incurred in contemplation of the relevant acquisition, Disqualified Stock or Preferred Stock, clause (14)(b) of Section 7.02(b); provided that:

(a) Liens securing obligations relating to any Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to such clause (13) relate only to obligations relating to Refinancing Indebtedness that is secured by Liens on the same assets as the assets securing the Refinanced Debt (as defined in the definition of Refinancing Indebtedness), plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property, or serves to refund, refinance, extend, replace, renew or defease Indebtedness, Disqualified Stock or Preferred Stock incurred under clause (4), (12) or (13) of Section 7.02(b);
(b) Liens securing obligations relating to Indebtedness or Disqualified Stock permitted to be incurred pursuant to such clause (23) or (31) extend only to the assets of Subsidiaries that are not Guarantors;

(c) Liens securing obligations in respect of Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred pursuant to such clause (4) extend only to the assets so purchased, replaced, leased or improved and proceeds and products thereof; provided further that individual financings of assets provided by a counterparty may be cross-collateralized to other financings of assets provided by such counterparty;

(d) If any such Liens secure Indebtedness for borrowed money incurred pursuant to clauses (A) or (B) of the definition of Permitted Ratio Debt or such clauses (12)(b), (14)(a)(A) or (14)(a)(B), at the election of the Borrower, such Liens shall be subject to the applicable Intercreditor Agreement(s); and

(e) Liens securing obligations in respect of assumed or acquired Indebtedness, Disqualified Stock or Preferred Stock not incurred in contemplation of the relevant acquisition permitted to be assumed pursuant to such clause (14) are solely on acquired property or the assets of the acquired entity (other than after acquired property that is (A) affixed or incorporated into the property covered by such Lien, (B) after acquired property subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (C) the proceeds and products thereof).

(8) Liens existing, or provided for under binding contracts existing, on the Closing Date (provided that any such Lien securing obligations in an aggregate amount on the Closing Date in excess of $15.0 million shall be set forth on Schedule 7.01);

(9) Liens on property or shares of stock or other assets of a Person at the time such Person becomes a Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary;

(10) Liens on property or other assets at the time the Borrower or a Restricted Subsidiary acquired the property or such other assets, including any acquisition by means of a merger, amalgamation or consolidation with or into the Borrower or any Restricted Subsidiary (provided that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, amalgamation, merger or consolidation) and any replacement, extension or renewal of any such Lien (to the extent the Indebtedness and other obligations secured by such replacement, extension or renewal Liens are permitted by this Agreement); provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;

(11) Liens securing obligations in respect of Indebtedness or other obligations of a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary permitted to be incurred in accordance with Section 7.02;

(12) Liens securing (x) Hedging Obligations and (y) obligations in respect of Cash Management Services;
(13) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person’s accounts payable or similar obligations in respect of bankers’ acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(14) leases, subleases, licenses or sublicenses (or other agreement under which the Borrower or any Restricted Subsidiary has granted rights to end users to access and use the Borrower’s or any Restricted Subsidiary’s products, technologies or services) (i) that do not either (a) materially interfere with the business of the Borrower and its Restricted Subsidiaries, taken as a whole, or (b) secure any Indebtedness and (ii) licenses or sublicenses granted by Holdings or any of its Restricted Subsidiaries to customers in the ordinary course of business;

(15) Liens arising from Uniform Commercial Code (or equivalent statutes) financing statement filings regarding operating leases, consignments or accounts entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business or consistent with industry practice or purported Liens evidenced by the filing of precautionary Uniform Commercial Code (or equivalent statutes) financing statements or similar public filings;

(16) Liens in favor of the Borrower or any Guarantor;

(17) Liens on equipment or vehicles of the Borrower or any Restricted Subsidiary granted in the ordinary course of business or consistent with industry practice;

(18) Liens on accounts receivable, Securitization Assets and related assets incurred in connection with a Qualified Securitization Facility and Liens on any receivables transferred in connection with a Receivables Financing Transaction, including Liens on such receivables resulting from precautionary UCC filings or from recharacterization or any such sale as a financing or a loan;

(19) Liens to secure any modification, refinancing, refunding, extension, renewal or replacement (or successive modification, refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness, Disqualified Stock or Preferred Stock secured by any Lien referred to in clauses (6), (7), (8), (9), (10) or this clause (19) of this definition; provided that: (a) such new Lien will be limited to all or part of the same property that was subject to the original Lien (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property) and (b) the Indebtedness, Disqualified Stock or Preferred Stock secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness, Disqualified Stock or Preferred Stock described under such clauses (6), (7), (8), (9), (10) or this clause (19) at the time the original Lien became a Permitted Lien hereunder, plus (ii) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased, plus (iii) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock.
(20) deposits made or other security provided to secure liability to insurance brokers, carriers, underwriters or self-insurance arrangements, including Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(21) Liens securing obligations in an aggregate outstanding amount not to exceed (as of the date any such Lien is incurred) the greater of (i) $270.0 million and (ii) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries determined at the time of incurrence of such Lien for the most recently ended Test Period (calculated on a pro forma basis), which, at the election of the Borrower, shall be subject to the applicable Intercreditor Agreement(s); it being agreed that the Basket set forth in this clause (21) shall be deemed to be utilized to secure any secured Indebtedness incurred pursuant to Section 2.14 in connection with the utilization of the General Debt Basket Reallocation Amount;

(22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(23) (a) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business or consistent with industry practice, (b) Liens arising out of conditional sale, title retention or similar arrangements for the sale of goods in the ordinary course of business or consistent with industry practice and (c) Liens arising by operation of law under Article 2 of the Uniform Commercial Code;

(24) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(7);

(25) Liens (a) of a collection bank arising under Section 4-208 or 4-210 of the Uniform Commercial Code on items in the course of collection, (b) attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business or consistent with industry practice and (c) in favor of banking or other institutions or other electronic payment service providers arising as a matter of law or under general terms and conditions encumbering deposits or margin deposits or other funds maintained with such institution (including the right of setoff) and that are within the general parameters customary in the banking industry;

(26) Liens deemed to exist in connection with Investments in repurchase agreements permitted under this Agreement; provided that such Liens do not extend to assets other than those that are subject to such repurchase agreements;

(27) Liens that are contractual rights of setoff (a) relating to the establishment of depository relations with banks or other deposit-taking financial institutions or other electronic payment service providers and not given in connection with the issuance of Indebtedness, (b) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business or consistent with industry practice of the Borrower or any Restricted Subsidiary or (c) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with industry practice;

(28) Liens on cash proceeds (as defined in Article 9 of the Uniform Commercial Code) of assets sold that were subject to a Lien permitted hereunder;
(29) any encumbrance or restriction (including put, call arrangements, tag, drag, right of first refusal and similar rights) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(30) Liens (a) on cash advances or cash earnest money deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment and (b) consisting of a letter of intent or an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 7.04;

(31) ground leases, subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(32) Liens in connection with any Sale-Leaseback Transaction(s);

(33) Liens on Capital Stock or other securities of an Unrestricted Subsidiary;

(34) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor’s, sublessor’s, licensor’s or sublicensor’s interest under leases or licenses entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business with industry practice;

(35) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries in the ordinary course of business or consistent with industry practice of the Borrower and such Subsidiary to secure the performance of the Borrower’s or such Subsidiary’s obligations under the terms of the lease for such premises;

(36) rights of set-off, banker’s liens, netting arrangements and other Liens arising by operation of law or by the terms of documents of banks or other financial institutions in relation to the maintenance or administration of deposit accounts, securities accounts, cash management arrangements or in connection with the issuance of letters of credit, bank guarantees or other similar instruments;

(37) Liens on cash and Cash Equivalents used to satisfy or discharge Indebtedness; provided that such satisfaction or discharge is permitted under this Agreement;

(38) receipt of progress payments and advances from customers in the ordinary course of business or consistent with industry practice to the extent the same creates a Lien on the related inventory and proceeds thereof and Liens on property or assets under construction arising from progress or partial payments by a third party relating to such property or assets;

(39) Liens on all or any portion of the Collateral (but no other assets) to secure obligations in respect of (a) Indebtedness permitted to be incurred pursuant to Section 7.02; provided that after giving pro forma effect to the incurrence of the then proposed Indebtedness (and without netting any cash received from the incurrence of such proposed Indebtedness), (i) if such Indebtedness is secured on a (x) pari passu basis with the Liens that secure the First Lien Obligations under this Agreement (“Pari Passu Lien Debt”), the First Lien Net Leverage Ratio would be no greater than 4.75 to 1.00 or (y) junior basis to the Liens that secure the First Lien Obligations (“Junior Lien Debt”), the Secured Net Leverage Ratio would be no greater than 5.75 to 1.00, (ii) such Liens are in each case subject the applicable Intercreditor Agreement(s) and (iii) if such Liens secure syndicated Dollar-denominated or Euro-denominated term loans that are Pari
Pass Lien Debt, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14 and (b) any Refinancing Indebtedness in respect of Pari Passu Lien Debt or Junior Lien Debt (but subject to the foregoing clause (iii));

(40) agreements to subordinate any interest of the Borrower or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business or consistent with industry practice;

(41) Liens arising pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation and Liability Act or similar provision of any Environmental Law;

(42) Liens disclosed by any title insurance reports or policies delivered on or prior to the Closing Date and any replacement, extension or renewal of any such Lien (to the extent the Indebtedness and other obligations secured by such replacement, extension or renewal Liens are permitted by this Agreement); provided that such replacement, extension or renewal Liens do not cover any property other than the property that was subject to such Liens prior to such replacement, extension or renewal;

(43) rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(44) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(45) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business or consistent with industry practice;

(46) zoning, building and other similar land use restrictions, including site plan agreements, development agreements and contract zoning agreements;

(47) Liens securing obligations under Indebtedness outstanding pursuant to Section 7.02(b)(2) so long as such Liens are subject to the terms of the First Lien/Second Lien Intercreditor Agreement or other applicable Intercreditor Agreement;

(48) Liens on all or any portion of the Collateral (but no other assets) securing (i) Permitted Incremental Equivalent Debt, (ii) Permitted Equal Priority Refinancing Debt or (iii) Permitted Junior Priority Refinancing Debt, and, in each case, Liens securing any Refinancing Indebtedness in respect thereof;

(49) Liens on the assets of Restricted Subsidiaries that are not Loan Parties securing Indebtedness or other obligations of such Restricted Subsidiaries or any other Restricted Subsidiaries that are not Loan Parties that is permitted by Section 7.02 or otherwise not prohibited by this Agreement;
(50) Liens on assets of Restricted Subsidiaries that are Foreign Subsidiaries (i) securing Indebtedness and other obligations of such Foreign Subsidiaries or (ii) to the extent arising mandatorily under applicable Law; and

(51) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, trustee, escrow agent or arrangers thereof) or on cash set aside at the time of the incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose.

For purposes of this definition, the term “Indebtedness” will be deemed to include interest and other obligations payable on or with respect to such Indebtedness.

“Permitted Parent” means any direct or indirect parent of the Borrower that at the time it became a parent of the Borrower was a Permitted Holder pursuant to clause (1) of the definition thereof.

“Permitted Ratio Debt” has the meaning specified in Section 7.02(a).

“Permitted Unsecured Refinancing Debt” means unsecured Indebtedness incurred by the Borrower and/or the Guarantors in the form of one or more series of senior unsecured notes, bonds or debentures or unsecured loans (and, if applicable, any Registered Equivalent Notes issued in exchange therefor); provided that (i) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness” and (ii) such Indebtedness is not at any time guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

“Permitted Warrant Transaction” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Borrower’s or a Parent Company’s common equity sold by the Borrower or a Parent Company substantially concurrently with a related Permitted Bond Hedge Transaction.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), other than a Foreign Plan, established or maintained by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

“Planned Expenditures” has the meaning specified in the definition of Excess Cash Flow.

“Platform” has the meaning specified in Section 6.02.

“Pledged Collateral” has the meaning specified in the Security Agreement.

“Preferred Stock” means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution or winding up.
“Previously Absent Financial Maintenance Covenant” means, at any time (x) any financial maintenance covenant that is not contained in this Agreement at such time and (y) any financial maintenance covenant, a corresponding version of which is already contained in this Agreement at such time but with covenant levels and component definitions (to the extent relating to such corresponding version) that are less restrictive on Borrower and the Restricted Subsidiaries than those with respect to such financial maintenance covenant.

“Private-Side Information” means any information with respect to Holdings and its Subsidiaries that is not Public-Side Information.

“Pro Forma Financial Statements” has the meaning specified in Section 5.05(1)(b).

“Pro Rata Share” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments (or, if the Revolving Commitments have terminated in full, Revolving Exposure) and, if applicable and without duplication, Term Loans of such Lender at such time and the denominator of which is the amount of the Aggregate Commitments (or, if the Revolving Commitments have terminated in full, Revolving Exposure) and, if applicable and without duplication, Term Loans at such time; provided that when used with respect to (i) Commitments, Loans, interest and fees under the Revolving Facility, “Pro Rata Share,” shall mean with respect to any Lender such Lender’s Applicable Percentage and (ii) Commitments, Loans and interest under any Term Facility, “Pro Rata Share,” shall mean, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Commitments and Term Loans of such Lender under such Term Facility at such time and the denominator of which is the amount of the aggregate Term Commitments and Term Loans under such Term Facility at such time.

“Public Company Costs” means the initial costs relating to establishing compliance with the Sarbanes-Oxley Act of 2002, as amended, and other expenses arising out of or incidental to the Borrower’s or its Restricted Subsidiaries’ initial establishment of compliance with the obligations of a reporting company, including costs, fees and expenses (including legal, accounting and other professional fees) relating to compliance with provisions of the Securities Act and the Exchange Act.

“Public Lender” has the meaning specified in Section 6.02.

“Public-Side Information” means (i) at any time prior to Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that is (a) of a type that would be required by applicable Law to be publicly disclosed in connection with an issuance by Holdings or any of its Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (b) not material to make an investment decision with respect to securities of Holdings or any of its Subsidiaries (for purposes of United States federal and state securities laws), and (ii) at any time on and after Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal and state securities laws) with respect to Holdings or any of its Subsidiaries or any of their respective securities.

“Purchase Money Obligations” means any Indebtedness incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (other than Capital Stock), and whether acquired through the direct acquisition of such property or assets, or otherwise.

“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).
“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10.0 million at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other Person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Stock.

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

“Qualified Securitization Facility” means any Securitization Facility (1) constituting a securitization financing facility that meets the following conditions: (a) the Board of Directors will have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the applicable Restricted Subsidiary or Securitization Subsidiary and (b) all sales or contributions of Securitization Assets and related assets to the applicable Person or Securitization Subsidiary are made at fair market value (as determined in good faith by the Borrower) or (2) constituting a receivables financing facility.

“Qualified IPO” means the issuance by the Borrower or any Parent Company of its common Equity Interests that are listed on a national exchange or publicly offered (other than a public offering pursuant to a registration statement on Form S-8) (including pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act (whether alone or in connection with a secondary public offering)).

“Qualifying Lender” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Quarterly Financial Statements” means the unaudited consolidated balance sheets and related consolidated combined statements of operations and cash flows of the Borrower and its Subsidiaries for the commencing April 3, 2017 and ended July 1, 2017.

“Rating Agencies” means Moody’s and S&P, or if Moody’s or S&P (or both) does not make a rating on the relevant obligations publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Borrower that will be substituted for Moody’s or S&P (or both), as the case may be.

“Receivables Financing Transaction” means any transaction or series of transactions entered into by Holdings, the Borrower or any Restricted Subsidiary pursuant to which such party consummates a “true sale” of its receivables to a non-related third party on market terms as determined in good faith by the Borrower; provided that such Receivables Financing Transaction is (i) non-recourse to Holdings, the Borrower and the Restricted Subsidiaries and their assets, other than any recourse solely attributable to a breach by Holdings, the Borrower or any Restricted Subsidiary of representations and warranties that are customarily made by a seller in connection with a “true sale” of receivables on a non-recourse basis and (ii) consummated pursuant to customary contracts, arrangements or agreements entered into with respect to the “true sale” of receivables on market terms for similar transactions.

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“Reference Rate” means (x) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a Eurodollar Rate floor, an interest rate per annum equal to the rate per annum equal to LIBOR, as published on the applicable Bloomberg screen page (or such other commercially available source providing quotations of LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, on such day for Dollar deposits with a term of three months, or if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on such day with a term of three months would be offered by the Administrative Agent’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m., London time, on such date, (y) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a Base Rate floor, the interest 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 the Administrative Agent as its “prime rate” and (c) the Eurodollar Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day) and (z) with respect to the calculation of the All-In Yield in the case of Loans of an applicable Class that includes a EURIBOR Rate floor, an interest rate per annum equal to the rate per annum equal to EURIBOR, as published on the applicable Reuters screen page (or such other commercially available source providing quotations of EURIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, on such day for Euro deposits with a term of three months, or if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Euros for delivery on such day with a term of three months would be offered by the Administrative Agent’s central European Branch to major banks in the European interbank market at their request at approximately 11:00 a.m., Brussels time, on such date.

“Refinance” has the meaning assigned in the definition of “Refinancing Indebtedness” and “Refinancing” and “Refinanced” have meanings correlative to the foregoing.

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

“Refinancing Amendment” means an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Other Loans or Other Commitments being incurred or provided pursuant thereto, in accordance with Section 2.15.

“Refinancing Indebtedness” means (x) Indebtedness incurred by the Borrower or any Restricted Subsidiary, (y) Disqualified Stock issued by the Borrower or any Restricted Subsidiary or (z) Preferred Stock issued by any Restricted Subsidiary which, in each case, serves to extend, replace, refund, refinance, renew or defease (“Refinance”) any Indebtedness, Disqualified Stock or Preferred Stock, including any Refinancing Indebtedness, so long as:

(1) the principal amount (or accreted value, if applicable) of such new Indebtedness, the amount of such new Preferred Stock or the liquidation preference of such new Disqualified Stock does not exceed (a) the principal amount of (or accreted value, if applicable) Indebtedness, the amount of Preferred Stock or the liquidation preference of Disqualified Stock being so extended, replaced, refunded, refinanced, renewed or defeased (such Indebtedness, Disqualified Stock or Preferred Stock, the “Refinanced Debt”), plus (b) any accrued and unpaid interest on, or any accrued and unpaid dividends on, such Refinanced Debt, plus (c) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Refinanced Debt and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or to Refinance such Refinanced Debt (such amounts in clause (b) and (c) the “Incremental Amounts”);
such Refinancing Indebtedness (other than in the case of the Refinancing of any Indebtedness assumed or acquired in connection with any Permitted Acquisition, Investment or similar transaction so long as not created in contemplation thereof), has a:

(a) Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the applicable Refinanced Debt; and

(b) final scheduled maturity date equal to or later than the final scheduled maturity date of the Refinanced Debt (or, if earlier, the date that is 91 days after the Latest Maturity Date of the Loans);

(3) to the extent such Refinancing Indebtedness Refinances (a) Indebtedness that is contractually subordinated in right of payment to the Obligations (other than such Indebtedness assumed or acquired in an acquisition and not created in contemplation thereof), unless such Refinancing constitutes a Restricted Payment permitted by Section 7.05, such Refinancing Indebtedness is subordinated to the Loans or the Guaranty thereof at least to the same extent as the applicable Refinanced Debt, (b) Junior Lien Debt, such Refinancing Indebtedness is (i) unsecured or (ii) secured by Liens that are subordinated to the Liens that secure the Loans or the Guaranty thereof, in each case at least to the same extent as the applicable Refinanced Debt or pursuant to an Intercreditor Agreement, in each case, unless such Refinancing Indebtedness is secured by a Lien that is not so subordinated that is permitted by Section 7.01, or (c) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively;

(4) such Refinancing Indebtedness shall not be guaranteed or borrowed by any Person other than a Person that is so obligated in respect of the Refinanced Debt being Refinanced; and

(5) such Refinancing Indebtedness shall not be secured by any assets or property of Holdings, the Borrower or any Restricted Subsidiary that does not secure the Refinanced Debt being Refinanced (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property);

provided that Refinancing Indebtedness will not include:

(a) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness or Disqualified Stock of the Borrower;

(b) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor; or

(c) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refines Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

provided that Refinancing Indebtedness will not include:

(a) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness or Disqualified Stock of the Borrower;

(b) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Borrower that is not a Guarantor that refines Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor; or

(c) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refines Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;
provided further that (x) clause (2) of this definition will not apply to any Refinancing of any Indebtedness other than Indebtedness incurred under clauses (2) and (30) of Section 7.02(b) (including any successive Refinancings thereof incurred under clause (13) of Section 7.02(b)) and any Junior Indebtedness (other than Junior Indebtedness assumed or acquired in an Investment, acquisition or similar transaction and not created in contemplation thereof), Disqualified Stock and Preferred Stock and (y) Refinancing Indebtedness may be incurred in the form of a bridge or other interim credit facility intended to be refinanced with long-term indebtedness (and such bridge or other interim credit facility shall be deemed to satisfy clause (2) of this definition so long as (x) such credit facility includes customary “rollover” provisions and (y) assuming such credit facility were to be extended pursuant to such “rollover” provisions, such extended credit facility would comply with clause (2) of this definition).

“Refunding Capital Stock” has the meaning specified in Section 7.05(b)(2).

“Register” has the meaning specified in Section 10.07(c).

“Registered Equivalent Notes” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“Rejection Notice” has the meaning specified in Section 2.05(2)(g).

“Related Business Assets” means assets (other than Cash Equivalents) used or useful in a Similar Business; provided that any assets received by the Borrower or a Restricted Subsidiary in exchange for assets transferred by the Borrower or a Restricted Subsidiary will not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person is or would become a Restricted Subsidiary.

“Related Indemnified Person” of an Indemnitee means (1) any controlling Person or controlled Affiliate of such Indemnitee, (2) the respective directors, officers, partners, employees, advisors or successors of such Indemnitee or any of its controlling Persons or controlled Affiliates and (3) the respective agents, trustees and other representatives of such Indemnitee or any of its controlling Persons or controlled Affiliates, in the case of this clause (3), acting at the instructions of such Indemnitee, controlling Person or such controlled Affiliate; provided that each reference to a controlled Affiliate or controlling Person in this definition pertains to a controlled Affiliate or controlling Person involved in the negotiation of this Agreement or the syndication of the Facilities. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Related Person” means, with respect to any Person, (a) any Affiliate of such Person, (b) the respective directors, officers, partners, employees, advisors, agents, trustees and other representatives of such Person or any of its Affiliates and (c) the successors and permitted assigns of such Person or any of its Affiliates.

“Release” means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into or migration through the Environment.

“Replaced Loans” has the meaning specified in Section 10.01.

“Replacement Loans” has the meaning specified in Section 10.01.
“Reportable Event” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived.

“Repricing Transaction” means (i) the prepayment, refinancing, substitution, replacement or conversion of all or a portion of any Term B Loans with the incurrence by the Borrower or any other Subsidiary of any senior secured first lien term loans under any credit facilities which reduces the All-In Yield of such Indebtedness relative to the Term B Loans so repaid, refinanced, substituted, replaced or converted (as determined in good faith by the Borrower) and (ii) any amendment, amendment and restatement or other modification to this Agreement which reduces the All-In Yield applicable to the Term B Loans (as determined in good faith by the Borrower), excluding, in each case, any such reductions in connection with (a) a Change of Control or (b) a Qualifying IPO.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Loans, a Committed Loan Notice and (b) with respect to an L/C Credit Extension, a L/C Application.

“Required Facility Lenders” means, as of any date of determination, with respect to one or more Facilities, Lenders having more than 50% of the sum of (a) the Total Outstandings under such Facility or Facilities (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations under such Facility or Facilities being deemed “held” by such Lender for purposes of this definition) and (b) the aggregate unused Commitments under such Facility or Facilities; provided that the unused Commitments of, and the portion of the Total Outstandings under such Facility or Facilities held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of the Required Facility Lenders; provided, further, that, to the same extent specified in Section 10.07(i) with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Facility Lenders unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on the other Lenders.

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Lender for purposes of this definition), (b) aggregate unused Term Commitments and (c) aggregate unused Revolving Commitments; provided that the unused Term Commitment and unused Revolving Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided, further, that the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Lenders unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on the other Lenders.

“Responsible Officer” means, with respect to a Person, the chief executive officer, chief operating officer, president, executive vice president, chief financial officer, treasurer or assistant treasurer or other similar officer or Person performing similar functions, of such Person 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. With respect to any document delivered by a Loan Party on the Closing Date, Responsible Officer includes any secretary or assistant secretary of such Loan Party. 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 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. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.
“Restricted Investment” means any Investment other than any Permitted Investment(s).

“Restricted Payment” has the meaning specified in Section 7.05.

“Restricted Subsidiary” means, at any time, any direct or indirect Subsidiary of the Borrower (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; provided that notwithstanding the foregoing, in no event will any Securitization Subsidiary be considered a Restricted Subsidiary for purposes of Section 8.01(5), (6) or (7); provided further that upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary will be included in the definition of “Restricted Subsidiary.” Wherever the term “Restricted Subsidiary” is used herein with respect to any Subsidiary of a referenced Person that is not the Borrower, then it will be construed to mean a Person that would be a Restricted Subsidiary of the Borrower on a pro forma basis following consummation of one or a series of related transactions involving such referenced Person and the Borrower (unless such transaction would include a designation of a Subsidiary of such Person as an Unrestricted Subsidiary on a pro forma basis in accordance with this Agreement).

“Revolving Borrowing” means a borrowing consisting of simultaneous Revolving Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, made by each of the Revolving Lenders pursuant to Section 2.01(2).

“Revolving Commitment” means, as to each Revolving Lender, its obligation to (1) make Revolving Loans to the Borrower pursuant to Section 2.01(2) and (2) purchase participations in L/C Obligations in respect of Letters of Credit in an aggregate principal amount at any one time outstanding not to exceed the amount specified opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Commitment” 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. The aggregate Revolving Commitments of all Revolving Lenders as of the Closing Date is $500.0 million, as such amount may be adjusted from time to time in accordance with the terms of this Agreement.

“Revolving Commitment Increase” has the meaning specified in Section 2.14(1).

“Revolving Exposure” means, as to each Revolving Lender, the sum of the amount of the Outstanding Amount of such Revolving Lender’s Revolving Loans and its Applicable Percentage of the amount of the L/C Obligations at such time.

“Revolving Extension Request” has the meaning provided in Section 2.16(2).

“Revolving Extension Series” has the meaning provided in Section 2.16(2).

“Revolving Facility” means, at any time, the aggregate amount of the Revolving Commitments at such time, and on the Fourth Amendment Extension Effective Date, means, collectively, both the Closing Date Revolving Facility and the 2020 Extended Revolving Facility; provided that after the Original Revolving Facility Maturity Date, Revolving Facility shall only refer to the 2020 Extended Revolving Facility and any other Revolving Commitments at such time.
“Revolving Lender” means, at any time, any Lender that has a Revolving Commitment at such time or, if Revolving Commitments have terminated, Revolving Exposure.

“Revolving Loan” has the meaning specified in Section 2.01(2) and includes Revolving Loans under the Closing Date Revolving Facility, Incremental Revolving Loans, Other Revolving Loans and Loans made pursuant to Extended Revolving Commitments and the 2020 Extended Revolving Facility.

“Revolving Note” means a promissory note of the Borrower payable to any Revolving Lender or its registered assigns, in substantially the form of Exhibit B-3 hereto, evidencing the aggregate Indebtedness of the Borrower to such Revolving Lender resulting from the Revolving Loans made by such Revolving Lender, Closing Date Revolving Note or a 2020 Extended Revolving Note, as the context may require.

“Rupees” means the lawful currency of the Republic of India.


“Sale-Leaseback Transaction” means any arrangement providing for the leasing by the Borrower or any Restricted Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Borrower or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“Same Day Funds” means disbursements and payments in immediately available funds.

“Sanctions” has the meaning specified in Section 5.17.

“SEC” means the U.S. Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Second Amendment” means that certain Amendment No. 2 to First Lien Credit Agreement, dated as of the Second Amendment Effective Date, among the Borrower, the Lenders party thereto, the Administrative Agent, the Additional Term B USD Lender party thereto and the Additional Term B Euro Lender party thereto.

“Second Amendment Consenting Lender” means each Term Lender that provided the Administrative Agent with a counterpart to the Second Amendment executed by such Lender prior to the Second Amendment Effective Date.

“Second Amendment Effective Date” means the date on which all of the conditions contained in Section 3 of the Second Amendment have been satisfied or waived, which date, for the avoidance of doubt, is November 1, 2018.

“Second Lien Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent and collateral agent under the Second Lien Credit Documents, or any successor administrative agent and/or collateral agent (or other Debt Representative), as the case may be, under the Second Lien Credit Documents.

“Second Lien Credit Agreement” means that certain Second Lien Credit Agreement dated as of the Closing Date by and among Holdings, the Borrower, the lenders party thereto in their capacities as lenders thereunder, the Second Lien Administrative Agent, as agent and the other agents party
thereto, as the same may be amended, restated, modified, supplemented, extended, renewed, refunded, replaced or refinanced from time to time in one or more indentures, credit agreements or other agreements (in each case with the same or new lenders, noteholders, institutional investors or agents), including any indentures or credit agreements that replace, refund, supplement, extend, renew, restate, amend, modify or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder or increasing the amount loaned or issued thereunder or altering the maturity thereof, in each case as and to the extent permitted by this Agreement and the First Lien/Second Lien Intercreditor Agreement. Unless otherwise expressly provided herein, references to provisions of the Second Lien Credit Agreement, including references to definitions of terms in (or meanings assigned to terms in) the Second Lien Credit Agreement and references to Sections of the Second Lien Credit Agreement, shall be deemed to refer to (x) such provisions of the Second Lien Credit Agreement as in effect on the Closing Date or (y) if the Second Lien Credit Agreement has been amended, restated, modified, supplemented, extended, renewed, refunded, replaced or refinanced, substantially similar or corresponding provisions of the Second Lien Credit Agreement as in effect from time to time.

“Second Lien Credit Documents” means the Second Lien Credit Agreement, the First Lien/Second Lien Intercreditor Agreement and the other Loan Documents (as defined in the Second Lien Credit Agreement) (or in each case, any comparable term).

“Second Lien Credit Facility” means the term loan facility outstanding under the Second Lien Credit Agreement.

“Second Lien Incremental Usage Amount” means, at any time, the sum of (x) the aggregate principal amount of “Incremental Loans” (as defined in the Second Lien Credit Agreement) outstanding pursuant to clause (A)(1) of Section 2.14(4)(c) of the Second Lien Credit Agreement and (y) the aggregate principal amount of “Permitted Incremental Equivalent Debt” (as defined in the Second Lien Credit Agreement) outstanding pursuant to clause (ii) of the definition of “Permitted Incremental Equivalent Debt” (as defined in the Second Lien Credit Agreement) in reliance on the “Available Incremental Amount” (as defined in the Second Lien Credit Agreement) available under clause (A)(1) of Section 2.14(4)(c) of the Second Lien Credit Agreement (any such Indebtedness described in clauses (x) and (y), the “Second Lien Incremental Usage Amount Debt”).

“Second Lien Initial Term Loans” has the meaning specified in the preliminary statements to this Agreement.

“Second Lien Term Loans” has the meaning assigned to the term “Loans” in the Second Lien Credit Agreement.

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between Holdings, the Borrower or any Restricted Subsidiary and a Cash Management Bank; and designated in writing by the Borrower to the Administrative Agent as a “Secured Cash Management Agreement.”

“Secured Hedge Agreement” means any Hedge Agreement with respect to Hedging Obligations permitted under Section 7.02 that is (a) entered into by and between any Loan Party or Restricted Subsidiary and any Hedge Bank and (b) designated in writing by the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”
“Secured Indebtedness” means any Indebtedness of the Borrower or any Restricted Subsidiary secured by a Lien.

“Secured Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each Issuing Bank, each Hedge Bank, each Cash Management Bank, each Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(2) or 9.07.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Securitization Assets” means (a) the accounts receivable, royalty or other revenue streams and other rights to payment and other assets related thereto subject to a Qualified Securitization Facility and the proceeds thereof and (b) contract rights, lockbox accounts and records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in a securitization financing.

“Securitization Facility” means any transaction or series of securitization financings that may be entered into by the Borrower or any Restricted Subsidiary pursuant to which the Borrower or any such Restricted Subsidiary may sell, convey or otherwise transfer, or may grant a security interest in, Securitization Assets to either (a) a Person that is not the Borrower or a Restricted Subsidiary or (b) a Securitization Subsidiary that in turn sells such Securitization Assets to a Person that is not the Borrower or a Restricted Subsidiary, or may grant a security interest in, any Securitization Assets of the Borrower or any of its Subsidiaries.

“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees and expenses (including reasonable fees and expenses of legal counsel) paid to a Person that is not a Securitization Subsidiary in connection with, any Qualified Securitization Facility.

“Securitization Subsidiary” means any Subsidiary formed for the purpose of, and that solely engages only in one or more Qualified Securitization Facilities and other activities reasonably related thereto.

“Security Agreement” means, collectively, the Pledge and Security Agreement executed by the Loan Parties and the Collateral Agent, substantially in the form of Exhibit E, together with supplements or joinders thereto executed and delivered pursuant to Section 6.11.

“Shekels” means the lawful currency of the State of Israel.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X of the SEC, as such regulation is in effect on the Closing Date.
“Similar Business” means (1) any business conducted or proposed to be conducted by the Borrower or any Restricted Subsidiary on the Closing Date or (2) any business or other activities that are reasonably similar, ancillary, incidental, complementary or related to (including non-core incidental businesses acquired in connection with any Permitted Investment), or a reasonable extension, development or expansion of, the businesses that the Borrower and its Restricted Subsidiaries conduct or propose to conduct on the Closing Date.

“Solicited Discount Proration” has the meaning specified in Section 2.05(1)(e)(D)(3).

“Solicited Discounted Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Solicited Discounted Prepayment Notice” means a written notice of the Borrower of Solicited Discounted Prepayment Offers made pursuant to Section 2.05(1)(e)(D) substantially in the form of Exhibit L.

“Solicited Discounted Prepayment Offer” means the written offer by each Lender, substantially in the form of Exhibit O, submitted following the Administrative Agent’s receipt of a Solicited Discounted Prepayment Notice.

“Solicited Discounted Prepayment Response Date” has the meaning specified in Section 2.05(1)(e)(D)(1).

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date:

1. the fair value of the assets of such Person exceeds its debts and liabilities, subordinated, contingent or otherwise,

2. the present fair saleable value of the property of such Person is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured,

3. such Person is able to pay its debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured and

4. such Person is not engaged in, and is not about to engage in, business for which it has unreasonably small capital.

The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“SPC” has the meaning specified in Section 10.07(g).

“Specified Discount” has the meaning specified in Section 2.05(1)(e)(B)(1).

“Specified Discount Prepayment Amount” has the meaning specified in Section 2.05(1)(e)(B)(1).
“Specified Discount Prepayment Notice” means a written notice of the Borrower’s Offer of Specified Discount Prepayment made pursuant to Section 2.05(1)(e)(B) substantially in the form of Exhibit N.

“Specified Discount Prepayment Response” means the written response by each Lender, substantially in the form of Exhibit P, to a Specified Discount Prepayment Notice.

“Specified Discount Prepayment Response Date” has the meaning specified in Section 2.05(1)(e)(B)(1).

“Specified Discount Proration” has the meaning specified in Section 2.05(1)(e)(B)(3).

“Specified Representations” means those representations and warranties made in Sections 5.01(1) (with respect to the organizational existence of the Loan Parties only), 5.01(2)(b), 5.02(1), 5.02(2)(a), 5.04, 5.13, 5.16, the last sentence of Section 5.17 (as it relates only to the use of proceeds of the Facilities not violating the USA PATRIOT Act or OFAC), and Section 5.18.

“Specified Transaction” means:

(1) solely for the purposes of determining the applicable cash balance, any contribution of capital, including as a result of an Equity Offering, to the Borrower, in each case, in connection with an acquisition or Investment,

(2) any designation of operations or assets of the Borrower or a Restricted Subsidiary as discontinued operations (as defined under GAAP) (but if such operations are designated as discontinued due to the fact that they are being held for sale or are subject to an agreement to dispose of such operations, if selected by the Borrower in its sole discretion, only when and to the extent such operations are actually disposed of),

(3) any Permitted Acquisition or any Investment that results in a Person becoming a Restricted Subsidiary,

(4) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary in compliance with this Agreement,

(5) any purchase or other acquisition of a business of any Person, of assets constituting a business unit, line of business or division of any Person,

(6) any Asset Sale (without regard to any de minimis thresholds set forth therein) (a) that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower or (b) of a business, business unit, line of business or division of the Borrower or a Restricted Subsidiary, in each case whether by merger, amalgamation, consolidation or otherwise,

(7) any operational changes identified by the Borrower that have been made by the Borrower or any Restricted Subsidiary during the Test Period,

(8) any borrowing of Incremental Loans or Permitted Incremental Equivalent Debt (or establishment of Incremental Commitments), or
(9) any Restricted Payment or other transaction that by the terms of this Agreement requires a financial ratio to be calculated on a \textit{pro forma} basis;

\textit{provided} that any of the foregoing shall not constitute a Specified Transaction so long as the fair market value or impact, as applicable, thereof shall not exceed $50.0 million.

“\textit{Spot Rate}” means, on any day, for purposes of determining the Dollar equivalent, Euro equivalent or Available LC Currency equivalent of any other currency, the rate at which such other currency may be exchanged into Dollars, Euros, or the Available LC Currency, as applicable, at the time of determination on such day on the Reuters WRLD Page for such currency. In the event that such rate does not appear on any Reuters WRLD Page, the Spot Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such an agreement, such Spot Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about such time as the Administrative Agent shall elect after determining that such rates shall be the basis for determining the Spot Rate, on such date for the purchase of Dollars, Euros, or Available LC Currency, as applicable, for delivery two Business Days later, provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“\textit{Sterling}” means the lawful currency of the United Kingdom.

“\textit{Submitted Amount}” has the meaning specified in Section 2.05(1)(e)(C)(1).

“\textit{Submitted Discount}” has the meaning specified in Section 2.05(1)(e)(C)(1).

“\textit{Subsidiary}” means, with respect to any Person:

(1) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50.0% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, members of management or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and

(2) any partnership, joint venture, limited liability company or similar entity of which:

\hspace{1cm} (a) more than 50.0% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise; and

\hspace{1cm} (b) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.
“Subsidiary Guarantor” means any Guarantor other than Holdings.

“Successor Borrower” has the meaning specified in Section 7.03(4).

“Successor Holdings” has the meaning specified in Section 7.03(5).

“Supplemental Administrative Agent” and “Supplemental Administrative Agents” have the meanings specified in Section 9.15(1).

“Swap Obligation” has the meaning specified in the definition of “Excluded Swap Obligation.”

“Tax” means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding (including backup withholding) of any nature and whatever called, imposed by any Governmental Authority, including any interest, additions to tax and penalties applicable thereto.

“Tax Distributions” has the meaning specified in Section 7.05(b)(14)(c).

“Tax Group” has the meaning specified in Section 7.05(b)(14)(b).

“Tax Indemnitee” has the meaning specified in Section 3.01(5).

“Term B Euro Incremental Commitment” means, as to each Term B Euro Incremental Lender, its obligation to make a Term B Euro Incremental Loan to the Borrower in an aggregate amount not to exceed the amount specified opposite such Term B Euro Incremental Lender’s name on Schedule 2.01(a) under the caption Term B Euro Incremental Loan Commitment.

“Term B Euro Incremental Lender” means, at any time, any Lender that has a Term B Euro Incremental Loan Commitment or a Term B Euro Incremental Loan at such time.

“Term B Euro Incremental Loan” means the Term B Euro Loans made by each Term B Euro Incremental Lender on the Second Amendment Effective Date to the Borrower pursuant to Section 2.01(1)(g). From and after the Second Amendment Effective Date, the Term B Euro Incremental Loans shall constitute Term B Euro Loans for all purposes under this Agreement and the other Loan Documents.

“Term B Euro Loan” or “Term B Euro Loans” has the meaning specified in Section 2.01(1)(f), and shall also include each 2019 Term B Euro Incremental Loan.

“Term B Loan” means any Term B USD Loan and any Term B Euro Loan.

“Term B USD Loan” or “Term B USD Loans” has the meaning specified in Section 2.01(1)(e), and shall also include each 2019 Term B USD Incremental Loan.

“Term Borrowing” means a Borrowing of any Term Loans.

“Term Commitment” means, as to each Term Lender, its obligation to make a Term Loan to the Borrower hereunder, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Term Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to this Agreement and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to an Assignment and Assumption, (ii) an Incremental Amendment, (iii) a Refinancing Amendment, (iv) an Extension Amendment or (v) an
amendment in respect of Replacement Loans. The amount of the Additional Term B USD Lender’s Additional Term B USD Commitment and the amount of the Additional Term B Euro Lender’s Additional Term B Euro Commitment as of the Second Amendment Effective Date are specified in the definition of “Additional Term B USD Commitment” and “Additional Term B Euro Commitment” respectively; and the amount of each Lender’s other Term Commitment shall be specified in the Assignment and Assumption (or Affiliated Lender Assignment and Assumption), Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment in respect of Replacement Loans pursuant to which such Lender shall have assumed its Commitment, as the case may be.

“Term Facility” means any Facility consisting of Term Loans of a single Class and/or Term Commitments with respect to such Class of Term Loans.

“Term Lender” means, at any time, any Lender that has a Term Commitment or a Term Loan at such time.

“Term Loan” means any Closing Date Term Loan, Term B Loan, Incremental Term Loan, Other Term Loan, Extended Term Loan or Replacement Loan, as the context may require.

“Term Loan Extension Request” has the meaning provided in Section 2.16(1).

“Term Loan Extension Series” has the meaning provided in Section 2.16(1).

“Term Loan Increase” has the meaning specified in Section 2.14(1).

“Term Note” means a promissory note of the Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B-1 or Exhibit B-2 hereto, evidencing the aggregate Indebtedness of the Borrower to such Term Lender resulting from the Term Loans made by such Term Lender.

“Termination Conditions” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations not then due and (ii) Obligations under Secured Hedge Agreements and Secured Cash Management Agreements) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless the Outstanding Amount of the L/C Obligations related thereto has been Cash Collateralized on terms reasonably acceptable to the applicable Issuing Bank, backstopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank or deemed reissued under another agreement reasonably acceptable to the applicable Issuing Bank).

“Test Period” in effect at any time means (x) for purposes of (a) the definition of “Applicable Rate,” (b) Section 2.05(2)(a) and (c) the Financial Covenant (other than for the purpose of determining pro forma compliance with the Financial Covenant), the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which, subject to Section 1.07(1), financial statements for each quarter or fiscal year in such period have been or are required to be delivered pursuant to Section 6.01(1) or (2), as applicable and (y) for all other purposes in this Agreement, the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each such quarter or fiscal year in such period are internally available (as determined in good faith by the Borrower) (it being understood that for purposes of determining pro forma compliance with the Financial Covenant, if no Test Period with an applicable level cited in the Financial Covenant has passed, the applicable level shall be the level for the first Test Period cited in the Financial Covenant with an indicated level); provided that, prior to the first date that financial statements have been or are required to be
delivered pursuant to Section 6.01(1) or (2), the Test Period in effect shall be the period of four consecutive full fiscal quarters of the Borrower ended prior to the Closing Date for which financial statements would have been required to be delivered hereunder had the Closing Date occurred prior to the end of such period.

“Third Amendment” means that certain Amendment No. 3 to First Lien Credit Agreement, dated as of the Third Amendment Effective Date, among the Borrower, the Lenders party thereto, the Administrative Agent, the 2019 Term B USD Incremental Lender party thereto and the 2019 Term B Euro Incremental Lender party thereto.

“Third Amendment Consenting Lender” means each Term Lender that provided the Administrative Agent with a counterpart to the Third Amendment executed by such Lender prior to the Third Amendment Effective Date.

“Third Amendment Effective Date” means the date on which all of the conditions contained in Section 3 of the Third Amendment have been satisfied or waived, which date, for the avoidance of doubt, is June 13, 2019.

“Threshold Amount” means $100.0 million.

“Total Assets” means, at any time, the total assets of the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the then most recent balance sheet of the Borrower or such other Person as may be available (as determined in good faith by the Borrower) (and, in the case of any determination relating to any Specified Transaction, on a pro forma basis including any property or assets being acquired in connection therewith).

“Total Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt outstanding as of the last day of such Test Period, minus the Unrestricted Cash Amount on such last day to (b) Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for such Test Period, in each case on a pro forma basis with such pro forma adjustments as are appropriate and consistent with Section 1.07.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and L/C Obligations.

“Traded Securities” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“Transaction Document” means each of (a) that certain Transition Services Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation (as amended by the First Amendment to the Transition Services Agreement, dated as of August 31, 2017) (the “TSA”), (b) that certain letter agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (c) that certain Intellectual Property Matters Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (d) that certain Security Innovation Alliance Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (e) that certain Software License Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (f) that certain Commercial Services Agreement, dated as of April 3, 2017, between Foundation Technology Worldwide LLC and Intel Corporation, (g) that certain Embedded Software Distribution and Services Agreement, dated as of October 1, 2012, among the Borrower, McAfee Ireland Limited (successor in interest to McAfee Security S.a.r.l.), McAfee Co. Ltd., and Intel Corporation (as amended by the First amendment thereto dated May 12, 2013, the Second Amendment thereto dated June 24, 2013, the Third Amendment thereto dated June 24, 2013, the Fourth Amendment thereto dated June 24,
2013, the Fifth Amendment thereto dated January 28, 2016, the Sixth Amendment thereto dated April 3, 2017, (h) that certain Master Purchase Agreement, dated as of April 3, 2017, between the Borrower and Intel Corporation, (i) that certain Intellectual Property Assignment, dated as of April 3, 2017 between Foundation Technology Worldwide LLC and Intel Corporation, (j) that certain Corporate Non-Disclosure Agreement for Restricted Secret Information, dated as of April 3, 2017 between Foundation Technology Worldwide LLC and its Affiliates on the one hand and Intel Corporation and its Affiliates on the other hand, (k) that certain Non-Disclosure Agreement for Restricted Secret Information, dated as of April 3, 2017 between Borrower and Intel Corporation, (l) that certain Subscription Agreement, dated as of September 6, 2016, by and among Foundation Technology Worldwide LLC, TPG VII Manta Holdings, L.P. and Intel Corporation, as amended by that certain First Amendment to Subscription Agreement, dated as of April 2, 2017, and that certain Second Amendment to Subscription Agreement, dated as of May 8, 2017, and (m) that certain Side Letter to the Subscription Agreement, dated as of April 2, 2017 among Foundation Technology Worldwide LLC, Manta Holdings, L.P. and Intel Corporation.

“Transaction Expenses” means any fees, expenses, costs or charges incurred or paid by the Investors, any Parent Company, Holdings, the Borrower or any Restricted Subsidiary in connection with the Transactions, including any expenses in connection with hedging transactions, payments to officers, employees and directors as change of control payments, severance payments, special or retention bonuses and charges for repurchase or rollover of, or modifications to, stock options or restricted stock.

“Transactions” means, collectively, (a) dividends and distributions to be applied to the repayment, redemption or repurchase of (i) the Promissory Note, dated as of April 3, 2017, among Foundation Technology Worldwide LLC and Intel Overseas Funding Corporation and (ii) the Redemption Units (as defined in the Amended and Restated Limited Liability Company Agreement of Foundation Technology Worldwide LLC, a Delaware limited liability company) issued to Manta Holdings, L.P., (b) the repayment, redemption or repurchase of the Revolving Credit Note, dated as of April 3, 2017, among McAfee, LLC and Intel Overseas Funding Corporation (the repayment, redemption or repurchase transactions contemplated by clause (a) and this clause (b), the “Refinancing”), (c) the payment of Transaction Expenses, (d) to the extent of proceeds remaining after the transactions as contemplated by clauses (a), (b) and (c) of this definition, additional dividends and distributions paid to Foundation Technology Worldwide LLC and further to its direct and indirect members (the “Parent Distribution”) and (e) transactions related or incidental to, or in connection with, such transactions.

“Treasury Capital Stock” has the meaning assigned to such term in Section 7.05(b)(2)(a).

“TSA” has the meaning assigned to such term in the definition of “Transaction Document”.

“Type” means, with respect to a Loan, its character as a Base Rate Loan, a Eurodollar Rate Loan or a EURIBOR Rate Loan.

“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 time of issuance).

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to the perfection or priority of any Lien on or otherwise with regard to any item or items of Collateral.

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

“United States Tax Compliance Certificate” has the meaning specified in Section 3.01(3)(b)(iii).

“Unreimbursed Amount” has the meaning specified in Section 2.03(a).

“Unreimbursed Cash Amount” means, on any date of determination, the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries that (x) would not appear as “restricted” on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries or (y) are restricted in favor of the Facilities (which may also secure other Indebtedness secured by a pari passu or junior Lien basis with the Facilities).

“Unrestricted Subsidiary” means:

(1) any Subsidiary of the Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the Borrower, as provided below); and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Borrower may designate:

(a) any Subsidiary of the Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Borrower or any Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); provided that:

(i) such designation shall be deemed an Investment;

(ii) each of (i) the Subsidiary to be so designated and (ii) its Subsidiaries has not, at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Borrower or any Restricted Subsidiary (other than Equity Interests in an Unrestricted Subsidiary); and

(iii) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and

(b) any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that:

(i) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and

(ii) the Borrower is in compliance with the Financial Covenant (whether or not then in effect) calculated on a pro forma basis as of the last day of the most recently ended Test Period.
Any such designation by the Borrower will be notified by the Borrower to the Administrative Agent by promptly filing with the Administrative Agent an Officer’s Certificate certifying that such designation complied with the foregoing provisions. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time.

“U.S. Lender” means any Lender that is not a Foreign Lender.

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“USD Amortization Percentage” means the percentage equal to the product of (x) 0.25% multiplied by (y) the result of $2,555,000,000.00 divided by $2,548,612,500.00.

“USD Term Lender” means a Term Lender with a Closing Date USD Term Loan Commitment or an outstanding USD Term Loan.

“USD Term Loan” means each Term Loan denominated in Dollars.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years (calculated to the nearest one-twenty-fifth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, multiplied by the amount of such payment, by

(2) the sum of all such payments;

provided that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness (the “Applicable Indebtedness”), the effects of any amortization or prepayments made on such Applicable Indebtedness prior to the date of such determination will be disregarded.

“wholly owned” means, with respect to any Subsidiary of any Person, a Subsidiary of such Person one hundred percent (100%) of the outstanding Equity Interests of which (other than (x) directors’ qualifying shares and (y) shares of Capital Stock of Foreign Subsidiaries issued to foreign nationals as required by applicable Law) is at the time owned by such Person or by one or more wholly owned Subsidiaries of such Person.

“Withdrawal Liability” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding U.S. Branch” means a U.S. branch of a non-U.S. bank treated as a U.S. person for purposes of Treasury Regulations Section 1.1441-1 and described in Treasury Regulations Section 1.1441-1(b)(2)(iv) that agrees, on IRS Form W-8IMY or such other form prescribed by the Treasury or the IRS, to accept responsibility for all U.S. federal income tax withholding and information reporting with respect to payments made to the Administrative Agent for the account of Lenders by or on behalf of any Loan Party under the Loan Documents.
"Write-Down and Conversion Powers" means, 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.

"Yen" means the lawful currency of Japan.

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(1) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(2) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(3) References in this Agreement to an Exhibit, Schedule, Article, Section, Annex, clause or subclause refer (a) to the appropriate Exhibit or Schedule to, or Article, Section, clause or subclause in this Agreement or (b) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears, in each case as such Exhibit, Schedule, Article, Section, Annex, clause or subclause may be amended or supplemented from time to time.

(4) The term “including” is by way of example and not limitation.

(5) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(6) 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.”

(7) 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.

(8) The word “or” is not intended to be exclusive unless expressly indicated otherwise.

(9) With respect to any Default or Event of Default, the words “exists,” “is continuing” or similar expressions with respect thereto shall mean that the Default or Event of Default has occurred and has not yet been cured or waived. If any Default or Event of Default occurs due to (i) the failure by any Loan Party to take any action by a specified time, such Default or Event of Default shall be deemed to have been cured at the time, if any, that the applicable Loan Party takes such action or (ii) the taking of any action by any Loan Party that is not then permitted by the terms of this Agreement or any other Loan Document, such Default or Event of Default shall be deemed to be cured on the earlier to occur of (x) the date on which such action would be permitted at such time to be taken under this Agreement and the other Loan Documents and (y) the date on which such action is unwound or otherwise modified to the extent necessary for such revised action to be permitted at such time by this Agreement and the other Loan
Documents. If any Default or Event of Default occurs that is subsequently cured (a “Cured Default”), any other Default or Event of Default resulting from the making or deemed making of any representation or warranty by any Loan Party or the taking of any action by any Loan Party or any Subsidiary of any Loan Party, in each case which subsequent Default or Event of Default would not have arisen had the Cured Default not occurred, shall be deemed to be cured automatically upon, and simultaneous with, the cure of the Cured Default.

Notwithstanding anything to the contrary in this Section 1.02(9), an Event of Default (the “Initial Default”) may not be cured pursuant to this Section 1.02(9):

(a) if the taking of any action by any Loan Party or Subsidiary of a Loan Party that is not permitted during, and as a result of, the continuance of such Initial Default (including, without limitation, a Credit Extension hereunder at a time when the conditions thereto have not been met and the application of proceeds thereof) directly results in the cure of such Initial Default and the applicable Loan Party or Subsidiary had actual knowledge at the time of taking any such action that the Initial Default had occurred and was continuing,

(b) in the case of an Event of Default under Section 8.01(9) [Invalidity of Loan Documents] or (10) [Collateral Documents (Loss of Lien)] that directly results in material impairment of the rights and remedies of the Lenders, Collateral Agent and Administrative Agent under the Loan Documents and that is incapable of being cured, or

(c) in the case of an Event of Default under Section 8.01(3) [Affirmative Covenant Event of Default] arising due to the failure to perform or observe Section 6.07 [Maintenance of Insurance] that directly results in a material adverse effect on the ability of the Borrower and the other Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which the Borrower or any of the other Loan Parties is a party; or

(d) in the case of an Initial Default for which (i) the Borrower failed to give notice to the Agent and the Lenders of such Initial Default in accordance with Section 6.03(1) of this Agreement and (ii) the Borrower had actual knowledge of such failure to give such notice.

(10) For purposes hereof, unless otherwise specifically indicated, the term “consolidated” with respect to any Person refers to such Person consolidated with its Restricted Subsidiaries and excludes from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person.

(11) From and after the Fourth Amendment Extension Effective Date, (i) each of (y) the 2020 Extended Revolving Loans (including the 2020 Incremental Revolving Loans) and the 2020 Extended Revolving Commitments (including the 2020 Incremental Revolving Commitments) and (y) the Revolving Loans and Revolving Commitments under the Closing Date Revolving Facility shall constitute “Revolving Loans” and “Revolving Commitments”, respectively, for all purposes hereunder and, except as otherwise provided in the Fourth Amendment, shall have the same terms and conditions as the Revolving Loans and the Revolving Commitments, as applicable, in effect prior to the Fourth Amendment Extension Effective Date, (ii) each reference to a “Revolving Lender” in the Loan Documents shall be deemed to include the 2020 Extending Revolving Lenders (including the 2020 Incremental Revolving Lenders) and the Revolving Lenders under the Closing Date Revolving Facility, (iii) each reference to a “Revolving Borrowing” in the Loan Documents shall be deemed to include a Borrowing of the 2020 Extended Revolving Loans (including the 2020 Incremental Revolving Loans) and a Borrowing of Revolving Loans under the Closing Date Revolving Facility, and (iv) except as the context may otherwise require, each
SECTION 1.03 Accounting Terms. 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, except as otherwise specifically prescribed herein. Notwithstanding any other provision contained herein, 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 Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, the Borrower or any of its Subsidiaries at “fair value,” as defined therein.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under 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).

SECTION 1.05 References to Agreements, Laws, etc. Unless otherwise expressly provided herein, (1) references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (2) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day and Timing of Payment and Performance. Unless otherwise specified, (1) all references herein to times of day shall be references to New York time (daylight or standard, as applicable) and (2) when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period”) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.07 Pro Forma and Other Calculations.

(1) Notwithstanding anything to the contrary herein, financial ratios and tests, including the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated in the manner prescribed by this Section 1.07; provided that notwithstanding anything to the contrary in clauses (2), (3), (4) or (5) of this Section 1.07, when calculating the First Lien Net Leverage Ratio for purposes of (a) the definition of “Applicable Rate,” (b) Section 2.05(2)(a) and (c) the Financial Covenant (other than for the purpose of determining pro forma compliance with the Financial Covenant), the events described in this Section 1.07 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect; provided however that voluntary prepayments made pursuant to Section 2.05(1) during any fiscal year (without duplication of any prepayments in such fiscal year that reduced the amount of Excess Cash Flow required to be repaid pursuant to Section 2.05(2)(a) for any prior fiscal year) shall be given pro forma effect after such fiscal year-end and prior to the time any mandatory prepayment pursuant to Section 2.05(2)(a) is due for purposes of calculating the First Lien Net Leverage Ratio for purposes of determining the ECF Percentage for such mandatory prepayment, if any.

(2) For purposes of calculating any financial ratio or test (or Consolidated EBITDA or Total Assets), Specified Transactions (and, subject to clause (4) below, the incurrence or repayment of any Indebtedness in connection therewith) that have been made (a) during the applicable Test Period or (b) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions occurred as of the date of the most recent Test Period.
Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period (or, in the case of Total Assets, on the last day of the applicable Test Period). If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any Restricted Subsidiary since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.07, then such financial ratio or test (or Consolidated EBITDA or Total Assets) shall be calculated to give pro forma effect thereto in accordance with this Section 1.07; provided that with respect to any pro forma calculations to be made in connection with any acquisition or investment in respect of which financial statements for the relevant target are not available for the same Test Period for which internal financial statements of the Borrower are available, the Borrower shall determine such pro forma calculations on the basis of the available financial statements (even if for differing periods) or such other basis as determined on a commercially reasonable basis by the Borrower.

(3) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Financial Officer of the Borrower and may include, for the avoidance of doubt, the amount of “run-rate” cost savings, operating expense reductions and synergies projected by the Borrower in good faith to result from or relating to any Specified Transaction (including the Original Transactions and, for the avoidance of doubt, acquisitions occurring prior to the Closing Date) which is being given pro forma effect that have been realized or are expected to be realized and for which the actions necessary to realize such cost savings, operating expense reductions and synergies are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period and “run-rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (including any savings expected to result from the elimination of a public target’s compliance costs with public company requirements), whether prior to or following the Closing Date, net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included in the initial pro forma calculations of such financial ratios or tests and during any subsequent Test Period in which the effects thereof are expected to be realized) relating to such Specified Transaction; provided that (a) such amounts are reasonably identifiable and factually supportable in the good faith judgment of the Borrower, (b) such actions are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken no later than eighteen (18) months after the date of such Specified Transaction (or actions undertaken or implemented prior to the consummation of such Specified Transaction) and (c) no amounts shall be added to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA (or any other components thereof), whether through a pro forma adjustment or otherwise, with respect to such period; provided, that the aggregate amount of any such “run rate” adjustments added back pursuant to this Section 1.07 and clause (l) of the definition of “Consolidated EBITDA” shall not exceed in the aggregate 25% of Consolidated EBITDA for such period (as calculated before giving effect to any such “run rate” adjustments).

(4) In the event that (a) the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees), issues or repays (including by redemption, repurchase, repayment, retirement, discharge, defeasance or extinguishment) any Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit unless such Indebtedness has been permanently repaid and not replaced and, for the avoidance of doubt, in the event an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on a ratio Basket based on the Interest Coverage Ratio, First Lien Net
Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio, such ratio(s) shall be calculated without regard to the incurrence of any Indebtedness under any revolving facility in connection therewith, (b) the Borrower or any Restricted Subsidiary issues, repurchases or redeems Disqualified Stock, (c) any Restricted Subsidiary issues, repurchases or redeems Preferred Stock or (d) the Borrower or any Restricted Subsidiary establishes or eliminates any Designated Revolving Commitments, in each case included in the calculations of any financial ratio or test, (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving pro forma effect to such incurrence, issuance, repayment or redemption of Indebtedness, issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, or establishment or elimination of any Designated Revolving Commitments, in each case to the extent required, as if the same had occurred on the last day of the applicable Test Period (except in the case of the Interest Coverage Ratio (or similar ratio), in which case such incurrence, issuance, repayment or redemption of Indebtedness, issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, or establishment or elimination of any Designated Revolving Commitments, in each case will be given effect, as if the same had occurred on the first day of the applicable Test Period) and, in the case of Indebtedness for all purposes as if such Indebtedness in the full amount of any undrawn Designated Revolving Commitments had been incurred thereunder throughout such period.

(5) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Interest Coverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Financial Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or applicable Restricted Subsidiary may designate.

(6) Notwithstanding anything to the contrary in this Section 1.07 or in any classification under GAAP of any Person, business, assets or operations in respect of which a definitive agreement for the disposition thereof has been entered into, at the election of the Borrower, no pro forma effect shall be given to any discontinued operations (and the Consolidated EBITDA attributable to any such Person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition shall have been consummated.

(7) Any determination of Total Assets shall be made by reference to the last day of the Test Period most recently ended for which internal financial statements of the Borrower are available (as determined in good faith by the Borrower) on or prior to the relevant date of determination.

(8) Notwithstanding anything to the contrary contained herein, in the event any item of Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any of the foregoing in a single transaction or a series of substantially concurrent related transactions) meets the criteria of one or more than one of the categories of Baskets under this Agreement (including within any defined terms), including any financial ratio based Baskets (including the Interest Coverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio), (i) unless otherwise expressly provided in this Agreement, the Borrower may, in its sole discretion, divide and classify and later re-divide and reclassify on or more occasions (based on circumstances existing on the date of any such re-division and reclassification) any such item of
Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Lien, Restricted Payment, Permitted Investment or other transaction or action, in whole or in part, among one or more than one categories of Baskets under this Agreement, and (ii) availability and utilization of any category of financial ratio based Baskets (i.e., incurrence-based Baskets) with respect to any covenant (and including clause (D) of the Available Incremental Amount for purposes hereof) shall first be calculated without giving effect to the amount or portion of any item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Restricted Lien, Restricted Payment, Permitted Investment or other transaction or action to be utilized under any other category of Baskets under such covenant (or the Available Incremental Amount, as applicable) at such time of determination (including at the time of any initial division and classification and any later re-divisions and reclassifications) and thereafter, availability and utilization of any category of Baskets that are not financial ratio based (including all Baskets based on fixed Dollar amounts or a percentage of Consolidated EBITDA or total assets under such covenant (including, as applicable, under clause (A)(1) of the Available Incremental Amount)) shall be calculated; **provided** that all Indebtedness (x) incurred hereunder on the Closing Date and (y) represented by the Indebtedness pursuant to the Second Lien Credit Documents and related Guarantees on the Closing Date will, at all times, be treated as incurred on the Closing Date under Section 7.02(b)(1) and (2), respectively, and may not be reclassified. Each item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action will be deemed to have been incurred, issued, made or taken first, to the extent available, pursuant to any available categories of financial ratio based Baskets (including the Interest Coverage Ratio, First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio) as set forth above prior to any other category of Baskets. If any item of Indebtedness (including any Class of Indebtedness incurred under this Agreement (including pursuant to Section 2.14)), Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any portion of the foregoing) previously divided and classified (or re-divided and reclassified) as set forth above under any category of non-financial ratio based Baskets could subsequently be re-divided and reclassified under a category of financial ratio based Baskets (including the Interest Coverage Ratio, Senior Secured Net Leverage Ratio or Total Net Leverage Ratio (including clause (D) of the Available Incremental Amount)), such re-division and reclassification shall be deemed to occur automatically and item of Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (or any portion of the foregoing) shall cease to be deemed made or outstanding for purposes of any category of Baskets that are not financial ratio based.

(9) If any item of Indebtedness, Disqualified Stock or Preferred Stock, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (any of the foregoing in a single transaction or a series of substantially concurrent related transactions) is incurred, issued, taken or consummated in reliance on categories of Baskets measured by reference to a percentage of Consolidated EBITDA, and any Indebtedness, Disqualified Stock or Preferred Stock, Lien, Permitted Lien, Restricted Payment, Permitted Investment or other transaction or action (including in connection with refinancing thereof) would subsequently exceed the applicable percentage of Consolidated EBITDA if calculated based on the Consolidated EBITDA on a later date (including the date of any refinancing), such percentage of Consolidated EBITDA will not be deemed to be exceeded (and in the case of refinancing any Indebtedness, Disqualified Stock or Preferred Stock, to the extent the principal amount or the liquidation preference of such newly incurred or issued Indebtedness, Disqualified Stock or Preferred Stock does not exceed the maximum principal amount, liquidation preference or amount of Refinancing Indebtedness in respect of the Indebtedness, Disqualified Stock or Preferred Stock being refinanced, extended, replaced, refunded, renewed or defeased).
(10) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when (a) calculating the availability under any Basket or ratio in this Agreement (including the Available Incremental Amount) or compliance with any provision of in this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, repayments and Restricted Payments), in each case, at the option of the Borrower (the Borrower’s election to exercise such option, an “LCT Election”), the date of determination for availability under any such Basket or ratio and whether any such action or transaction is permitted (or any requirement or condition thereof is complied with or satisfied (including as to the absence of any (or any type of) continuing Default or Event of Default and satisfaction of any representations and warranties)) in this Agreement shall be deemed to be the date (the “LCT Test Date”) the definitive agreements for such Limited Condition Transaction are entered into (or, if applicable, the date of delivery of an irrevocable notice, declaration of a Restricted Payment or similar event), and if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness (including pursuant to Section 2.14), Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments) and any related pro forma adjustments, the Borrower or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued or incurred at the LCT Test Date or at any time thereafter); provided, that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Borrower may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date for purposes of such ratios, tests or baskets, and (b) except as contemplated in the foregoing clause (a), compliance with such ratios, tests or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments).

For the avoidance of doubt, if the Borrower has made an LCT Election, (1) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in EBITDA or total assets of the Borrower or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations; (2) if any related requirements and conditions (including as to the absence of any (or any type of) continuing Default or Event of Default and satisfaction of any representations and warranties) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of any Default or Event of Default or failure to satisfy any representations and warranties), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing and such representations and warranties shall be deemed to have been satisfied); and (3) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, purchase or repayment specified in an irrevocable notice or declaration for such Limited Condition Transaction is terminated, expires or passes, as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested giving pro forma effect to such Limited Condition Transaction.
SECTION 1.08 Available Amount Transaction. If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount specified in clause (3) of Section 7.05(a) immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently and in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under clause (3) of Section 7.05(a) as so calculated.

SECTION 1.09 Guaranties of Hedging Obligations. Notwithstanding anything else to the contrary in any Loan Document, no non-Qualified ECP Guarantor shall be required to guarantee or provide security for Excluded Swap Obligations, and any reference in any Loan Document with respect to such non-Qualified ECP Guarantor guaranteeing or providing security for the Obligations shall be deemed to be all Obligations other than the Excluded Swap Obligations.

SECTION 1.10 Currency Generally.

(1) The Borrower shall determine in good faith the Dollar equivalent amount of any utilization or other measurement denominated in a currency other than Dollars for purposes of compliance with any Basket. For purposes of determining compliance with any Basket under Article VII or VIII with respect to any amount expressed in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Basket utilization occurs or other Basket measurement is made (so long as such Basket utilization or other measurement, at the time incurred, made or acquired, was permitted hereunder). Except with respect to any ratio calculated under any Basket, any subsequent change in rates of currency exchange with respect to any prior utilization or other measurement of a Basket previously made in reliance on such Basket (as the same may have been reallocated in accordance with this Agreement) shall be disregarded for purposes of determining any unutilized portion under such Basket.

(2) For purposes of determining the First Lien Net Leverage Ratio, Secured Net Leverage Ratio and the Total Net Leverage Ratio, the amount of Indebtedness and cash and Cash Equivalents shall reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

(3) Notwithstanding anything herein to the contrary, at the election of the Borrower (subject to the consents required under the definition of “Acceptable Non-USD Currency”), any Class of Revolving Loans or Revolving Commitments incurred or established under this Agreement may be denominated in (and any existing Class of Revolving Loans or Revolving Commitments may be modified to add the ability to borrow in) any Acceptable Non-USD Currency. If any Class of Revolving Loans or Revolving Commitments denominated in an Acceptable Non-USD Currency is incurred or established (or any existing Class of Revolving Loans or Revolving Commitments is modified to add the ability to borrow in any Acceptable Non-USD Currency), then the Borrower and the Administrative Agent may, without the consent of any other Loan Party, Agent, Lender, Issuing Bank or other party, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to give effect to such denomination in an Acceptable Non-USD Currency.

(4) Notwithstanding anything to the contrary herein, for purposes of determining the relative outstanding principal amounts of any Loans denominated in any currency other than Dollars (including any Euro Term Loans) in connection with (i) determining whether the Required Lenders or Required Facility Lenders shall have consented to any amendment, waiver, modification or supplement hereunder or (ii) the application of any mandatory prepayments of Loans hereunder, such determination shall be based on the Dollar-equivalent principal amounts of such Loans based on the Spot Rate as of the applicable date of determination.
SECTION 1.11 Letters of Credit. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Amount of the stated amount of such Letter of Credit in effect at such time after giving effect to any automatic reductions to such stated amount pursuant to the terms of the applicable Letter of Credit after the occurrence of any applicable condition (including the expiration of any applicable period); provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuing Bank 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 Dollar Amount of 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.

Article II

The Commitments and Borrowings

SECTION 2.01 The Loans.

(1) Term Borrowings.

(a) Subject to the terms and conditions set forth in Section 4.01 hereof, each USD Term Lender severally agrees to make to the Borrower on the Closing Date one or more Closing Date USD Term Loans denominated in Dollars in an aggregate principal amount equal to such USD Term Lender’s Closing Date USD Term Loan Commitment on the Closing Date. Amounts borrowed under this Section 2.01(1)(a) and repaid or prepaid may not be reborrowed. The Closing Date USD Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(b) Subject to the terms and conditions set forth in Section 4.01 hereof, each Euro Term Lender severally agrees to make to the Borrower on the Closing Date one or more Closing Date Euro Term Loans denominated in Euros in an aggregate principal amount equal to such Euro Term Lender’s Closing Date Euro Term Loan Commitment on the Closing Date. Amounts borrowed under this Section 2.01(1)(b) and repaid or prepaid may not be reborrowed. The Closing Date Euro Term Loans shall be EURIBOR Rate Loans.

(c) Subject to the terms and conditions set forth in the First Amendment, each Initial Incremental USD Term Lender severally agrees to make to the Borrower on the First Amendment Effective Date one or more Initial Incremental Term Loans denominated in Dollars in an aggregate principal amount equal to such Initial Incremental USD Term Lender’s Initial Incremental USD Term Loan Commitment. Amounts borrowed under this Section 2.01(1)(c) and repaid or prepaid may not be reborrowed. The Initial Incremental USD Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein. For the avoidance of doubt, from and after the First Amendment Effective Date, the Initial Incremental USD Term Loans shall constitute Closing Date USD Term Loans and be of the same Class as the Closing Date USD Term Loans.

(d) Subject to the terms and conditions set forth in the First Amendment, each Initial Incremental Euro Term Lender severally agrees to make to the Borrower on the First Amendment Effective Date one or more Initial Incremental Euro Term Loans denominated in Euros in an aggregate principal amount equal to such Initial Incremental Term Lender’s Initial Incremental Term Loan Commitment. Amounts borrowed under this Section 2.01(1)(d) and repaid or prepaid
may not be reborrowed. The Initial Incremental Euro Term Loans shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the First Amendment Effective Date, the Initial Incremental Euro Term Loans shall constitute Closing Date Euro Term Loans and be of the same Class as the Closing Date Euro Term Loans.

(e) (i) The Additional Term B USD Lender agrees to make a term loan to the Borrower in Dollars (a “Term B USD Loan” (which term shall include the term loans established pursuant to clause (ii) below)) on the Second Amendment Effective Date in a principal amount equal to its Additional Term B USD Commitment and (ii) each Converted Closing Date USD Term Loan held by each Second Amendment Consenting Lender shall be converted into a Term B USD Loan of such Lender effective as of the Second Amendment Effective Date in a principal amount equal to the principal amount of such Lender’s Converted Closing Date USD Term Loan immediately prior to such conversion. The Term B USD Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein. Notwithstanding anything to the contrary contained herein, the Term B USD Loans will initially be Eurodollar Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Closing Date USD Term Loans immediately prior to the Second Amendment Effective Date and with a Eurodollar Rate equal to the rate per annum for such Interest Period applicable to the Closing Date USD Term Loans immediately prior to the Second Amendment Effective Date.

(f) (i) The Additional Term B Euro Lender agrees to make a term loan to the Borrower in Euros (a “Term B Euro Loan” (which term shall include the term loans established pursuant to clause (ii) below and any Term B Euro Incremental Loans incurred pursuant to clause (g) below)) on the Second Amendment Effective Date in a principal amount equal to its Additional Term B Euro Commitment and (ii) each Converted Closing Date Euro Term Loan held by each Second Amendment Consenting Lender shall be converted into a Term B Euro Loan of such Lender effective as of the Second Amendment Effective Date in a principal amount equal to the principal amount of such Lender’s Converted Closing Date Euro Term Loan immediately prior to such conversion. The Term B Euro Loans may be EURIBOR Rate Loans, as further provided herein. Notwithstanding anything to the contrary contained herein, the Term B Euro Loans will initially be EURIBOR Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Closing Date Euro Term Loans immediately prior to the Second Amendment Effective Date and with a EURIBOR Rate equal to the rate per annum for such Interest Period applicable to the Closing Date Euro Term Loans immediately prior to the Second Amendment Effective Date.

(g) Immediately following the incurrence of the Term B Euro Loans incurred pursuant to clause (f) above, subject to the terms and conditions set forth in the Second Amendment, each Term B Euro Incremental Lender severally agrees to make to the Borrower on the Second Amendment Effective Date one or more Term B Euro Incremental Loans denominated in Euros in an aggregate principal amount equal to such Term B Euro Incremental Lender’s Term B Euro Incremental Commitment. Amounts borrowed under this Section 2.01(1)(g) and repaid or prepaid may not be reborrowed. The Term B Euro Incremental Loan shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the Second Amendment Effective Date, the Term B Euro Incremental Loans shall constitute Term B Euro Loans and be of the same Class as the Term B Euro Loans.

(h) Subject to the terms and conditions set forth in the Third Amendment, each 2019 Term B USD Incremental Lender severally agrees to make to the Borrower on the Third Amendment Effective Date one or more 2019 Term B USD Incremental Loans denominated in Dollars in an aggregate principal amount equal to such 2019 Term B USD Incremental Lender’s
2019 Term B USD Incremental Commitment. Amounts borrowed under this Section 2.01(1)(h) and repaid or prepaid may not be reborrowed. The 2019 Term B USD Incremental Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein. For the avoidance of doubt, from and after the Third Amendment Effective Date, the 2019 Term B USD Incremental Loans shall constitute Term B USD Loans and be of the same Class as the Term B USD Loans. Notwithstanding anything to the contrary contained herein, the 2019 Term B USD Incremental Loans will initially be Eurodollar Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Term B USD Loans immediately prior to the Third Amendment Effective Date and with a Eurodollar Rate equal to the rate per annum for such Interest Period applicable to the Term B USD Loans immediately prior to the Third Amendment Effective Date.

(i) Subject to the terms and conditions set forth in the Third Amendment, each 2019 Term B Euro Incremental Lender severally agrees to make to the Borrower on the Third Amendment Effective Date one or more 2019 Term B Euro Incremental Loans denominated in Euros in an aggregate principal amount equal to such 2019 Term B Euro Incremental Lender’s 2019 Term B Euro Incremental Commitment. Amounts borrowed under this Section 2.01(1)(i) and repaid or prepaid may not be reborrowed. The 2019 Term B Euro Incremental Loans shall be EURIBOR Rate Loans. For the avoidance of doubt, from and after the Third Amendment Effective Date, the 2019 Term B Euro Incremental Loans shall constitute Term B Euro Loans and be of the same Class as the Term B Euro Loans. Notwithstanding anything to the contrary contained herein, the 2019 Term B Euro Incremental Loans will initially be EURIBOR Rate Loans with an Interest Period equal to the unexpired portion of the Interest Period applicable to the Term B Euro Loans immediately prior to the Third Amendment Effective Date and with a EURIBOR Rate equal to the rate per annum for such Interest Period applicable to the Term B Euro Loans immediately prior to the Third Amendment Effective Date.

(2) Revolving Borrowings. Subject to the terms and conditions set forth herein, each Revolving Lender severally agrees to make loans denominated in Dollars from its applicable Lending Office (each such loan, a “Revolving Loan”) to the Borrower from time to time, on any Business Day during the period from the Closing Date until the Maturity Date for the applicable Revolving Commitment, in an aggregate principal amount not to exceed at any time outstanding the amount of such Lender’s Revolving Commitment; provided that after giving effect to any Revolving Borrowing, the aggregate Outstanding Amount of the Revolving Loans of any Lender plus such Lender’s Applicable Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Lender’s Revolving Commitment. In accordance with the requirements of Section 2.16(2), subject to Section 2.03(13), all Borrowings and repayments under the Closing Date Revolving Facility and the 2020 Extended Revolving Facility prior to the Original Revolving Facility Maturity Date shall be made on a pro rata basis (except, in the case of repayments, for (a) payments of interest at different rates on 2020 Extended Revolving Loans, (b) repayments required under the Closing Date Revolving Facility on the Original Revolving Facility Maturity Date, (c) repayments made in connection with any refinancing of the Closing Date Revolving Facility or the 2020 Extended Revolving Facility and (d) repayments made in connection with a permanent repayment and termination of the Commitments under the Closing Date Revolving Facility or the 2020 Extended Revolving Commitments).
SECTION 2.02 Borrowings, Conversions and Continuations of Loans.

(1) Each Term Borrowing, each Revolving Borrowing, each conversion of Term Loans or Revolving Loans from one Type to the other, and each continuation of Eurodollar Rate Loans or EURIBOR Rate Loans shall be made upon the Borrower’s irrevocable notice, on behalf of the Borrower, to the Administrative Agent (provided that the notice in respect of the initial Credit Extension, or in connection with any Permitted Acquisition or other transaction permitted under this Agreement, may be conditioned on the closing of such Permitted Acquisition or other transaction, as applicable), which may be given by: (A) telephone or (B) a Committed Loan Notice; provided that any telephonic notice by the Borrower must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such notice must be received by the Administrative Agent not later than (a) 1:00 p.m., New York time, three (3) Business Days prior to the requested date of any Borrowing or continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or any conversion of Base Rate Loans to Eurodollar Rate Loans and (b) 1:00 p.m., New York time, on the requested date of any Borrowing of Base Rate Loans or any conversion of Eurodollar Rate Loans to Base Rate Loans; provided that the notice referred to in subclause (a) above may be delivered not later than 1:00 p.m., New York time, one (1) Business Day prior to the Closing Date in the case of the Closing Date Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(1) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Except as provided in Sections 2.14, 2.15 and 2.16, each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $1.0 million or a whole multiple amount of $250,000 in excess thereof. Except as provided in Sections 2.14, 2.15 and 2.16, each Borrowing of, conversion to or continuation of EURIBOR Rate Loans shall be in a principal amount of €1.0 million or a whole multiple amount of €250,000 in excess thereof. Except as provided in Sections 2.03(3), 2.14, 2.15 and 2.16, each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple amount of $100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify:

(i) whether the Borrower is requesting a Term Borrowing, a Revolving Borrowing, a conversion of Term Loans or Revolving Loans from one Type to the other or a continuation of Eurodollar Rate 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 Loans to be borrowed, converted or continued,

(iv) the Class and Type of Loans to be borrowed or to which existing Term Loans or Revolving Loans are to be converted,

(v) if applicable, the duration of the Interest Period with respect thereto and

(vi) wire instructions of the account(s) to which funds are to be disbursed.

If the Borrower fails to specify a Type of Loan to be made in a Committed Loan Notice, then the applicable Loans shall be made as Eurodollar Rate Loans with an Interest Period of one (1) month (or, in the case of any Euro Term Loans, EURIBOR Rate Loans with an Interest Period of one (1) month). If the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as the same Type of Loan, which if a Eurodollar Rate Loan or EURIBOR Rate Loan, shall have a one-month Interest Period. Any such automatic continuation of Eurodollar Rate Loans or EURIBOR Rate Loans shall be effective as of the last day of the Interest Period.
then in effect with respect to the applicable Eurodollar Rate Loans or EURIBOR Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans or EURIBOR Rate 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 (1) month.

(2) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share or other applicable share provided for under this Agreement of the applicable Class of 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 continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or continuation of Loans described in Section 2.02(1). In the case of each Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent (or, with respect to Borrowings of Incremental Loans, to such Incremental Lender as the Administrative Agent may reasonably agree for such purpose) in Same Day Funds at the Administrative Agent’s Office, or to such other account as the Administrative Agent may specify, not later than, in the case of Borrowing on the Closing Date, 10:00 a.m., New York time, and otherwise 3:00 p.m., New York time, on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4 for any Borrowing, the Administrative Agent (or, with respect to Incremental Loans, such Incremental Lender as the Administrative Agent may reasonably agree) shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent (or, with respect to Incremental Loans, such applicable Incremental Lender) either by (a) crediting the account(s) of the Borrower on the books of the Administrative Agent with the amount of such funds or (b) wire transfer of such funds, in each case in accordance with instructions provided by the Borrower to (and reasonably acceptable to) the Administrative Agent (and in the case of clause (b), such Incremental Lender, if applicable); provided that if on the date the Committed Loan Notice with respect to a Borrowing under a Revolving Facility is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowing and second, to the Borrower as provided above.

(3) Except as otherwise provided herein, a Eurodollar Rate Loan or EURIBOR Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan or EURIBOR Rate Loan, as applicable, unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent at the direction of the Required Facility Lenders under the applicable Facility may require by notice to the Borrower that no Loans under such Facility may be converted to or continued as Eurodollar Rate Loans.

(4) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans or EURIBOR Rate Loan, as applicable, unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent at the direction of the Required Facility Lenders under the applicable Facility may require by notice to the Borrower that no Loans under such Facility may be converted to or continued as Eurodollar Rate Loans.

(5) After giving effect to all Term Borrowings, all Revolving Borrowings, all conversions of Term Loans or Revolving Loans from one Type to the other, and all continuations of Term Loans or Revolving Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; provided that after the establishment of any new Class of Loans pursuant to an Incremental Amendment, a Refinancing Amendment, an Extension Amendment or an amendment in respect of Replacement Loans, the number of Interest Periods otherwise permitted by this Section 2.02(5) shall increase by three (3) Interest Periods for each applicable Class so established.
(6) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

(7) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing, or, in the case of any Borrowing of Base Rate Loans, prior to 1:30 p.m., New York time, on the date of such Borrowing, that such Lender will not make available to the Administrative Agent such Lender’s Pro Rata Share or other applicable share provided for under this Agreement of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share and such other applicable share available to the Administrative Agent on the date of such Borrowing in accordance with paragraph (2) above, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate plus any administrative, processing or similar fees customarily charged by the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.02(7) shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall both pay all or any portion of the principal amount in respect of such Borrowing or 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 Borrowing or interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender’s Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.03 Letters of Credit.

(1) The Letter of Credit Commitments.

(a) Subject to the terms and conditions set forth herein, (i) each Issuing Bank agrees, in reliance upon the agreements of the other Revolving Lenders set forth in this Section 2.03, (A) from time to time on any Business Day during the period from the Closing Date until the L/C Expiration Date, to issue Letters of Credit denominated in an Available LC Currency for the account of the Borrower, Holdings or a Restricted Subsidiary (provided that any such Letter of Credit may be for the benefit of Holdings or any Subsidiary of the Borrower) and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.03(2), and (B) to honor drawings under the Letters of Credit and (ii) the Revolving Lenders severally agree to participate in Letters of Credit issued pursuant to this Section 2.03. provided that no Issuing Bank shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit if as of the date of such L/C Credit Extension, (x) the Revolving Exposure of any Revolving Lender would exceed such Lender’s Revolving Commitment, (y) the Outstanding Amount of the L/C Obligations would exceed the L/C Sublimit or (z) the Outstanding Amount of the L/C Obligations issued by such Issuing Bank would exceed its L/C Commitment. 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.

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(b) An Issuing Bank shall be under no obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or direct that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date (for which such Issuing Bank is not otherwise compensated hereunder);

(ii) subject to Section 2.03(2)(c), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless (A) each Appropriate Lender has approved of such expiration date or (B) the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank;

(iii) the expiry date of such requested Letter of Credit would occur after the L/C Expiration Date, unless (A) each Appropriate Lender has approved of such expiration date or (B) the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank;

(iv) the issuance of such Letter of Credit would violate any policies of such Issuing Bank applicable to letters of credit generally; provided that (i) Morgan Stanley Senior Funding, Inc. and its Affiliates shall only be required to issue standby letters of credit and shall not be required to issue (x) any bank guarantees or (y) any letter of credit denominated in any Available LC Currency other than Dollars without its prior consent and (ii) Bank of America, N.A. and JPMorgan Chase Bank, N.A. and their respective Affiliates shall not be required to issue any bank guarantees; or

(v) any Revolving Lender is at that time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Bank’s actual or potential Fronting Exposure (after giving effect to Section 2.17(1)(d)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.
(c) An Issuing Bank shall be under no obligation to amend any Letter of Credit if (i) such Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof or (ii) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(2) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(a) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to an Issuing Bank (with a copy to the Administrative Agent) in the form of a L/C Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such L/C Application must be received by the relevant Issuing Bank and the Administrative Agent not later than 1:00 p.m., New York time, at least two (2) Business Days prior to the proposed issuance date or date of amendment, as the case may be, or, in each case, such later date and time as the relevant Issuing Bank may agree in a particular instance in its sole discretion. In the case of a request for an initial issuance of a Letter of Credit, such L/C Application shall specify in form and detail reasonably satisfactory to the relevant Issuing Bank:

(i) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day);
(ii) the amount thereof;
(iii) the expiry date thereof;
(iv) the name and address of the beneficiary thereof;
(v) the documents to be presented by such beneficiary in case of any drawing thereunder;
(vi) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder;
(vii) the Available LC Currency in which the requested Letter of Credit is to be issued will be denominated; and
(viii) such other matters as the relevant Issuing Bank may reasonably request.

In the case of a request for an amendment of any outstanding Letter of Credit, such L/C Application shall specify in form and detail reasonably satisfactory to the relevant Issuing Bank:

(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 relevant Issuing Bank may reasonably request.

(b) Promptly after receipt of any L/C Application, the relevant Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such L/C Application from the Borrower and, if not, such Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the relevant Issuing Bank of confirmation from
the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or, if applicable, for the benefit of Holdings or Subsidiary of the Borrower) or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the relevant Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender’s Applicable Percentage of the amount of such Letter of Credit.

(c) If the Borrower so requests in any applicable L/C Application, the relevant Issuing Bank shall 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 relevant Issuing Bank 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 by the relevant Issuing Bank and the Borrower at the time such Letter of Credit is issued. Unless otherwise agreed in such Letter of Credit, the Borrower shall not be required to make a specific request to the relevant Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the applicable Lenders shall be deemed to have authorized (but may not require) the relevant Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the applicable L/C Expiration Date, unless the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the applicable Issuing Bank; provided that the relevant Issuing Bank shall not permit any such extension if (i) the relevant Issuing Bank has determined that it would have no obligation at such time to issue such Letter of Credit in its extended form under the terms hereof (by reason of the provisions of Section 2.03(1)(b) or otherwise) or (ii) it has received notice (which may be by telephone or in writing) on or before the day that is seven (7) Business Days before the Non-Extension Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 will not be satisfied on the applicable date of the Credit Extension.

(d) Promptly after issuance of any Letter of Credit or any amendment to a Letter of Credit, the relevant Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(3) Drawings and Reimbursements; Funding of Participations.

(a) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the relevant Issuing Bank shall promptly notify the Borrower and the Administrative Agent thereof (including the date on which such payment is to be made). Not later than 12:00 p.m. on the first Business Day immediately following any payment by an Issuing Bank under a Letter of Credit with notice to the Borrower (each such date, an “Honor Date”), the Borrower shall reimburse, or cause to be reimbursed, such Issuing Bank, in each case, through the Administrative Agent in an amount equal to the amount of such drawing (it being understood that in the case of a Letter of Credit denominated in an Available Currency other than Dollars, the amount of such Letter of Credit shall be determined by taking the Dollar Amount of such Letter of Credit); provided that, if such reimbursement is not made on the date of drawing, the Borrower shall pay interest to the relevant Issuing Bank on such amount at the rate applicable to Base Rate Loans (without duplication of interest payable on L/C Borrowings). The relevant Issuing Bank shall notify the Borrower of the amount of the drawing promptly following the determination thereof. If the Borrower fails to so reimburse, or cause to be reimbursed, such Issuing Bank by such time, the Administrative Agent shall promptly notify each Appropriate Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of
such Appropriate Lender’s Applicable Percentage thereof. In such event, in the case of an Unreimbursed Amount under a Letter of Credit, the Borrower
shall be deemed to have requested a Revolving 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 requirements for the amount of the unutilized portion of the Revolving Commitments under the applicable Revolving Facility of the Appropriate
Lenders and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an Issuing Bank or the
Administrative Agent pursuant to this Section 2.03(3)(a) 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.

(b) Each Appropriate Lender (including any Lender acting as an Issuing Bank) shall upon any notice pursuant to Section 2.03(3)(a) make
funds available to the Administrative Agent for the account of the relevant Issuing Bank in Dollars (it being understood that in the case of a Letter of
Credit denominated in an Available LC Currency other than Dollars, the amount of such Letter of Credit shall be determined by taking the Dollar
Amount of such Letter of Credit) at the Administrative Agent’s Office for payments 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(3)(c), each Appropriate Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base
Rate Loan to the Borrower in such amount and, for the avoidance of doubt, the making of such Base Rate Loans in an aggregate amount equal to such
Unreimbursed Amount shall satisfy the Borrower’s reimbursement obligations with respect thereof. The Administrative Agent shall remit the funds so
received to the relevant Issuing Bank.

(c) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving 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 relevant Issuing
Bank 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 Appropriate Lender’s payment to the Administrative
Agent for the account of the relevant Issuing Bank pursuant to Section 2.03(3)(b) 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.

(d) Until each Appropriate Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(3) to reimburse the relevant
Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Applicable Percentage of such amount shall be solely
for the account of the relevant Issuing Bank.

(e) Each Revolving Lender’s obligation to make Revolving Loans or L/C Advances to reimburse an Issuing Bank for amounts drawn
under Letters of Credit, as contemplated by this Section 2.03(3), shall be absolute and unconditional and shall not be affected by any circumstance,
including

(i) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the relevant Issuing Bank, the
Borrower or any other Person for any reason whatsoever;

(ii) the occurrence or continuance of a Default; or

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provided that each Revolving Lender’s obligation to make Revolving Loans pursuant to this Section 2.03(3) 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 relevant Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

(f) If any Revolving Lender fails to make available to the Administrative Agent for the account of the relevant Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(3) by the time specified in Section 2.03(3)(b), such Issuing Bank 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 such Issuing Bank at a rate per annum equal to the Overnight Rate from time to time in effect. A certificate of the relevant Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(3)(f) shall be conclusive absent manifest error.

(4) Repayment of Participations.

(a) If, at any time after an Issuing Bank has made a payment under any Letter of Credit and has received from any Revolving Lender such Lender’s L/C Advance in respect of such payment in accordance with Section 2.03(3), the Administrative Agent receives for the account of such Issuing Bank 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 (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender’s L/C Advance was outstanding) in the amount received by the Administrative Agent.

(b) If any payment received by the Administrative Agent for the account of an Issuing Bank pursuant to Section 2.03(3)(a) or Section 2.03(3)(b) is required to be returned under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Appropriate Lender shall pay to the Administrative Agent for the account of such Issuing Bank 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 by such Lender, at a rate per annum equal to the Overnight Rate from time to time in effect. The Obligations of the Revolving Lenders under this Section 2.03(4)(b) shall survive the payment in full of the Obligations and the termination of this Agreement.

(5) Obligations Absolute. The obligation of the Borrower to reimburse the relevant Issuing Bank for each drawing under each Letter of Credit issued by it 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:

(a) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(b) the existence of any claim, counterclaim, setoff, defense or other right that any Loan Party 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 relevant Issuing Bank 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;
(c) 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;

(d) any payment by the relevant Issuing Bank 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 relevant Issuing Bank 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;

(e) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of any Loan Party in respect of such Letter of Credit; or

(f) 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, any Loan Party;

provided that the foregoing shall not excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are waived by the Borrower to the extent permitted by applicable Law) suffered by the Borrower that are caused by acts or omissions by such Issuing Bank constituting gross negligence, bad faith or willful misconduct on the part of such Issuing Bank as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(6) Role of Issuing Banks. Each Issuing Bank shall be entitled to rely upon, and shall be fully protected in relying upon, any note, writing, resolution, notice, statement, certificate or facsimile message, order or other document or telephone message signed, sent or made by any Person that such Issuing Bank reasonably believed to be genuine and correct and to have been signed, sent or made by the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan Document and its duties hereunder and thereunder, upon advice of counsel selected by such Issuing Bank (which may include, at the Issuing Bank’s option, counsel of the Administrative Agent or the Borrower). Each Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, the relevant Issuing Bank 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 Issuing Banks, any Related Person of such Issuing Banks, nor any of the respective correspondents, participants or assignees of any Issuing Bank shall be liable to any Lender for

(a) any action taken or omitted in connection herewith at the request or with the approval of the Lenders, the Required Lenders or the Required Facility Lenders in respect of the Revolving Commitments, as applicable;
(b) any action taken or omitted in the absence of gross negligence, bad faith or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction; or

(c) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Application.

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 from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Banks, any Related Persons of such Issuing Banks, nor any of the respective correspondents, participants or assignees of any Issuing Bank, shall be liable or responsible for any of the matters described in clauses (a) through (f) of Section 2.03(5); provided that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an Issuing Bank, and such Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank’s willful misconduct, bad faith or gross negligence or such Issuing Bank’s willful or grossly negligent, or bad faith, 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 each case as determined in a final and non-appealable judgment by a court of competent jurisdiction. In furtherance and not in limitation of the foregoing, each Issuing Bank 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 no Issuing Bank shall 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.

Each Revolving Lender shall, ratably in accordance with its Applicable Percentage, indemnify each Issuing Bank, its Related Persons and their respective directors, officers, agents and employees (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such indemnitees’ willful misconduct, bad faith or gross negligence or such Issuing Bank’s willful or grossly negligent, or bad faith, 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 each case as determined in a final and non-appealable judgment by a court of competent jurisdiction) that such indemnitees may suffer or incur in connection with this Section 2.03 or any action taken or omitted to be taken by such indemnitees hereunder.

(7) Cash Collateral. Subject to Section 2.17(1)(d), if,

(a) as of any L/C Expiration Date, any applicable Letter of Credit may for any reason remain outstanding and partially or wholly undrawn,

(b) any Event of Default occurs and is continuing and the Administrative Agent, upon the direction of the Required Facility Lenders in respect of the Revolving Facility, requires the Borrower to Cash Collateralize the L/C Obligations pursuant to Section 8.02 or

(c) an Event of Default set forth under Section 8.01(6) occurs and is continuing,
the Borrower will Cash Collateralize, or cause to be Cash Collateralized, the then Outstanding Amount of all relevant L/C Obligations (in an amount equal to such Outstanding Amount determined as of the date of such Event of Default or the applicable L/C Expiration Date, as the case may be), and shall do so not later than 2:00 p.m. on (i) in the case of the immediately preceding clauses (a) or (b), (x) the Business Day that the Borrower receives notice thereof, if such notice is received on such day prior to 12:00 p.m. or (y) if clause (x) above does not apply, the Business Day immediately following the day that the Borrower receives such notice and (ii) in the case of the immediately preceding clause (c), the Business Day on which an Event of Default set forth under Section 8.01(6) occurs or, if such day is not a Business Day, the Business Day immediately succeeding such day. At any time that there shall exist a Defaulting Lender, immediately upon the request of the Administrative Agent or the applicable Issuing Bank, the Borrower will Cash Collateralize all Fronting Exposure (after giving effect to Section 2.17(1)(d) and any Cash Collateral provided by the Defaulting Lender). The Borrower hereby grants to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, a security interest in all such Cash Collateral. Cash Collateral shall be maintained in blocked accounts at the Administrative Agent and may be invested in readily available Cash Equivalents selected by the Administrative Agent in its sole discretion. If at any time the Administrative Agent determines that any funds held as Cash Collateral are expressly subject to any right or claim of any Person other than the Loan Parties or the Administrative Agent (in its capacity as the depository bank and on behalf of the Secured Parties) or that the total amount of such funds is less than the aggregate Outstanding Amount of all relevant L/C Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay, or cause to be paid, to the Administrative Agent, as additional funds to be deposited and held in the deposit accounts at the Administrative Agent as aforesaid, an amount equal to the excess of (A) such aggregate Outstanding Amount over (B) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent reasonably determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Law, to reimburse the relevant Issuing Bank. To the extent the amount of any Cash Collateral exceeds the then Outstanding Amount of such relevant L/C Obligations and so long as no Event of Default has occurred and is continuing, the excess shall promptly be refunded to the Borrower. To the extent any Event of Default giving rise to the requirement to Cash Collateralize any Letter of Credit pursuant to this Section 2.03(7) is cured or otherwise waived, then so long as no other Event of Default has occurred and is continuing, the amount of any Cash Collateral pledged to Cash Collateralize such Letter of Credit shall promptly be refunded to the Borrower.

(8) Existing Letters of Credit. The parties hereto agree that the Existing Letters of Credit shall be deemed Letters of Credit for all purposes under this Agreement, without any further action by the Borrower.

(9) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent, for the account of each Revolving Lender for the applicable Revolving Facility in accordance with its Applicable Percentage, a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal to the Applicable Rate set forth in the “Eurodollar Rate and Letter of Credit Fees” column of the chart in the definition of “Applicable Rate” times the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount decreases or increases periodically pursuant to the terms of such Letter of Credit); provided, however, that any Letter of Credit fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable Issuing Bank pursuant to this Section 2.03 shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 2.17(1)(d), with the balance of such fee, if any, payable to the applicable Issuing Bank for its own account. Such Letter of Credit fees shall be computed on a quarterly basis in arrears on the basis of a 360-day year and actual days elapsed. Such Letter of Credit fees shall be due and payable on the last Business Day 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 L/C Expiration Date and thereafter on demand. If there is any change in the Applicable Rate set forth in the “Eurodollar Rate and Letter of Credit Fees” column of the chart in the definition of “Applicable Rate” during any quarter, the daily maximum amount of each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(10) **Fronting Fee and Documentary and Processing Charges Payable to Issuing Banks.** The Borrower shall pay directly to each Issuing Bank for its own account a fronting fee with respect to each Letter of Credit issued by such Issuing Bank equal to 0.125% per annum (or such other lower amount as may be mutually agreed by the Borrower and the applicable Issuing Bank) of the maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases or decreases periodically pursuant to the terms of such Letter of Credit) or such lesser fee as may be agreed with such Issuing Bank. Such fronting fees shall be computed on a quarterly basis in arrears on the basis of a 360-day year and actual days elapsed. Such fronting fees shall be due and payable on the last Business Day 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 L/C Expiration Date and thereafter on demand. In addition, the Borrower shall pay, or cause to be paid, directly to each Issuing Bank for its own account with respect to each Letter of Credit issued by such Issuing Bank the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such Issuing Bank relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable within ten (10) Business Days of demand and are nonrefundable.

(11) **Conflict with L/C Application.** Notwithstanding anything else to the contrary in this Agreement or any L/C Application, in the event of any conflict between the terms hereof and the terms of any L/C Application, the terms hereof shall control.

(12) **Addition of an Issuing Bank.** There may be one or more Issuing Banks under this Agreement from time to time. After the Closing Date, a Revolving Lender reasonably acceptable to the Borrower and the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement among the Borrower, the Administrative Agent and such Revolving Lender. The Administrative Agent shall notify the Revolving Lenders of any such additional Issuing Bank.

(13) **Provisions Related to Extended Revolving Commitments.** If the L/C Expiration Date in respect of any Class of Revolving Commitments occurs prior to the expiry date of any Letter of Credit, then (a) if consented to by the Issuing Bank which issued such Letter of Credit, if one or more other Classes of Revolving Commitments in respect of which the L/C Expiration Date shall not have so occurred are then in effect, such Letters of Credit for which consent has been obtained shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Lenders to purchase participations therein and to make Revolving Loans and payments in respect thereof pursuant to Sections 2.03(3) and (4)) under (and ratably participated in by Revolving Lenders pursuant to) the Revolving Commitments in respect of such non-terminating Classes up to an aggregate amount not to exceed the aggregate principal amount of the unutilized Revolving Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and (b) to the extent not reallocated pursuant to immediately preceding clause (a) and unless provisions reasonably satisfactory to the applicable Issuing Bank for the treatment of such Letter of Credit as a letter of credit under a successor credit facility have been agreed upon, the Borrower shall, on or prior to the applicable Maturity Date, cause all such Letters of Credit to be replaced and returned to the applicable Issuing Bank undrawn and marked “cancelled” or to the extent that the Borrower is unable to so replace and return any Letter(s) of Credit, such Letter(s) of Credit shall be backstopped by a “back to back” letter of credit reasonably satisfactory to the applicable Issuing Bank or the Borrower shall Cash Collateralize any such Letter of Credit in accordance with Section 2.03(7).
(14) **Letter of Credit Reports.** For so long as any Letter of Credit issued by an Issuing Bank that is not the Administrative Agent is outstanding, such Issuing Bank shall deliver to the Administrative Agent on the last Business Day of each calendar month, and on each date that an L/C Credit Extension occurs with respect to any such Letter of Credit, a report in the form of Exhibit R, appropriately completed with the information for every outstanding Letter of Credit issued by such Issuing Bank.

(15) **Letters of Credit Issued for Holdings and Subsidiaries.** Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, Holdings or a Subsidiary of the Borrower, the Borrower shall be obligated to reimburse, or cause to be reimbursed, the applicable Issuing Bank 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 Holdings or any Subsidiary inures to the benefit of the Borrower, and that the Borrower’s businesses derives substantial benefits from the businesses of Holdings and each Subsidiary.

(16) **Applicability of ISP and UCP.** Unless otherwise expressly agreed by the relevant Issuing Bank and the Borrower 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.

SECTION 2.04 [Reserved].

SECTION 2.05 Prepayments.

(1) **Optional.**

(a) The Borrower may, upon notice to the Administrative Agent by the Borrower, at any time or from time to time voluntarily prepay any Class or Classes of Term Loans and any Class or Classes of Revolving Loans in whole or in part without premium (except as set forth in Section 2.18) or penalty; provided that

(i) such notice must be received by the Administrative Agent not later than (A) 1:00 p.m., New York time, three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans or EURIBOR Rate Loans and (B) 12:00 p.m., New York time, on the date of prepayment of Base Rate Loans;

(ii) any prepayment of (x) Eurodollar Rate Loans shall be in a principal amount of $1.0 million or a whole multiple of $250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding and (y) EURIBOR Rate Loans shall be in a principal amount of €1.0 million or a whole multiple of €250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding; and

(iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding.

Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender’s Pro Rata Share 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 a Eurodollar Rate Loan or EURIBOR Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. In the case of each prepayment of the Loans pursuant to this Section 2.05(1), the Borrower may in its sole discretion select the Borrowing or Borrowings (and the order of maturity of principal payments) to be repaid, and such payment shall be paid to the Appropriate Lenders in accordance with their respective Pro Rata Shares.

(b) [Reserved]

c) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind (or delay the date of prepayment identified in) any notice of prepayment under Section 2.05(1)(a) by written notice to the Administrative Agent not later than 12:00 p.m., New York time, on such prepayment date if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed.

d) Voluntary prepayments of any Class of Term Loans permitted hereunder shall be applied to the remaining scheduled installments of principal thereof in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity). Each prepayment in respect of any Term Loans pursuant to this Section 2.05 may be applied to any Class of Term Loans as directed by the Borrower. For the avoidance of doubt, the Borrower may (i) prepay Term Loans of an Existing Term Loan Class pursuant to this Section 2.05 without any requirement to prepay Extended Term Loans that were converted or exchanged from such Existing Term Loan Class and (ii) prepay Extended Term Loans pursuant to this Section 2.05 without any requirement to prepay Term Loans of an Existing Term Loan Class that were converted or exchanged for such Extended Term Loans. In the event that the Borrower does not specify the order in which to apply prepayments to reduce scheduled installments of principal or as between Classes of Term Loans, the Borrower shall be deemed to have elected that such proceeds be applied to reduce the scheduled installments of principal in direct order of maturity on a pro rata basis among Term Loan Classes.

e) Notwithstanding anything in any Loan Document to the contrary, so long as (x) no Event of Default has occurred and is continuing and (y) no proceeds of Revolving Loans are used for this purpose, any Borrower Party may (i) purchase outstanding Term Loans on a non-pro rata basis through open market purchases or (ii) prepay the outstanding Term Loans (which Term Loans shall, for the avoidance of doubt, be automatically and permanently canceled immediately upon such purchase or prepayment), which in the case of clause (ii) only shall be prepaid without premium or penalty on the following basis:

(A) Any Borrower Party shall have the right to make a voluntary prepayment of Loans at a discount to par pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offers or Borrower Solicitation of Discounted Prepayment Offers (any such prepayment, the "Discounted Term Loan Prepayment"), in each case made in accordance with this Section 2.05(1)(e) and without premium or penalty.

(B) (1) Any Borrower Party may from time to time offer to make a Discounted Term Loan Prepayment by providing the Auction Agent with five (5) Business Days’ notice (or such shorter period as agreed by the Auction Agent) in the form of a Specified Discount Prepayment Notice; provided that (I) any such offer shall be made available, at the sole discretion of the applicable Borrower Party, to (x) each Term Lender or (y) each Term Lender with respect to any Class of Term Loans on an individual Class
basis, (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the “Specified Discount Prepayment Amount”) with respect to each applicable Class, the Class or Classes of Term Loans subject to such offer and the specific percentage discount to par (the “Specified Discount”) of such Term Loans to be prepaid (it being understood that different Specified Discounts or Specified Discount Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(1)(e)(B)), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than $5.0 million and whole increments of $1.0 million in excess thereof and (IV) each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Specified Discount Prepayment Response Date”).

(2) Each Term Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its applicable then outstanding Term Loans at the Specified Discount and, if so (such accepting Lender, a “Discount Prepayment Accepting Lender”), the amount and the Classes of such Lender’s Term Loans to be prepaid at such offered discount. Each acceptance of a Discounted Term Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Term Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the applicable Borrower Offer of Specified Discount Prepayment.

(3) If there is at least one Discount Prepayment Accepting Lender, the relevant Borrower Party will make a prepayment of outstanding Term Loans pursuant to this paragraph (B) to each Discount Prepayment Accepting Lender in accordance with the respective outstanding amount and Classes of Term Loans specified in such Lender’s Specified Discount Prepayment Response given pursuant to subsection (2) above; provided that if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made pro rata among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the “Specified Discount Proration”). The Auction Agent shall promptly, and in any case within three (3) Business Days following the Specified Discount Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Term Lenders’ responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, and the aggregate principal amount and the Classes of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, Class and Type of Term Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the applicable Borrower Party and such Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the applicable Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).
(C) (1) Any Borrower Party may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice (or such shorter period as agreed by the Auction Agent) in the form of a Discount Range Prepayment Notice; provided that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Term Lender or (y) each Term Lender with respect to any Class of Term Loans on an individual Class basis, (II) any such notice shall specify the maximum aggregate principal amount of the relevant Term Loans (the “Discount Range Prepayment Amount”), the Class or Classes of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the “Discount Range”) of the principal amount of such Term Loans with respect to each relevant Class of Term Loans willing to be prepaid by such Borrower Party (it being understood that different Discount Ranges or Discount Range Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(1)(e)(C)), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than $5.0 million and whole increments of $1.0 million in excess thereof and (IV) unless rescinded, each such solicitation by the applicable Borrower Party shall remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Lenders (the “Discount Range Prepayment Response Date”). Each Term Lender’s Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the “Submitted Discount”) at which such Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable Class or Classes and the maximum aggregate principal amount and Classes of such Lender’s Term Loans (the “Submitted Amount”) such Term Lender is willing to have prepaid at the Submitted Discount. Any Term Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Term Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(2) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this subsection (C). The relevant Borrower Party agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by the Auction Agent by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the “Applicable Discount”) which yields a Discounted Term Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Term Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following subsection (3)) at the Applicable Discount (each such Term Lender, a “Participating Lender”).

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(3) If there is at least one Participating Lender, the relevant Borrower Party will prepay the respective outstanding Term Loans of each Participating Lender in the aggregate principal amount and of the Classes specified in such Lender’s Discount Range Prepayment Offer at the Applicable Discount; provided that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the “Identified Participating Lenders”) shall be made pro rata among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Discount Range Proration”). The Auction Agent shall promptly, and in any case within five (5) Business Days following the Discount Range Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Term Lenders’ responses to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Applicable Discount and the aggregate principal amount and Classes of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and Classes of such Term Lender to be prepaid at the Applicable Discount on such date and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the relevant Borrower Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the applicable Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).

(D) (1) Any Borrower Party may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice in the form of a Solicited Discounted Prepayment Notice (or such later notice specified therein); provided that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Term Lender or (y) each Lender with respect to any Class of Term Loans on an individual Class basis, (II) any such notice shall specify the maximum aggregate amount of the Term Loans (the “Solicited Discounted Prepayment Amount”) and the Class or Classes of Term Loans the applicable Borrower Party is willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(1)(e)(D)), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than $5.0 million and whole increments of $1.0 million in excess thereof and (IV) unless rescinded, each such solicitation by the applicable Borrower Party shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Solicited Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to such Term Lenders (the “Solicited Discounted Prepayment Effective Date”).
Discounted Prepayment Response Date”). Each Term Lender’s Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date and (z) specify both a discount to par (the “Offered Discount”) at which such Term Lender is willing to allow prepayment of its then outstanding Term Loan and the maximum aggregate principal amount and Classes of such Term Loans (the “Offered Amount”) such Term Lender is willing to have prepaid at the Offered Discount. Any Term Lender whose Solicited Discounted Prepayment Offer is not received by the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount.

(2) The Auction Agent shall promptly provide the relevant Borrower Party with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. Such Borrower Party shall review all such Solicited Discounted Prepayment Offers and select the smallest of the Offered Discounts specified by the relevant responding Term Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the applicable Borrower Party (the “Acceptable Discount”), if any. If the applicable Borrower Party elects to accept any Offered Discount as the Acceptable Discount, then as soon as practicable after the determination of the Acceptable Discount, but in no event later than by the third Business Day after the date of receipt by such Borrower Party from the Auction Agent of a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this subsection (2) (the “Acceptance Date”), the applicable Borrower Party shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent shall fail to receive an Acceptance and Prepayment Notice from the applicable Borrower Party by the Acceptance Date, such Borrower Party shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(3) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by the Auction Agent by the Solicited Discounted Prepayment Response Date, within three (3) Business Days after receipt of an Acceptance and Prepayment Notice (the “Discounted Prepayment Determination Date”), the Auction Agent will determine (with the consent of such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the Classes of Term Loans (the “Acceptable Prepayment Amount”) to be prepaid by the relevant Borrower Party at the Acceptable Discount in accordance with this Section 2.05(1)(e)(D). If the applicable Borrower Party elects to accept any Acceptable Discount, then such Borrower Party agrees to accept all Solicited Discounted Prepayment Offers received by the Auction Agent by the Solicited Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Term Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro-rata reduction pursuant to the following sentence) at the Acceptable Discount, a “Qualifying Lender”). The applicable Borrower Party will prepay outstanding Term Loans pursuant to this subsection (D) to each Qualifying Lender in the aggregate principal amount and of the Classes specified in such Lender’s Solicited Discounted Prepayment Offer at the Acceptable Discount; provided that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount (the “Identified Qualifying Lenders”) shall be made pro rata among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (in consultation
with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “Solicited Discount Proration”). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the relevant Borrower Party of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the Classes to be prepaid to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the Classes of such Term Lender to be prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to such Borrower Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to such Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subsection (F) below (subject to subsection (J) below).

(E) In connection with any Discounted Term Loan Prepayment, the Borrower Parties and the Term Lenders acknowledge and agree that the Auction Agent may require, as a condition to the applicable Discounted Term Loan Prepayment, the payment of customary fees and expenses from a Borrower Party to such Auction Agent for its own account in connection therewith.

(F) If any Term Loan is prepaid in accordance with subsections (B) through (D) above, a Borrower Party shall prepay such Term Loans on the Discounted Prepayment Effective Date. The relevant Borrower Party shall make such prepayment to the Administrative Agent, for the account of the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent’s Office in immediately available funds not later than 12:00 p.m., New York time, on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the relevant Class(es) of Term Loans and Lenders as specified by the applicable Borrower Party in the applicable offer. The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(1)(e) shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, and shall be applied to the relevant Term Loans of such Lenders in accordance with their respective applicable share as calculated by the Auction Agent in accordance with this Section 2.05(1)(e) and, if the Administrative Agent is not the Auction Agent, the Administrative Agent shall be fully protected in relying on such calculations of the Auction Agent. The aggregate principal amount of the Classes and installments of the relevant Term Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the Classes of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Term Loan Prepayment.

(G) To the extent not expressly provided for herein, each Discounted Term Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this Section 2.05(1)(e), established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the applicable Borrower Party.
(H) Notwithstanding anything in any Loan Document to the contrary, for purposes of this Section 2.05(1)(e), each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon Auction Agent’s (or its delegate’s) actual receipt during normal business hours of such notice or communication; provided that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next succeeding Business Day.

(I) Each of the Borrower Parties and the Term Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this Section 2.05(1)(e) by itself or through any Affiliate of the Auction Agent and expressly consents to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any Discounted Term Loan Prepayment provided for in this Section 2.05(1)(e) as well as activities of the Auction Agent.

(J) Each Borrower Party shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a Discounted Term Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the applicable Specified Discount Prepayment Response Date, Discount Range Prepayment Response Date or Solicited Discounted Prepayment Response Date (and if such offer is revoked pursuant to the preceding clauses, any failure by such Borrower Party to make any prepayment to a Lender, as applicable, pursuant to this Section 2.05(1)(e) shall not constitute a Default or Event of Default under Section 8.01 or otherwise).

(2) Mandatory.

(a) Within five (5) Business Days after financial statements have been delivered pursuant to Section 6.01(1) and the related Compliance Certificate has been delivered pursuant to Section 6.02(1), commencing with the delivery of financial statements for the fiscal year ended on or about December 29, 2018, the Borrower shall, subject to clauses (g) and (h) of this Section 2.05(2), prepay, or cause to be prepaid, an aggregate principal amount of Term Loans (the “ECF Payment Amount”) equal to 50% (such percentage as it may be reduced as described below, the “ECF Percentage”) of Excess Cash Flow, if any, for the fiscal year covered by such financial statements minus the sum of all voluntary prepayments, repurchase or redemptions of

(i) Term Loans made pursuant to Sections 2.05(1)(a) and 2.05(1)(e) (in an amount, in the case of prepayments pursuant to Section 2.05(1) (e), equal to the discounted amount actually paid in respect of the principal amount of such Term Loans and only to the extent that such Loans have been cancelled); provided that this clause (i) shall not apply to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans,

(ii) Credit Agreement Refinancing Indebtedness, Permitted Incremental Equivalent Debt, and any other Indebtedness in the form of notes or term loans, in each case to the extent secured by the Collateral in whole or in part on a pari passu basis with the First Lien Obligations under this Agreement (but without regard to the control of remedies),

(iii) Revolving Loans and loans under any other revolving facility that is secured, in whole or in part, on a pari passu basis by the Collateral with the First Lien Obligations under this Agreement (but without regard to the control of remedies) (in each case of this clause (iii) (and with respect to any revolving facility under clause (ii) above), to the extent accompanied by a permanent reduction in the corresponding Revolving Commitments or other revolving commitments), and
in the case of each of the immediately preceding clauses (i), (ii), (iii) and (iv), made during such fiscal year (without duplication of any prepayments in such fiscal year that reduced the amount of Excess Cash Flow required to be repaid pursuant to this Section 2.05(2)(a) for any prior fiscal year) or after the fiscal year-end but prior to the date a prepayment pursuant to this Section 2.05(2)(a) is required to be made in respect of such fiscal year and in each case to the extent such prepayments are not funded with the proceeds of Funded Debt (other than any Indebtedness under a Revolving Facility or any other revolving credit facilities); provided that (w) a prepayment of Term Loans pursuant to this 2.05(2)(a) in respect of any fiscal year shall only be required in the amount (if any) by which the ECF Payment Amount for such fiscal year exceeds $35.0 million, (x) the ECF Percentage shall be 25% if the First Lien Net Leverage Ratio as of the end of the fiscal year covered by such financial statements was less than or equal to 3.25 to 1.00 and greater than 2.50 to 1.00 (calculated after giving effect to such prepayment at a rate of 50%) and (y) the ECF Percentage shall be 0% if the First Lien Net Leverage Ratio as of the end of the fiscal year covered by such financial statements was less than or equal to 2.50 to 1.00 (calculated after giving effect to such prepayment at a rate of 25%); provided further that:

(A) if at the time that any such prepayment would be required, the Borrower (or any Restricted Subsidiary) is required to Discharge Other Applicable Indebtedness with Other Applicable ECF pursuant to the terms of the documentation governing such Indebtedness, then the Borrower (or any Restricted Subsidiary) may apply such portion of Excess Cash Flow otherwise required to repay the Term Loans pursuant to this Section 2.05(2)(a) on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness requiring such Discharge at such time) to the prepayment of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(2)(a) shall be reduced accordingly (provided that the portion of such Excess Cash Flow allocated to the Other Applicable Indebtedness shall not exceed the amount of such Other Applicable ECF required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof and the remaining amount, if any, of such portion of Excess Cash Flow shall be allocated to the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(a)); and

(B) to the extent the lenders or holders of Other Applicable Indebtedness decline to have such Indebtedness repurchased or prepaid with such portion of Excess Cash Flow, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(a).

(b) (i) If (x) the Borrower or any Restricted Subsidiary makes an Asset Sale or (y) any Casualty Event occurs, which results in the realization or receipt by the Borrower or such Restricted Subsidiary of Net Proceeds, the Borrower shall prepay, or cause to be prepaid, on or prior to the date which is ten (10) Business Days after the date of the realization or receipt by the Borrower or such Restricted Subsidiary of such Net Proceeds, subject to clause (ii) of this Section 2.05(2)(b) and clauses
Section 2.05(2)(b)(i) with respect to such portion of such Net Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest (or entered into a binding commitment or a binding letter of intent to reinvest) in accordance with Section 2.05(2)(b)(ii); provided further that (x) the Net Proceeds Percentage shall be 50% if the First Lien Net Leverage Ratio for the Test Period most recently ended prior to the date of such required prepayment is less than or equal to 3.25 to 1.00 and greater than 2.50 to 1.00 and (y) the Net Proceeds Percentage shall be 0% if the First Lien Net Leverage Ratio for the Test Period most recently ended prior to the date of such required prepayment is less than or equal to 2.50 to 1.00; provided further that

(A) if at the time that any such prepayment would be required, the Borrower (or any Restricted Subsidiary) is required to Discharge any Other Applicable Indebtedness with Other Applicable Net Proceeds pursuant to the terms of the documentation governing such Indebtedness, then the Borrower (or any Restricted Subsidiary) may apply such Net Proceeds otherwise required to repay the Term Loans pursuant to this Section 2.05(2)(b)(i) on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness requiring such Discharge at such time), to the prepayment of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(2)(b)(i) shall be reduced accordingly (provided that the portion of such Net Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such Other Applicable Net Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof and the remaining amount, if any, of such portion of Net Proceeds shall be allocated to the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(b)(i));

(B) to the extent the holders of Other Applicable Indebtedness decline to have such Indebtedness repurchased or prepaid with such portion of such Net Proceeds, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans to the extent required in accordance with the terms of this Section 2.05(2)(b)(i).

(ii) With respect to any Net Proceeds realized or received with respect to any Asset Sale or any Casualty Event, the Borrower or any Restricted Subsidiary, at its option, may reinvest all or any portion of such Net Proceeds in assets useful for their business within (x) eighteen (18) months following receipt of such Net Proceeds or (y) if the Borrower or any Restricted Subsidiary enters into a legally binding commitment or a legally binding letter of intent to reinvest such Net Proceeds within eighteen (18) months following receipt thereof, within the later of (A) eighteen (18) months following receipt thereof and (B) one hundred eighty (180) days of the date of such legally binding commitment or legally binding letter of intent; provided that the Borrower may elect to deem expenditures that otherwise would be permissible reinvestments that occur prior to receipt of such Net Proceeds to have been reinvested in accordance with the provisions of this Section 2.05(2)(b)(ii) (it being understood that such deemed expenditures shall have been made no earlier than the earliest of notice to the Administrative Agent, execution of a definitive agreement for such Asset Sale and consummation of such Asset Sale or Casualty Event); provided further that if any Net Proceeds are no longer intended to be or cannot be so reinvested at any time after such reinvestment election, and subject to clauses (g) and (h) of this Section 2.05(2), an amount equal to any such Net Proceeds shall be applied within five (5) Business Days after the Borrower reasonably determines that such Net Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Term Loans as set forth in this Section 2.05.
(d) If the Borrower or any Restricted Subsidiary incurs or issues any Indebtedness (i) not expressly permitted to be incurred or issued pursuant to Section 7.02 or (ii) that constitutes Other Loans or Credit Agreement Refinancing Indebtedness, in each case, incurred or issued to refinance any Class (or Classes) of Term Loans resulting in Net Proceeds (as opposed to such Credit Agreement Refinancing Indebtedness or Other Loans arising out of an exchange of existing Term Loans for such Credit Agreement Refinancing Indebtedness or Other Loans), the Borrower shall prepay, or cause to be prepaid, an aggregate principal amount of Term Loans of any Class or Classes (in each case, as directed by the Borrower) equal to 100% of all Net Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt by the Borrower or such Restricted Subsidiary of such Net Proceeds.

(e) (i) Except as otherwise set forth in any Refinancing Amendment, Extension Amendment or Incremental Amendment, each prepayment of Term Loans required by Sections 2.05(2)(a), (b) and (d)(i) shall be allocated to any Class of Term Loans outstanding as directed by the Borrower (provided that, notwithstanding the foregoing, any prepayments pursuant to Section 2.05(2)(a), (b) and (d)(i) of the Term B USD Loans and Term B Euro Loans shall be applied on a pro rata basis (as determined in accordance with Section 1.10(4)) (for the avoidance of doubt, which prepayments shall be made in Dollars in the case of the Term B USD Loans and Euros in the case of the Term B Euro Loans), shall be applied pro rata to Term Lenders within such Class of Term Loans, based upon the outstanding principal amounts owing to each such Term Lender under such Class of Term Loans and shall be applied to reduce such remaining scheduled installments of principal within such Class of Term Loans in direct order of maturity; provided that

(x) such prepayments may not be directed to a later maturing Class of Term Loans without at least a pro rata repayment of any earlier maturing Classes of Term Loans (except that any Class of Incremental Term Loans, Other Term Loans, Extended Term Loans or Replacement Loans may specify that one or more other Classes of later maturing Term Loans may be prepaid prior to such Class of earlier maturing Term Loans), and

(y) in the event that there are two or more outstanding Classes of Term Loans with the same Maturity Date, such prepayments may not be directed to any such Class of Term Loans without at least a pro rata repayment of any Classes of Term Loans maturing on the same date (except that any Class of Incremental Term Loans, Other Term Loans, Extended Term Loans or Replacement Loans may specify that one or more other Classes of Term Loans with the same Maturity Date may be prepaid prior to such Class of Term Loans maturing on the same date), and

(ii) each prepayment of Term Loans required by Section 2.05(2)(d)(ii) shall be allocated to any Class or Classes of Term Loans being refinanced as directed by the Borrower and shall be applied pro rata to Term Lenders within each such Class, based upon the outstanding principal amounts owing to each such Term Lender under each such Class of Term Loans.

(f) If for any reason the aggregate Outstanding Amount of Revolving Loans and L/C Obligations at any time exceeds the aggregate Revolving Commitments then in effect, the Borrower shall promptly prepay Revolving Loans 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(2) (f) unless after the prepayment in full of the Revolving Loans such aggregate Outstanding Amount of L/C Obligations exceeds the aggregate Revolving Commitments then in effect.

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(g) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to clauses (a) through (d) of this Section 2.05(2) at least three (3) Business Days prior to the date of such prepayment (provided that, in the case of clause (b) or (d) of this Section 2.05(2), the Borrower may rescind (or delay the date of prepayment identified in) such notice if such prepayment would have resulted from a refinancing of all or any portion of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed). Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the aggregate amount of such prepayment to be made by the Borrower. The Administrative Agent will promptly notify each Appropriate Lender of the contents of the Borrower’s prepayment notice and of such Appropriate Lender’s Pro Rata Share of the prepayment. Each Term Lender may reject all or a portion of its Pro Rata Share of any mandatory prepayment (such declined amounts, the “Declined Proceeds”) of Term Loans required to be made pursuant to clauses (a), (b) and (d) of this Section 2.05(2) by providing written notice (each, a “Rejection Notice”) to the Administrative Agent and the Borrower no later than 5:00 p.m., New York time, one (1) Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory repayment of Term Loans to be rejected by such Lender. If a Term Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Term Loans. Subject to the terms of the Second Lien Credit Agreement, any Declined Proceeds remaining must be offered to prepay the Second Lien Term Loans to the extent otherwise required pursuant to the Second Lien Credit Agreement; provided, that any such prepayment amount declined by the Second Lien Lenders shall be retained by the Borrower (or the applicable Restricted Subsidiary) and may be applied by the Borrower or such Restricted Subsidiary in any manner not prohibited by this Agreement.

(h) Notwithstanding any other provisions of this Section 2.05(2), (A) to the extent that any or all of the Net Proceeds of any Asset Sale by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.05(2)(b) (a “Foreign Asset Sale”), the Net Proceeds of any Casualty Event from a Foreign Subsidiary (a “Foreign Casualty Event”) or all or a portion of Excess Cash Flow are prohibited or delayed by applicable local law from being repatriated to the United States, an amount equal to the portion of such Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(2) so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Proceeds or Excess Cash Flow is permitted under the applicable local law, an amount equal to such Net Proceeds or Excess Cash Flow permitted to be repatriated will be promptly (and in any event not later than two (2) Business Days after any such repatriation) applied (net of additional taxes that are or would be payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.05(2) to the extent otherwise provided herein and (B) to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Proceeds of any Foreign Asset Sale or Foreign Casualty Event or Excess Cash Flow would have a material adverse tax consequence (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Proceeds or Excess Cash Flow, an amount equal to the Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(2).
(i) All prepayments under this Section 2.05 (other than prepayments of Base Rate Revolving Loans that are not made in connection with the termination or permanent reduction of Revolving Commitments) shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a Eurodollar Rate Loan or EURIBOR Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such Eurodollar Rate Loan or EURIBOR Rate Loan pursuant to Section 3.05.

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurodollar Rate Loans or EURIBOR Rate Loans is required to be made under this Section 2.05 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05 in respect of any such Eurodollar Rate Loan or EURIBOR Rate Loan prior to the last day of the Interest Period therefor, the Borrower may, in its discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.05. Such deposit shall be deemed to be a prepayment of such Loans by the Borrower for all purposes under this Agreement.

Additionally, notwithstanding anything else in this Agreement to the contrary, in the event that any Term Loan of any Lender would otherwise be repaid or prepaid from the proceeds of other Term Loans being funded on the date of such repayment or prepayment, if agreed to by the Borrower and such Lender and notified to the Administrative Agent prior to the date of the applicable repayment or prepayment, all or any portion of such Lender’s Term Loan that would have otherwise been repaid or prepaid in connection therewith may be converted on a “cashless roll” basis into a new Term Loan.

SECTION 2.06 Termination or Reduction of Commitments.

(1) Optional. The Borrower may, upon written notice by the Borrower to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; provided that

(a) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction,

(b) any such partial reduction shall be in an aggregate amount of $5.0 million or any whole multiple of $1.0 million in excess thereof or, if less, the entire amount thereof and

(c) if, after giving effect to any reduction of the Commitments, the L/C Sublimit exceeds the amount of the Revolving Facility, the L/C Sublimit shall be automatically reduced by the amount of such excess.

Except as provided above, the amount of any such Revolving Commitment reduction shall not be applied to the L/C Sublimit unless otherwise specified by the Borrower. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of any Commitments if such termination would have resulted from a refinancing of all of the applicable Facility or other conditional event, which refinancing or other conditional event shall not be consummated or shall otherwise be delayed.
(2) **Mandatory.** The Additional Term B USD Commitment of the Additional Term B USD Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s Term B USD Loans to the Borrower pursuant to Section 2.01(1)(e). The Additional Term B Euro Commitment of the Additional Term B Euro Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Term B Euro Loans to the Borrower pursuant to Section 2.01(1)(f). The Term B Euro Incremental Commitment of the Term B Euro Incremental Lender on the Second Amendment Effective Date shall be automatically and permanently reduced to €0 upon the making of such Lender’s Term B Euro Incremental Loans to the Borrower pursuant to Section 2.01(1)(g). The 2019 Term B USD Incremental Commitment of the 2019 Term B USD Incremental Lender on the Third Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s 2019 Term B USD Incremental Loans to the Borrower pursuant to Section 2.01(1)(h). The 2019 Term B Euro Incremental Commitment of the 2019 Term B Euro Incremental Lender on the Third Amendment Effective Date shall be automatically and permanently reduced to $0 upon the making of such Lender’s 2019 Term B Euro Incremental Loans to the Borrower pursuant to Section 2.01(1)(i). The Revolving Commitment of each Revolving Lender shall automatically and permanently terminate on the Maturity Date for the applicable Revolving Facility.

(3) **Application of Commitment Reductions; Payment of Fees.** The Administrative Agent will promptly notify the Appropriate Lenders of any termination or reduction of unused portions of the L/C Sublimit or the unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced on a pro rata basis (determined on the basis of the aggregate Commitments under such Class) (other than the termination of the Commitment of any Lender as provided in Section 3.07). Any commitment fees accrued until the effective date of any termination of the Revolving Commitments shall be paid on the effective date of such termination.

SECTION 2.07 **Repayment of Loans.**

(1) **Term B Loans.** The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (a) on the last Business Day of each March, June, September and December, commencing with December 31, 2018, an aggregate principal amount (x) with respect to the Term B USD Loans, in Dollars equal to $7,756,303.62 and (y) with respect to the Term B Euro Loans, in Euros equal to €2,743,965.25 (in each case, which payments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05) and (b) on the Maturity Date for the Term B Loans, the aggregate principal amount of all Term B Loans outstanding on such date. In connection with any Incremental Term Loans that constitute part of the same Class as the Term B USD Loans or Term B Euro Loans, as applicable, the Borrower and the Administrative Agent shall be permitted to adjust the rate of prepayment in respect of such Class such that the Term Lenders holding Term B USD Loans or Term B Euro Loans, as applicable, comprising part of such Class continue to receive a payment that is not less than the same Dollar amount that such Term Lenders would have received absent the incurrence of such Incremental Term Loans; provided, that if such Incremental Term Loans are to be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable, notwithstanding any other conditions specified in this Section 2.07(1), the amortization schedule for such “fungible” Incremental Term Loan may provide for amortization in such other percentage(s) to be agreed by the Borrower and the Administrative Agent to ensure that the Incremental Term Loans will be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable.
(2) **Revolving Loans.** The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for the applicable Revolving Facility the aggregate principal amount of all Revolving Loans under such Facility outstanding on such date.

(3) **Non-Converted Closing Date Term Loans.** The Borrower shall repay to the Administrative Agent for the ratable account of each Term Lender with Non-Converted Closing Date Term Loans, the full amount of Non-Converted Closing Date Term Loans on the Second Amendment Effective Date.

**SECTION 2.08 Interest.**

(1) Subject to the provisions of Section 2.08(2), (a) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period, plus the Applicable Rate, (b) each 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 and (c) each EURIBOR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the EURIBOR Rate for such Interest Period, plus the Applicable Rate.

(2) During the continuance of a Default under Section 8.01(1), the Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws; provided that no interest at the Default Rate shall accrue or be payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(3) 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.

**SECTION 2.09 Fees.**

(1) **Commitment Fee.** The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender under each Revolving Facility in accordance with its Applicable Percentage, a commitment fee equal to the applicable Commitment Fee Rate times the actual daily amount by which the aggregate Revolving Commitments for the applicable Revolving Facility exceed the sum of (a) the Outstanding Amount of Revolving Loans for such Revolving Facility and (b) the Outstanding Amount of L/C Obligations; provided that any commitment fee accrued with respect to any of the Commitments of a Defaulting Lender under such Revolving Facility during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrower so long as such Lender shall be a Defaulting Lender except to the extent that such commitment fee shall otherwise have been due and payable by the Borrower prior to such time; and provided further that no commitment fee shall accrue on any of the Commitments under any Revolving Facility of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. The commitment fee on each Revolving Commitment for each Revolving Facility shall accrue at all times from the Closing Date (or date of initial effectiveness, as applicable) and for the avoidance of doubt, the commitment fee on the Revolving Commitment under the Closing Date Revolving Facility shall accrue from the Closing Date) until the Maturity Date for the applicable such Revolving Facility, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each of March, June, September and December, (x) in the case of the Closing Date Revolving Facility, commencing with December 29, 2017, and (y) in the case of the 2020 Extended Revolving Facility, commencing with the last Business Day of the fiscal quarter in which the Fourth
Amendment Extension Effective Date occurs, and on the Maturity Date for such Revolving Facility. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Commitment Fee Rate during any quarter, the actual daily amount shall be computed and multiplied by the Commitment Fee Rate separately for each period during such quarter that such Commitment Fee Rate was in effect.

(2) Other Fees. The Borrower shall pay to the Agents 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 (except as expressly agreed between the Borrower and the applicable Agent).

SECTION 2.10 Computation of Interest and Fees. All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 days 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. 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(1), 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.

SECTION 2.11 Evidence of Indebtedness.

(1) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence 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 accounts and records of the Administrative Agent, as set forth in the Register, in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, 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.

(2) In addition to the accounts and records referred to in Section 2.11(1), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records and, in the case of the Administrative Agent, entries in the Register, evidencing the purchases and sales by such Lender of participations in Letters of Credit. 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.

(3) Entries made in good faith by the Administrative Agent in the Register pursuant to Sections 2.11(1) and (2), and by each Lender in its account or accounts pursuant to Sections 2.11(1) and (2), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.
SECTION 2.12 Payments Generally.

(1) All payments with respect to any Class of Loans to be made by the Borrower hereunder shall be made in the currency in which the Loans thereunder are denominated 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 applicable Administrative Agent’s Office for payment and in Same Day Funds not later than 2:00 p.m., New York time, on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender’s Lending Office. Any payments under this Agreement that are made later than 2:00 p.m., New York time, shall be deemed to have been made on the next succeeding Business Day (but the Administrative Agent may extend such deadline for purposes of computing interest and fees (but not beyond the end of such day) in its sole discretion whether or not such payments are in process).

(2) Except as otherwise expressly provided herein, 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.

(3) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date, or in the case of any Borrowing of Base Rate Loans, prior to 1:00 p.m., New York time, on the date of such Borrowing, any payment is required to be made by it to the Administrative Agent hereunder (in the case of the Borrower, for the account of any Lender or an Issuing Bank hereunder or, in the case of the Lenders, for the account of any Issuing Bank or the Borrower hereunder), that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then:

   (a) if the Borrower failed to make such payment, each Lender or Issuing Bank shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or Issuing Bank in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or Issuing Bank to the date such amount is repaid to the Administrative Agent in Same Day Funds at the Overnight Rate from time to time in effect; and

   (b) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the “Compensation Period”) at a rate per annum equal to the Overnight Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender’s Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent’s demand therefor, the Administrative Agent may make a demand therefor.
upon the Borrower, and the Borrower shall pay such amount, or cause such amount to be paid, to the Administrative Agent, together with interest
thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall
be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the
Borrower may have against any Lender as a result of any default by such Lender hereunder. A notice of the Administrative Agent to any Lender or
the Borrower with respect to any amount owing under this Section 2.12(3) shall be conclusive, absent manifest error.

(c) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in 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 Section 4.02 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.

(d) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The
failure of any Lender to make any Loan or fund any participation 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 Loan or
purchase its participation.

(e) 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.

(f) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient
to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan
Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders
in the order of priority set forth in Section 8.03 (or otherwise expressly set forth herein). If the Administrative Agent receives funds for application
to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not
specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such
funds to each of the Lenders in accordance with such Lender’s Pro Rata Share of the sum of (i) the Outstanding Amount of all Loans outstanding
at such time and (ii) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the
outstanding Loans or other Obligations then owing to such Lender.

SECTION 2.13 Sharing of Payments. Other than as expressly provided elsewhere herein, if any Lender of any Class shall obtain payment
in respect of any principal of or interest on account of the Loans of such Class made by it or the participations in L/C Obligations held by it (whether
voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder)
thereof, such Lender shall immediately (1) notify the Administrative Agent of such fact, and (2) purchase from the other Lenders such participations in
the Loans of such Class made by them or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall be
necessary to cause such purchasing Lender to share the excess payment in respect of any principal of or interest on such Loans of such Class or such
participations, as the case may be, pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the
purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to
any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender’s ratable share (according to the proportion of (a) the amount of such paying Lender’s required repayment to (b) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. For the avoidance of doubt, the provisions of this Section 2.13 shall not be construed to apply to (i) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including the application of funds arising from the existence of a Defaulting Lender) or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.13 may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.10) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased. For purposes of clause (3) of the definition of Excluded Taxes, any participation acquired by a Lender pursuant to this Section 2.13 shall be treated as having been acquired on the earlier date(s) on which the applicable interest(s) in the Commitment(s) or Loan(s) to which such participation relates were acquired by such Lender.

SECTION 2.14 Incremental Facilities

(1) Incremental Loan Request. The Borrower may at any time and from time to time after the Closing Date, by notice to the Administrative Agent (an “Incremental Loan Request”), request (A) one or more new commitments which may be of the same Class as any outstanding Term Loans (a “Term Loan Increase”) or a new Class of term loans (collectively with any Term Loan Increase, the “Incremental Term Commitments”) and/or (B) one or more increases in the amount of the Revolving Commitments (a “Revolving Commitment Increase”) or the establishment of one or more new revolving credit commitments (each an “Incremental Revolving Commitment”); and, collectively with any Revolving Commitment Increases, the “Incremental Revolving Commitments” and any Incremental Revolving Commitments, collectively with any Incremental Term Commitments, the “Incremental Commitments”), whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders. Each Incremental Loan Request from the Borrower pursuant to this Section 2.14 shall set forth the requested amount and proposed terms of the relevant Incremental Term Commitments or Incremental Revolving Commitments.

(2) Incremental Loans. Any Incremental Term Loans or Incremental Revolving Commitments effected through the establishment of one or more new term loans or new revolving credit commitments, as applicable, made on an Incremental Facility Closing Date (other than a Loan Increase) shall be designated a separate Class of Incremental Term Loans or Incremental Revolving Commitments, as applicable, for all purposes of this Agreement. On any Incremental Facility Closing Date on which any Incremental Term Commitments of any Class are effected (including through any Term Loan Increase), subject to the satisfaction of the terms and conditions in this Section 2.14, (i) each Incremental Term Lender of such Class shall make a Loan to the Borrower (an “Incremental Term Loan”) in an amount equal to its Incremental Term Commitment of such Class and (ii) each Incremental Term Lender of such Class shall become a Lender hereunder with respect to the Incremental Term Commitment of such Class.
and the Incremental Term Loans of such Class made pursuant thereto. On any Incremental Facility Closing Date on which any Incremental Revolving Commitments of any Class are effected through the establishment of one or more new revolving credit commitments (including through any Revolving Commitment Increase), subject to the satisfaction of the terms and conditions in this Section 2.14, (i) each Incremental Revolving Lender of such Class shall make its Commitment available to the Borrower (when borrowed, an “Incremental Revolving Loan” and collectively with any Incremental Term Loan, an “Incremental Loan”) in an amount equal to its Incremental Revolving Commitment of such Class and (ii) each Incremental Revolving Lender of such Class shall become a Lender hereunder with respect to the Incremental Revolving Commitment of such Class and the Incremental Revolving Loans of such Class made pursuant thereto.

(3) Incremental Lenders. Incremental Term Loans may be made, and Incremental Revolving Commitments may be provided, by any existing Lender as approved by the Borrower (but no existing Lender will have an obligation to make any Incremental Commitment (or Incremental Loan), nor will the Borrower have any obligation to approach any existing Lenders to provide any Incremental Commitment (or Incremental Loan)) or by any Additional Lender (each such existing Lender or Additional Lender providing such Loan or Commitment, an “Incremental Term Lender” or “Incremental Revolving Lender,” as applicable, and, collectively, the “Incremental Lenders”); provided that (i) the Administrative Agent or, in the case of any Incremental Revolving Commitments only, each Issuing Bank, shall have consented (in each case, not to be unreasonably withheld or delayed) to such Additional Lender’s making such Incremental Term Loans or providing such Incremental Revolving Commitments to the extent such consent, if any, would be required under Section 10.07(b) for an assignment of Loans or Revolving Commitments, as applicable, to such Additional Lender, (ii) with respect to Incremental Term Commitments, any Affiliated Lender providing an Incremental Term Commitment shall be subject to the same restrictions set forth in Section 10.07(h) as they would otherwise be subject to with respect to any purchase by or assignment to such Affiliated Lender of Term Loans and (iii) Affiliated Lenders may not provide Incremental Revolving Commitments.

(4) Effectiveness of Incremental Amendment. The effectiveness of any Incremental Amendment and the availability of any initial credit extensions thereunder shall be subject to the satisfaction on the date thereof (the “Incremental Facility Closing Date”) of each of the following conditions (subject to Section 1.07(10)):

(a) (x) no Event of Default shall exist after giving effect to such Incremental Commitments; provided that, with respect to any Incremental Amendment the primary purpose of which is to finance an acquisition or other Investment permitted by this Agreement, the requirement pursuant to this clause (4)(a)(x) shall be that no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) shall exist after giving effect to such Incremental Commitments, and (y) the representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Incremental Amendment (provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates); provided that, in connection with an acquisition or other Investment permitted hereunder, the conditions in clause (x) and in clause (y) shall only be required to the extent requested by the Persons providing more than 50% of the applicable Incremental Term Loans and Incremental Term Commitments or Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be (provided, further, that, in the case of an acquisition or other Investment with a purchase price in excess of $100.0 million, the conditions contained in the proviso to clause (x) with respect to no
(b) each Incremental Term Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of this Section 2.14(4)) and each Incremental Revolving Commitment shall be in an aggregate principal amount that is not less than $5.0 million (provided that such amount may be less than $5.0 million if such amount represents all remaining availability under the limit set forth in clause (c) of Section 2.14(4));

(c) the aggregate principal amount of Incremental Term Loans and Incremental Revolving Commitments shall not, together with the aggregate principal amount of Permitted Incremental Equivalent Debt, exceed the sum of:

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\text{(A)} \quad (1) \quad \$500.0 \text{ million plus any General Debt Basket Reallocated Amount less the Second Lien Incremental Usage Amount (for the avoidance of doubt, it being agreed that as of the Third Amendment Effective Date, no Incremental Loans or Incremental Commitments have been incurred pursuant to this clause (1)) plus (2) the aggregate amount of (w) voluntary prepayments, redemptions or repurchases of Incremental Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) (including purchases of Incremental Term Loans or Permitted Incremental Equivalent Debt by Holdings, the Borrower or any of its Subsidiaries at or below par, in which case the amount of voluntary prepayments of such Incremental Term Loans or Permitted Incremental Equivalent Debt shall be deemed not to exceed the actual purchase price of such Loans or Permitted Incremental Equivalent Debt below par), in each case, only to the extent such Incremental Term Loans or Permitted Incremental Equivalent Debt was incurred in reliance on clause (A)(1) above, (x) voluntary permanent commitment reductions in respect of Incremental Revolving Commitments or Permitted Incremental Equivalent Debt consisting of revolving credit commitments, in each case, to the extent such Incremental Revolving Commitments or Permitted Incremental Equivalent Debt was incurred in reliance on clause (A)(1) above, (y) voluntary prepayments, redemption or repurchase of Second Lien Incremental Usage Amount Debt (including purchases of Second Lien Incremental Usage Amount Debt by Holdings, the Borrower or any of its Subsidiaries and (z) voluntary prepayments, redemptions or repurchases of any Credit Agreement Refinancing Indebtedness, Other Loans, Refinancing Indebtedness or other Indebtedness, in each case, previously applied to the prepayment, redemption or repurchase of any Incremental Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) incurred in reliance on clause (A)(1) above or any Second Lien Incremental Usage Amount Debt, in the case of this clause (z), so long as such prepayment, redemption or repurchase was not previously included in clause (w) or clause (y) above; other than, in each case under clauses (w), (y) and (z), from proceeds of long-term Indebtedness (other than revolving credit facilities); provided, that for the avoidance of doubt, this clause (A) shall not give credit to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans, plus
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(B) (x) in the case of any Incremental Loans or Incremental Commitments that effectively extend the Maturity Date of, or refinance, any Facility, an amount equal to the portion of the Facility to be replaced with (or refinanced by) such Incremental Loans or Incremental Commitments and (y) in the case of any Incremental Loans or Incremental Commitments that effectively replace any Commitment or Loan that is terminated or cancelled in accordance with Section 3.07, an amount equal to the portion of the relevant terminated or cancelled Commitment or Loan, plus

(C) solely to the extent not in duplication of prepayments, redemptions, repurchases or permanent commitment reductions described in Section 2.14(4)(c)(A)(2), the aggregate amount of (x) voluntary prepayments, redemptions or repurchases of Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility) (including purchases of Term Loans or Permitted Incremental Equivalent Debt by Holdings, the Borrower or any of its Subsidiaries), (y) voluntary permanent commitment reductions in respect of Revolving Commitments or Permitted Incremental Equivalent Debt consisting of revolving credit commitments and (z) voluntary prepayments, redemptions or repurchases of any Credit Agreement Refinancing Indebtedness, Other Loans, Refinancing Indebtedness or other Indebtedness, in each case, previously applied to the prepayment, redemption or repurchase of any Term Loans and Permitted Incremental Equivalent Debt (other than any Permitted Incremental Equivalent Debt that is a revolving credit facility), in the case of this clause (z), so long as such prepayment, redemption or repurchase was not previously included in clause (x) above; other than, in each case under clauses (x) and (z), from proceeds of long-term Indebtedness (other than revolving credit facilities) provided, that for the avoidance of doubt, this clause (C) shall not give credit to any prepayment of Closing Date Term Loans with the proceeds of, or by the conversion into, Term B Loans, plus

(D) an unlimited amount, so long as in the case of this clause (D) only,

(x) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the Collateral on a basis that is equal in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement (but without regard to the control of remedies), either (I) the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not exceed 4.75 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or other similar Investment permitted under this Agreement, the First Lien Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the First Lien Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be incurred) (it being agreed that the 2019 Term B USD Incremental Loans and 2019 Term B Euro Incremental Loans shall be deemed to be incurred pursuant to this clause (4)(c)(D)(x)),
(y) in the case of Incremental Loans or Incremental Revolving Commitments secured by Liens on all or a portion of the
Collateral on a basis that is junior in priority to the Liens on the Collateral securing the First Lien Obligations under this Agreement,
either (I) the Secured Net Leverage Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect
to any such incurrence, does not exceed 5.75 to 1.00 (including in connection with an acquisition or other similar Investment
permitted under this Agreement) or (II) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in
connection with an acquisition or other similar Investment permitted under this Agreement, the Secured Net Leverage Ratio for the
Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence is no greater than the
Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of Incremental Loans or establishment of
Incremental Revolving Commitments (in each case under clauses (I) and (II), in the case of an incurrence of Incremental Revolving
Commitments, assuming such Incremental Revolving Commitments are fully drawn and calculating the Secured Net Leverage Ratio
without netting the cash proceeds from such Incremental Loans then proposed to be incurred) and
(z) in the case of Incremental Loans or Incremental Revolving Commitments that are unsecured, (i) the Total Net Leverage
Ratio for the Test Period most recently ended calculated on a pro forma basis after giving effect to any such incurrence, does not
exceed 6.00 to 1.00 (including in connection with an acquisition or other similar Investment permitted under this Agreement) or
(ii) to the extent such Incremental Loans or Incremental Revolving Commitments are incurred in connection with an acquisition or
other Investment permitted under this Agreement, the Total Net Leverage Ratio for the Test Period most recently ended calculated
on a pro forma basis after giving effect to any such incurrence is no greater than the Total Net Leverage Ratio immediately prior to
giving effect to such incurrence of Incremental Loans or establishment of Incremental Revolving Commitments (in each case in the
case of an incurrence of Incremental Revolving Commitments, assuming such Incremental Revolving Commitments are fully drawn
and calculating the Total Net Leverage Ratio without netting the cash proceeds from such Incremental Loans then proposed to be
incurred);

(the amount available under clauses (A) through (D), the “Available Incremental Amount”). The Borrower may elect to use clause (D) of the Available
Incremental Amount regardless of whether the Borrower has capacity under clauses (A), (B) or (C) of the Available Incremental Amount. Further, the
Borrower may elect to use clause (D) of the Available Incremental Amount prior to using clauses (A), (B) or (C) of the Available Incremental Amount,
and if both clause (D) and clauses (A), (B) or (C) of the Available Incremental Amount are available and the Borrower does not make an election, then
the Borrower will be deemed to have elected to use clause (D) of the Available Incremental Amount. In addition, any Indebtedness originally designated
as incurred pursuant to clauses (A), (B) or (C) of the Available Incremental Amount shall be automatically reclassified as incurred under clause (D) of
the Available Incremental Amount at such time as the Borrower would meet the applicable leverage or coverage-based incurrence test at such time on a
pro forma basis.

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(5) **Required Terms.** The terms, provisions and documentation of the Incremental Term Loans and Incremental Term Commitments or the Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be, of any Class and any Loan Increase shall be as agreed between the Borrower and the applicable Incremental Lenders providing such Incremental Commitments, and except as otherwise set forth herein, to the extent not identical to the Term B Loans or, Closing Date Revolving Facility or 2020 Extended Revolving Facility, as applicable, existing on the Incremental Facility Closing Date, shall either, at the option of the Borrower, (A) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Indebtedness (as determined by the Borrower in good faith), (B) be not materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of the Term B Loans or, Closing Date Revolving Facility or 2020 Extended Revolving Facility, as applicable, except with respect to (x) covenants and other terms applicable to any period after the Latest Maturity Date in effect immediately prior to the incurrence of the Incremental Term Loans and Incremental Term Commitments or the Incremental Revolving Loans and Incremental Revolving Commitments, as the case may be, or (y) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary herein, if any such terms of any Incremental Revolving Loans and Incremental Revolving Commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility or (C) if neither clause (A) or (B) are satisfied, such terms, provisions and documentation shall be reasonably satisfactory to the Administrative Agent (it being understood that, at Borrower’s election, to the extent any term or provision is added for the benefit of (x) the Lenders of Incremental Term Loans, no consent shall be required from the Administrative Agent to the extent that such term or provision is also added (or the features of such term are provided) for the benefit of the Lenders of the Term B Loans or (y) the Lenders under Incremental Revolving Commitments, no consent shall be required from the Administrative Agent to the extent that such term or provision is also added (or the features of such term are provided) for the benefit of the Lenders of the Closing Date Revolving Facility); provided, further, that in the case of a Term Loan Increase or a Revolving Commitment Increase, the terms, provisions and documentation of such Term Loan Increase or a Revolving Commitment Increase shall be identical (other than with respect to upfront fees, OID or similar fees, it being understood that, if required to consummate such Loan Increase transaction, the interest rate margins and rate floors may be increased, any call protection provision may be made more favorable to the applicable existing Lenders and additional upfront or similar fees may be payable to the lenders providing the Loan Increase) to the applicable Term Loans or Revolving Commitments being increased, in each case, as existing on the Incremental Facility Closing Date (provided that if such Incremental Term Loans are to be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable, notwithstanding any other conditions specified in this Section 2.14(5), the amortization schedule for such “fungible” Incremental Term Loan may provide for amortization in such other percentage(s) to be agreed by Borrower and the Administrative Agent to ensure that the Incremental Term Loans will be “fungible” with the Term B USD Loans or Term B Euro Loans, as applicable). In any event:

(a) the Incremental Term Loans:

   (i) (x) shall rank equal in priority in right of payment with the First Lien Obligations under this Agreement and (y) shall either (1) rank equal (but without regard to the control of remedies) or junior in priority of right of security with the First Lien Obligations under this Agreement (subject to the applicable Intercreditor Agreement) or (2) be unsecured, in each case as applicable pursuant to clause (4)(c) above,

   (ii) shall not mature earlier than the Original Term Loan Maturity Date,
(iii) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Term B Loans on the date of incurrence of such Incremental Term Loans,

(iv) subject to clause (5)(a)(iii) above and clause (5)(c) below, respectively, shall have amortization and an Applicable Rate determined by the Borrower and the applicable Incremental Term Lenders,

(v) may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement, such Incremental Term Loans may not participate on a greater than a pro rata basis as compared to any earlier maturing Class of Term Loans constituting First Lien Obligations in any mandatory prepayments under Section 2.05(2)(a), (b) and (d)(i)), as specified in the applicable Incremental Amendment,

(vi) shall be denominated in Dollars, Euros or, subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned), another currency as determined by the Borrower and the applicable Incremental Term Lenders, and

(vii) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

(b) the Incremental Revolving Commitments and Incremental Revolving Loans:

(i) (x) shall rank equal in priority in right of payment with the First Lien Obligations under this Agreement and (y) shall either (1) rank equal (but without regard to the control of remedies) or junior in priority of right of security with the First Lien Obligations under this Agreement or (2) be unsecured, in each case as applicable pursuant to clause (4)(c) above,

(ii) shall not mature earlier than the Original Revolving Facility Maturity Date, and shall not be subject to amortization,

(iii) shall provide that the borrowing and repayment (except for (1) payments of interest and fees at different rates on Incremental Revolving Commitments (and related outstanding Incremental Revolving Loans), (2) repayments required upon the Maturity Date of any Revolving Commitments, (3) repayments made in connection with any refinancing of Revolving Commitments and (4) repayment made in connection with a permanent repayment and termination of Commitments) of Revolving Loans with respect to Incremental Revolving Commitments after the associated Incremental Facility Closing Date shall be made on a pro rata basis with all other outstanding Revolving Commitments existing on such Incremental Facility Closing Date,

(iv) subject to the provisions of Section 2.03(13) in connection with Letters of Credit which mature or expire after a Maturity Date at any time Incremental Revolving Commitments with a later Maturity Date are outstanding, shall provide that all Letters of Credit shall be participated on a pro rata basis by each Lender with a Revolving Commitment in accordance with its percentage of the Revolving Commitments existing on the Incremental Facility Closing Date (and except as provided in Section 2.03(13), without giving effect to changes thereto on an earlier Maturity Date with respect to Letters of Credit theretofore incurred or issued),
(v) shall provide that the permanent repayment of Revolving Loans with respect to, and termination of, Incremental Revolving Commitments after the associated Incremental Facility Closing Date may be made on a pro rata basis or less than a pro rata basis or greater than a pro rata basis, in each case, with all other Revolving Commitments existing on such Incremental Facility Closing Date,

(vi) shall provide that assignments and participations of Incremental Revolving Commitments and Incremental Revolving Loans shall be governed by the same assignment and participation provisions applicable to Revolving Commitments and Revolving Loans existing on the Incremental Facility Closing Date,

(vii) shall provide that any Incremental Revolving Commitments may constitute a separate Class or Classes, as the case may be, of Commitments from the Classes constituting the applicable Revolving Commitments prior to the Incremental Facility Closing Date; provided at no time shall there be Revolving Commitments hereunder (including Incremental Revolving Commitments and any original Revolving Commitments) which have more than four (4) different Maturity Dates unless otherwise agreed to by the Administrative Agent,

(viii) shall have an Applicable Rate determined by the Borrower and the applicable Incremental Revolving Lenders,

(ix) shall be denominated in Dollars or, subject to the consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned), another currency as determined by the Borrower and the applicable Incremental Revolving Lenders and

(x) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors.

(c) the amortization schedule applicable to any Incremental Term Loans and the All-In Yield applicable to the Incremental Term Loans of each Class shall be determined by the Borrower and the applicable Incremental Term Lenders and shall be set forth in each applicable Incremental Amendment; provided, however, that (i) with respect to any syndicated Dollar-denominated Class of Incremental Term Loans that rank equal in priority of right of security with the First Lien Obligations under this Agreement (but without regard to the control of remedies), the All-In Yield applicable to such Incremental Term Loans shall not be greater than the applicable All-In Yield payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to Term B USD Loans, plus 50 basis points per annum unless the Applicable Rate (together with, as provided in the proviso below, the Eurodollar Rate or Base Rate floor) with respect to the Term B USD Loans is increased so as to cause the then applicable All-In Yield under this Agreement on the Term B USD Loans to equal the All-In Yield then applicable to the Incremental Term Loans, minus 50 basis points per annum; provided that any increase in All-In Yield on the Term B USD Loans due to the application of a Eurodollar Rate or Base Rate floor on any Incremental Term Loan shall be effected solely through an increase in (or implementation of, as applicable) the Eurodollar Rate or Base Rate floor applicable to such Term B USD Loans and (ii) with respect to any syndicated Euro-denominated Class of Incremental Term Loans that rank equal in priority of right of security with the First Lien Obligations under this Agreement...
Agreement (but without regard to the control of remedies), the All-In Yield applicable to such Incremental Term Loans shall not be greater than the applicable All-In Yield payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to Term B Euro Loans, plus 50 basis points per annum unless the Applicable Rate (together with, as provided in the proviso below, the EURIBOR Rate floor) with respect to the Term B Euro Loans is increased so as to cause the then applicable All-In Yield under this Agreement on the Term B Euro Loans to equal the All-In Yield then applicable to the Incremental Term Loans, minus 50 basis points per annum; provided that any increase in All-In Yield on the Term B Euro Loans due to the application of a EURIBOR Rate floor on any Incremental Term Loan shall be effected solely through an increase in (or implementation of, as applicable) the EURIBOR Rate floor applicable to such Term B Euro Loans.

(6) Incremental Amendment. Commitments in respect of Incremental Term Loans and Incremental Revolving Commitments shall become Commitments (or in the case of an Incremental Revolving Commitment to be provided by an existing Revolving Lender, an increase in such Lender’s applicable Revolving Commitment), under this Agreement pursuant to an amendment (an “Incremental Amendment”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower, each Incremental Lender providing such Incremental Commitments and the Administrative Agent. The Incremental Amendment may, without the consent of any other Loan Party, Agent or Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.14. In connection with any Incremental Amendment, the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Incremental Loans are provided with the benefit of the applicable Loan Documents. The Borrower will use the proceeds (if any) of the Incremental Loans for any purpose not prohibited by this Agreement. No Lender shall be obligated to provide any Incremental Commitments or Incremental Loans unless it so agrees.

Notwithstanding anything to the contrary in Section 10.01, the Administrative Agent is expressly permitted, without the consent of any Lenders or any Issuing Bank, to amend the Loan Documents (including Section 2.07) to the extent necessary or appropriate in the reasonable discretion of the Administrative Agent to give effect to any Incremental Commitment pursuant to this Section 2.14 (which may be in the form of an amendment and restatement), including to provide to the Lenders of any Class of Loans or Commitments hereunder the benefit of any term or provision that is added under any Incremental Amendment for the benefit of the Lenders of a Class of Incremental Commitments (including to the extent necessary or advisable to allow any Class of Incremental Commitments to be an Incremental Increase).

(7) Reallocation of Revolving Exposure. Upon any Incremental Facility Closing Date on which Incremental Revolving Commitments are effected through an increase in the Revolving Commitments with respect to any existing Revolving Facility pursuant to this Section 2.14, (a) each of the Revolving Lenders under such Facility shall assign to each of the Incremental Revolving Lenders, and each of the Incremental Revolving Lenders shall purchase from each of the Revolving Lenders, at the principal amount thereof, such interests in the Revolving Loans outstanding on such Incremental Facility Closing Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans will be held by existing Revolving Lenders and Incremental Revolving Lenders ratably in accordance with their Revolving Commitments after giving effect to the addition of such Incremental Revolving Commitments to the Revolving Commitments, (b) each Incremental Revolving Commitment shall be deemed for all purposes a Revolving Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Loan and (c) each Incremental Revolving Lender shall become a Lender with respect to the Incremental Revolving Commitments and all matters relating thereto. The Administrative Agent and the Lenders hereby agree that the minimum borrowing and prepayment requirements in Section 2.02 and 2.05(1) of this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.
(8) This Section 2.14 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.14 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).

SECTION 2.15 Refinancing Amendments.

(1) At any time after the Closing Date, the Borrower may obtain, from any Lender or any Additional Lender (it being understood that (i) no Lender shall be required to provide any Other Loan without its consent, (ii) Affiliated Lenders may not provide Other Revolving Commitments and (iii) Other Term Loans provided by Affiliated Lenders shall be subject to the limitations set forth in Section 10.07(h)), Other Loans to refinance all or any portion of the applicable Class or Classes of Loans then outstanding under this Agreement which will be made pursuant to Other Term Loan Commitments, in the case of Other Term Loans, and pursuant to Other Revolving Commitments, in the case of Other Revolving Loans, in each case pursuant to a Refinancing Amendment; provided that such Other Loans and Other Revolving Commitments (i) shall rank equal in priority in right of payment with the other Loans and Commitments hereunder, (ii) shall be unsecured or rank pari passu (without regard to the control of remedies) or junior in right of security with any First Lien Obligations under this Agreement and, if secured on a junior basis, shall be subject to an applicable Intercreditor Agreement(s), (iii) if secured, shall not be secured by any property or assets of the Borrower or any Restricted Subsidiary other than the Collateral, (iv) shall not at any time be guaranteed by any Subsidiary of the Borrower other than Subsidiaries that are Guarantors, (v) (A) shall have interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment terms and premiums as may be agreed by the Borrower and the Lenders thereof and/or (B) may provide for additional fees and/or premiums payable to the Lenders providing such Other Loans in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Refinancing Amendment, (vi) may have optional prepayment terms (including call protection and prepayment terms and premiums) as may be agreed between the Borrower and the Lenders thereof, (vii) will have a final maturity date no earlier than, and, in the case of Other Term Loans, will have a Weighted Average Life to Maturity equal to or greater than, the Term Loans or Revolving Commitments being refinanced and (viii) will have such other terms and conditions (other than as provided in foregoing clauses (ii) through (vii)) that either, at the option of the Borrower, (I) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Other Loans or Other Revolving Commitments (as determined by the Borrower in good faith) or (2) if otherwise not consistent with the terms of such Class of Loans or Commitments being refinanced, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Class of Loans or Commitments being refinanced, except with respect to (x) covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such refinancing or (y) subject to the immediately succeeding proviso, a Previously Absent Financial Maintenance Covenant; provided that, notwithstanding anything to the contrary contained herein, if any such terms of the Other Revolving Commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of each Class of Revolving Commitments.

Any Other Term Loans may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement or unless the Class of Term Loans being refinanced was so entitled to participate on a greater than a pro rata basis in such mandatory prepayments, such Other Term Loans may not participate on a greater than a pro rata basis as compared to any earlier maturing Class of Term Loans constituting First Lien Obligations in any mandatory prepayments under
Section 2.05(2)(a), (b) and (d)(i), as specified in the applicable Refinancing Amendment. All Other Revolving Commitments shall provide that all borrowings under the applicable Revolving Commitments and repayments thereunder shall be made on a pro rata basis (except for (1) payments of interest and fees at different rates on Other Revolving Commitments (and related outstanding Other Revolving Loans), (2) repayments required upon the applicable Maturity Date of the Revolving Commitments, (3) repayments made in connection with any refinancing of Revolving Commitments and (4) repayment made in connection with a permanent repayment and termination of Commitments). In connection with any Refinancing Amendment, the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Other Loans or Other Revolving Commitments are provided with the benefit of the applicable Loan Documents.

(2) Each Class of Other Commitments and Other Loans incurred under this Section 2.15 shall be in an aggregate principal amount that is not less than $5.0 million. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Other Commitments and Other Loans incurred pursuant thereto (including any amendments necessary to treat the Other Loans and/or Other Commitments as Loans and Commitments). Any Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.15.

(3) This Section 2.15 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.15 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).

SECTION 2.16

(1) Extension of Term Loans. The Borrower may at any time and from time to time request that all or a portion of the Term Loans of any Class (each, an “Existing Term Loan Class”) be converted or exchanged to extend the scheduled Maturity Date(s) of any payment of principal with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so extended, “Extended Term Loans”) and to provide for other terms consistent with this Section 2.16. Prior to entering into any Extension Amendment with respect to any Extended Term Loans, the Borrower shall provide written notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Class, with such request offered equally to all such Lenders of such Existing Term Loan Class) (each, a “Term Loan Extension Request”) setting forth the proposed terms of the Extended Term Loans to be established, which terms shall be identical in all material respects to the Term Loans of the Existing Term Loan Class from which they are to be extended except that (i) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments, if any, of all or a portion of any principal amount of such Extended Term Loans may be delayed to later dates than the scheduled amortization, if any, of principal of the Term Loans of such Existing Term Loan Class (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in the Extension Amendment, the Incremental Amendment, the Refinancing Amendment or any other amendment, as the case may be, with respect to the Existing Term Loan Class from which such Extended Term Loans were extended), (ii)(A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and voluntary prepayment terms and premiums with respect to the Extended Term Loans may be different than those for the Term Loans of such Existing Term Loan Class and/or (B) additional fees and/or premiums may be

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payable to the Lenders providing such Extended Term Loans in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, (iii) the Extended Term Loans may have optional prepayment terms (including call protection and prepayment terms and premiums) as may be agreed between the Borrower and the Lenders thereof, (iv) any Extended Term Loans may participate on a pro rata basis, less than a pro rata basis or greater than a pro rata basis in any mandatory prepayments of Term Loans hereunder (except that, unless otherwise permitted under this Agreement, such Extended Term Loans may not participate on a greater than pro rata basis as compared to any earlier maturing Class of Term Loans in any mandatory prepayments under Section 2.05(2)(a), (b) and (d)(i)), in each case as specified in the respective Term Loan Extension Request and (v) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity Date in respect of Term Loans that is in effect immediately prior to the establishment of such Extended Term Loans. No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Class converted into Extended Term Loans pursuant to any Term Loan Extension Request. Any Extended Term Loans extended pursuant to any Term Loan Extension Request shall be designated a series (each, a "Term Loan Extension Series") of Extended Term Loans for all purposes of this Agreement and shall constitute a separate Class of Loans from the Existing Term Loan Class from which they were extended; provided that any Extended Term Loans amended from an Existing Term Loan Class may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Term Loan Extension Series with respect to such Existing Term Loan Class.

(2) Extension of Revolving Commitments. The Borrower may at any time and from time to time request that all or a portion of the Revolving Commitments of any Class (each, an "Existing Revolving Class") be converted or exchanged to extend the scheduled Maturity Date(s) of any payment of principal with respect to all or a portion of any principal amount of such Revolving Commitments (any such Revolving Commitments which have been so extended, "Extended Revolving Commitments") and to provide for other terms consistent with this Section 2.16. Prior to entering into any Extension Amendment with respect to any Extended Revolving Commitments, the Borrower shall provide written notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Revolving Class, with such request offered equally to all such Lenders of such Existing Revolving Class) (each, a "Revolving Extension Request") setting forth the proposed terms of the Extended Revolving Commitments to be established, which terms shall be identical in all material respects to the Revolving Commitments of the Existing Revolving Class from which they are to be extended except that (i) the scheduled final maturity date shall be extended to a later date than the scheduled final maturity date of the Revolving Commitments of such Existing Revolving Class; provided, however, that at no time shall there be Classes of Revolving Commitments hereunder (including Extended Revolving Commitments) which have more than four (4) different Maturity Dates (unless otherwise consented to by the Administrative Agent), (ii)(A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and voluntary prepayment terms and premiums with respect to the Extended Revolving Commitments may be different than those for the Revolving Commitments of such Existing Revolving Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Revolving Commitments in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, (iii) all borrowings under the applicable Revolving Commitments (i.e., the Existing Revolving Class and the Extended Revolving Commitments of the applicable Revolving Extension Series) and repayments thereunder shall be made on a pro rata basis (except for (I) payments of interest and fees at different rates on Extended Revolving Commitments (and related outstanding Extended Revolving Loans), (II) repayments required upon the Maturity Date of the non-extending Revolving Commitments, (III) repayments made in connection with any refinancing of Revolving Commitments and (IV) repayments made in connection with a permanent repayment and termination of Commitments), and (iv) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity
Date in respect of Revolving Commitments that is in effect immediately prior to the establishment of such Extended Revolving Commitments. No Lender shall have any obligation to agree to have any of its Revolving Commitments of any Existing Revolving Class converted into Extended Revolving Commitments pursuant to any Revolving Extension Request. Any Extended Revolving Commitments extended pursuant to any Revolving Extension Request shall be designated a series (each, a “Revolving Extension Series”) of Extended Revolving Commitments for all purposes of this Agreement and shall constitute a separate Class of Revolving Commitments from the Existing Revolving Class from which they were extended; provided that any Extended Revolving Commitments amended from an Existing Revolving Class may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Revolving Extension Series with respect to such Existing Revolving Class.

(3) Extension Request. The Borrower shall provide the applicable Extension Request to the Administrative Agent at least five (5) Business Days (or such shorter period as the Administrative Agent may determine in its sole discretion) prior to the date on which Lenders under the applicable Existing Term Loan Class or Existing Revolving Class, as applicable, are requested to respond. Any Lender holding a Term Loan under an Existing Term Loan Class (each, an “Extending Term Lender”) wishing to have all or a portion of its Term Loans of an Existing Term Loan Class or Existing Term Loan Classes, as applicable, subject to such Extension Request converted or exchanged into Extended Term Loans, and any Extending Term Lender with a Revolving Commitment under an Existing Revolving Class (each, an “Extending Revolving Lender”) wishing to have all or a portion of its Revolving Commitments of an Existing Revolving Class or Existing Revolving Classes, as applicable, subject to such Extension Request converted or exchanged into Extended Revolving Commitments, as applicable, shall notify the Administrative Agent (each, an “Extension Election”) on or prior to the date specified in such Extension Request of the amount of its Term Loans or Revolving Commitments, as applicable, which it has elected to convert or exchange into Extended Term Loans or Extended Revolving Commitments, as applicable. In the event that the aggregate principal amount of Term Loans and/or Revolving Commitments, as applicable, subject to Extension Elections exceeds the amount of Extended Term Loans and/or Extended Revolving Commitments, respectively, requested pursuant to the Extension Request, Term Loans and/or Revolving Commitments, as applicable, subject to Extension Elections shall be converted or exchanged into Extended Term Loans and/or Revolving Commitments, respectively, on a pro rata basis (subject to such rounding requirements as may be established by the Administrative Agent) based on the aggregate principal amount of Term Loans or Revolving Commitments, as applicable, included in each such Extension Election or as may be otherwise agreed to in the applicable Extension Amendment.

(4) Extension Amendment. Extended Term Loans and Extended Revolving Commitments shall be established pursuant to an amendment (each, an “Extension Amendment”) to this Agreement (which, notwithstanding anything to the contrary set forth in Section 10.01, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Term Loans and/or Extended Revolving Commitments established thereby, as the case may be) executed by the Borrower, the Administrative Agent and the Extending Lenders, it being understood that such Extension Amendment shall not require the consent of any Lender other than (A) the Extending Lenders with respect to the Extended Term Loans or Extended Revolving Commitments, as applicable, established thereby and (B) with respect to any extension of the Revolving Commitments that results in an extension of Issuing Bank’s obligations with respect to Letters of Credit, the consent of such Issuing Bank). Each request for an Extension Series of Extended Term Loans or Extended Revolving Commitments proposed to be incurred under this Section 2.16 shall be in an aggregate principal amount that is not less than $5.0 million (it being understood that the actual principal amount thereof provided by the applicable Lenders may be lower than such minimum amount), and the Borrower may condition the effectiveness of any Extension Amendment on an Extension Minimum Condition, which may be waived by the Borrower in its sole discretion. In addition to any terms and changes required or permitted by Sections 2.16(1) and (2), each of the parties hereto agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment.
Amendment, without the consent of any other Lenders, to the extent necessary to (i) in respect of each Extension Amendment in respect of Extended Term Loans, amend the scheduled amortization payments pursuant to Section 2.07 or the applicable Incremental Amendment, Extension Amendment, Refinancing Amendment or other amendment, as the case may be, with respect to the Existing Term Loan Class from which the Extended Term Loans were exchanged to reduce each scheduled repayment amount for the Existing Term Loan Class in the same proportion as the amount of Term Loans of the Existing Term Loan Class is to be reduced pursuant to such Extension Amendment (it being understood that the amount of any repayment amount payable with respect to any individual Term Loan of such Existing Term Loan Class that is not an Extended Term Loan shall not be reduced as a result thereof); (ii) reflect the existence and terms of the Extended Term Loans or Extended Revolving Commitments, as applicable, incurred pursuant thereto; (iii) modify the prepayments set forth in Section 2.05 to reflect the existence of the Extended Term Loans and the application of prepayments with respect thereto and (iv) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.16, and the Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment. In connection with any Extension Amendment, the Borrower shall, if reasonably requested by the Administrative Agent, deliver customary reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Extended Term Loans and/or Extended Revolving Commitments are provided with the benefit of the applicable Loan Documents.

(5) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Term Loan Class and/or Existing Revolving Class is converted or exchanged to extend the related scheduled maturity date(s) in accordance with paragraphs (1) and (2) of this Section 2.16, in the case of the existing Term Loans or Revolving Commitments, as applicable, of each Extending Lender, the aggregate principal amount of such existing Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Term Loans and/or Extended Revolving Commitments, respectively, so converted or exchanged by such Lender on such date, and the Extended Term Loans and/or Extended Revolving Commitments shall be established as a separate Class of Loans, except as otherwise provided under Sections 2.16(1) and (2). Subject to the provisions of Section 2.03(13) in connection with Letters of Credit which mature or expire after a Maturity Date at any time Extended Revolving Commitments with a later Maturity Date are outstanding, all Letters of Credit shall be participated on a pro rata basis by each Lender with a Revolving Commitment in accordance with its percentage of the Revolving Commitments existing on the date of the Extension of such Extended Revolving Commitments (and except as provided in Section 2.03(13), without giving effect to changes thereto on an earlier Maturity Date with respect to Letters of Credit theretofore incurred or issued).

(6) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Term Loans and/or Extended Revolving Commitments of a given Extension Series to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of an Extension Election timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Amendment, then the Administrative Agent, the Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, enter into an amendment to this Agreement and the other Loan Documents (each, a “Corrective Extension Amendment”) within 15 days following the effective date of such Extension Amendment, as the case may be, which Corrective Extension Amendment shall (i) provide for the conversion or exchange of Term Loans under the Existing Term Loan Class, or of Revolving Commitments under the Existing Revolving Class, in either case, in such amount as is required to cause such Lender to hold Extended Term Loans or Extended Revolving Commitments, as applicable, of the applicable Extension Series into which such other Term Loans or Revolving Commitments were initially converted or exchanged, as the case may be, in the amount such Lender would have held had such
administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was
entitled under such Extension Amendment, in the absence of such error, (ii) be subject to the satisfaction of such conditions as the
Administrative Agent, the Borrower and such Extending Term Lender or Extending Revolving Lender, as applicable, may agree, and (iii) effect such
other amendments of the type (with appropriate reference and nomenclature changes) described in the penultimate sentence of Section 2.16(4).

(7) No conversion or exchange of Loans or Commitments pursuant to any Extension Amendment in accordance with this Section 2.16
shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(8) This Section 2.16 shall supersede any provisions in Section 2.12, 2.13 or 10.01 to the contrary. For the avoidance of doubt, any of the
provisions of this Section 2.16 may be amended with the consent of the Required Lenders (or the applicable Required Facility Lenders, if applicable).

SECTION 2.17 Defaulting Lenders.

(1) 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:

(a) Waivers and Amendments. That Defaulting Lender’s right to approve or disapprove of any amendment, waiver or consent with respect to
this Agreement shall be restricted as set forth in Section 10.01.

(b) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the
account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise), 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 that Defaulting Lender
to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the relevant
Issuing Banks hereunder; third, if so determined by the Administrative Agent or requested by the relevant Issuing Banks, to be held as Cash
Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; fourth, as the Borrower may request
(so long as no Default has occurred and is continuing), to the funding of any Loan in respect of which that 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 non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund
Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders or the relevant Issuing Banks as a result of any judgment
of a court of competent jurisdiction obtained by any Lender or the relevant Issuing Banks against that Defaulting Lender as a result of that
Defaulting Lender’s breach of its obligations under this Agreement; seventh, so long as no Default has occurred and is continuing, 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 that
Defaulting Lender as a result of that Defaulting Lender’s breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or
as otherwise directed by a court of competent jurisdiction; provided that if (i) such payment is a payment of the principal amount of any Loans or
L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (ii) such Loans or L/C Borrowings were
made 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 Borrowings 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 Borrowings owed to, that Defaulting Lender. 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 2.17(1)(b) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(c) Certain Fees. That Defaulting Lender (i) shall not be entitled to receive any commitment fee pursuant to Section 2.09(1) 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) and (ii) shall be limited in its right to receive Letter of Credit fees as provided in Section 2.03(9).

(d) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 2.03, the “Applicable Percentage” of each Non-Defaulting Lender’s Revolving Loans and L/C Obligations shall be computed without giving effect to the Commitment of that Defaulting Lender; provided that the aggregate obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit shall not exceed the positive difference, if any, of (1) the Revolving Commitment of that Non-Defaulting Lender minus (2) the aggregate Outstanding Amount of the Revolving Loans of that Non-Defaulting Lender.

(2) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the Issuing Banks agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be 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 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 Revolving Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(1)(d)), whereupon that 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; 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 having been a Defaulting Lender.

SECTION 2.18 Loan Repricing Protection. In the event that, on or prior to the date that is six months after the Third Amendment Effective Date, the Borrower (a) makes any prepayment of any Term B Loans in connection with any Repricing Transaction with respect to such Term B Loans or (b) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each applicable Lender, (i) in the case of clause (a), a prepayment premium of 1.00% of the aggregate principal amount of such Term B Loans being prepaid and (ii) in the case of clause (b), a payment equal to 1.00% of the aggregate principal amount of the applicable Term B Loans outstanding immediately prior to such amendment that are subject to such Repricing Transaction.
Article III

Taxes, Increased Costs Protection and Illegality

SECTION 3.01 Taxes.

(1) Except as required by applicable Law, all payments by or on account of any Loan Party to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes.

(2) If any Loan Party or any other applicable withholding agent is required by applicable Law to make any deduction or withholding on account of any Taxes from any sum paid or payable by or on account of any Loan Party to or for the account of any Lender or Agent under any of the Loan Documents:

(a) the applicable Loan Party or other applicable withholding agent shall make such deduction or withholding and pay to the relevant Governmental Authority any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Loan Party) for such Loan Party’s account or (if that liability is imposed on the Lender or Agent) on behalf of and in the name of the Lender or Agent (as applicable);

(b) if the Tax in question is a Non-Excluded Tax or Other Tax, the sum payable to such Lender or Agent (as applicable) shall be increased by such Loan Party to the extent necessary to ensure that, after the making of any required deduction or withholding for Non-Excluded Taxes or Other Taxes (including any deductions or withholdings for Non-Excluded Taxes or Other Taxes attributable to any payments required to be made under this Section 3.01), such Lender (or, in the case of any payment made to the Administrative Agent for its own account, the Administrative Agent) receives on the due date a net sum equal to what it would have received had no such deduction or withholding been required or made; and

(c) within thirty days after paying any sum from which it is required by Law to make any deduction or withholding, and within thirty days after the due date of payment of any Tax which it is required by clause (a) above to pay (or, in each case, as soon as reasonably practicable thereafter), the Borrower shall deliver to the Administrative Agent evidence reasonably satisfactory to the other affected parties of such deduction or withholding and of the remittance thereof to the relevant Governmental Authority.

(3) Status of Lender. Each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any documentation prescribed by Laws or reasonably requested by the Borrower or the Administrative Agent certifying as to any entitlement of such Lender to an exemption from, or reduction in, withholding Tax with respect to any payments to be made to such Lender under any Loan Document. 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. Each such Lender shall, whenever a lapse in time or change in circumstances renders any such documentation (including any specific documentation required below in this Section 3.01(3)) obsolete, expired or inaccurate in any respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and Administrative Agent of its legal ineligibility to do so.
Without limiting the foregoing:

(a) Each U.S. Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding.

(b) Each Foreign Lender shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) whichever of the following is applicable:

(i) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms) claiming eligibility for the benefits of an income tax treaty to which the United States is a party, and such other documentation as required under the Code,

(ii) two properly completed and duly signed copies of IRS Form W-8ECI (or any successor forms),

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, (A) two properly completed and duly signed certificates substantially in the form of Exhibit H (any such certificate, a “United States Tax Compliance Certificate”) and (B) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms),

(iv) to the extent a Foreign Lender is not the beneficial owner (for example, where such Foreign Lender is a partnership or a participating Lender), IRS Form W-8IMY (or any successor forms) of such Foreign Lender, accompanied by an IRS Form W-8ECI, Form W-8BEN or W-8BEN-E, United States Tax Compliance Certificate, Form W-9, Form W-8IMY and any other required information (or any successor forms) from each beneficial owner that would be required under this Section 3.01(3) if such beneficial owner were a Lender, as applicable (provided that, if a Lender is a partnership (and not a participating Lender) and if one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Foreign Lender on behalf of such beneficial owner(s)), or

(v) two properly completed and duly signed copies of any other documentation prescribed by applicable U.S. federal income tax laws (including the Treasury Regulations) as a basis for claiming a complete exemption from, or a reduction in, U.S. federal withholding tax on any payments to such Lender under the Loan Documents.

(c) If a payment made to a Lender under any Loan Document would be subject to Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 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, to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this paragraph (c), the term “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

For the avoidance of doubt, if a Lender is an entity disregarded from its owner for U.S. federal income tax purposes, references to the foregoing documentation are intended to refer to documentation with respect to such Lender’s owner and, as applicable, such Lender.

Notwithstanding any other provision of this Section 3.01(3), a Lender shall not be required to deliver any documentation that such Lender is not legally eligible to deliver. Each Lender hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender to the Administrative Agent pursuant to this Section 3.01(3).

(4) Without duplication of other amounts payable by the Borrower pursuant to Section 3.01(2), the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(5) The Loan Parties shall, jointly and severally, indemnify a Lender or the Administrative Agent (each a “Tax Indemnitee”), within 10 days after written demand therefor, for the full amount of any Non-Excluded Taxes paid or payable by such Tax Indemnitee on or attributable to any payment under or with respect to any Loan Document, and any Other Taxes payable by such Tax Indemnitee (including Non-Excluded Taxes or Other Taxes imposed on or attributable to amounts payable under this Section 3.01) (other than any interest, penalties and other costs determined by a final and non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Tax Indemnitee), whether or not such Taxes were correctly or legally imposed or asserted by the Governmental Authority; provided that if the Borrower reasonably believes that such Taxes were not correctly or legally imposed or asserted by the Governmental Authority, whether or not such Taxes were correctly or legally imposed or asserted by the Governmental Authority; provided that if the Borrower reasonably believes that such Taxes were not correctly or legally imposed or asserted, such Tax Indemnitee will use reasonable efforts to cooperate with the Borrower to obtain a refund of such Taxes (which shall be repaid to the Borrower in accordance with Section 3.01(6)) so long as such efforts would not, in the sole determination of such Tax Indemnitee (exercised in good faith), result in any additional out-of-pocket costs or expenses not reimbursed by such Loan Party or be otherwise materially disadvantageous to such Tax Indemnitee. A certificate as to the amount of such payment or liability prepared in good faith and delivered by the Tax Indemnitee or by the Administrative Agent on behalf of another Tax Indemnitee, shall be conclusive absent manifest error.

(6) If and to the extent that a Tax Indemnitee, in its sole discretion (exercised in good faith), determines that it has received a refund (whether received in cash or applied as a credit against any other cash Taxes payable) of any Non-Excluded Taxes or Other Taxes in respect of which it has received indemnification payments or additional amounts under this Section 3.01, then such Tax Indemnitee shall pay to the relevant Loan Party the amount of such refund, net of all out-of-pocket expenses of the Tax Indemnitee (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Tax Indemnitee, agrees to repay the amount paid over by the Tax Indemnitee (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Tax Indemnitee to the extent the Tax Indemnitee is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(6), in no event will the Tax
Indemnitee be required to pay any amount to a Loan Party pursuant to this Section 3.01(6) the payment of which would place the Tax Indemnitee in a less favorable net after-Tax position than the Tax Indemnitee would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require a Tax Indemnitee to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Loan Party or any other Person.

(7) On or before the date the Administrative Agent becomes a party to this Agreement, the Administrative Agent shall deliver to the Borrower whichever of the following is applicable: (i) if the Administrative Agent is a “United States person” within the meaning of Section 7701(a)(30) of the Code, two executed original copies of IRS Form W-9 certifying that such Administrative Agent is exempt from U.S. federal backup withholding or (ii) if the Administrative Agent is not a “United States person” within the meaning of Section 7701(a)(30) of the Code, (A) with respect to payments received for its own account, two executed original copies of IRS Form W-8ECI and (ii) with respect to payments received on account of any Lender, two executed original copies of IRS Form W-8IMY (together with all required accompanying documentation) certifying that the Administrative Agent is a U.S. branch and may be treated as a United States person for purposes of applicable U.S. federal withholding Tax. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. Notwithstanding anything to the contrary in this Section 3.01(7), the Administrative Agent shall not be required to provide any documentation that the Administrative Agent is not legally eligible to deliver as a result of a Change in Law after the Closing Date.

(8) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(9) For the avoidance of doubt, for purposes of this Section 3.01, the term “Lender” includes any Issuing Bank.

SECTION 3.02 Illegality.

(1) If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, (1) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended, and (2) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans to Eurodollar Rate Loans shall be suspended, and (2) 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 Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be reasonably determined by the Administrative Agent without reference to the Eurodollar Rate 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, (a) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate 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 Eurodollar Rate component of the Base Rate), either on the
last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (b) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

(2) If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the EURIBOR Rate, or to determine or charge interest rates based upon the EURIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Euros in the European interbank market, then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, (1) any obligation of such Lender to make or continue EURIBOR Rate Loans or to convert Base Rate Loans to EURIBOR Rate Loans shall be suspended 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, the Borrower may revoke any pending request for a Borrowing of or continuation of EURIBOR Rate Loans and, unless the Administrative Agent (acting on instructions of the Required Lenders) and the Borrower otherwise agree to a substitute rate (it being understood that the Administrative Agent, Required Lenders and Borrower shall negotiate in good faith to amend the definition of “EURIBOR Rate” and other applicable provisions to preserve the original intent thereof in light of such change) such EURIBOR Rate Loans shall bear interest at such rate as the Administrative Agent (acting on instructions of the Required Lenders) shall determine adequately and fairly reflects the cost to the Euro Term Lenders of making or maintaining such EURIBOR Rate Loans for the applicable Interest Period plus the applicable percentage set forth in the definition of Applicable Rate with respect to such EURIBOR Rate Loans.

SECTION 3.03 Inability to Determine Rates.

(1) If the Administrative Agent (in the case of clause (1) or (2) below) or the Required Lenders (in the case of clause (3) below) reasonably determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that

(a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan,

(b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan, or

(c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate 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, (i) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be
suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, 
the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans 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.

(2) If the Administrative Agent (in the case of clause (1) or (2) below) or the Required Lenders (in the case of clause (3) below) reasonably 
determine that for any reason in connection with any request for a EURIBOR Rate Loan or continuation thereof that

(a) Euro deposits are not being offered to banks in the European interbank market for the applicable amount and Interest Period of such 
EURIBOR Rate Loan,

(b) adequate and reasonable means do not exist for determining the EURIBOR Rate for any requested Interest Period with respect to a 
proposed EURIBOR Rate Loan, or

(c) the EURIBOR Rate for any requested Interest Period with respect to a proposed EURIBOR Rate 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 Euro Term Lender. Thereafter, the obligation of the Lenders to make or 
maintain EURIBOR Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice 
and, unless the Administrative Agent (acting on instructions of the Required Lenders) and the Borrower otherwise agree to a substitute rate (it being 
understood that the Administrative Agent, Required Lenders and Borrower shall negotiate in good faith to amend the definition of “EURIBOR Rate” 
and other applicable provisions to preserve the original intent thereof in light of such change) such EURIBOR Rate Loans shall bear interest at such rate 
as the Administrative Agent (acting on instructions of the Required Lenders) shall determine adequately and fairly reflects the cost to the Euro Term 
Lenders of making or maintaining such EURIBOR Rate Loans for the applicable Interest Period plus the applicable percentage set forth in the definition 
of Applicable Rate with respect to such EURIBOR Rate Loans. Upon receipt of such notice, the Borrower may revoke any pending request for a 
Borrowing of or continuation of EURIBOR Rate Loans.

SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans and EURIBOR Rate Loans.

(1) Increased Costs Generally. If any Change in Law shall:

(a) 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;

(b) subject any Lender to any Tax of any kind whatsoever with respect to this Agreement or any Eurodollar Rate Loan or EURIBOR Rate 
Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes or Other Taxes 
covered by Section 3.01 and any Excluded Taxes); or

(c) impose on any Lender or the London interbank market or European interbank market any other condition, cost or expense affecting this 
Agreement or Eurodollar Rate Loans or EURIBOR Rate Loans made by such Lender that is not otherwise accounted for in the definition of 
“Eurodollar Rate”, “EURIBOR Rate” or this clause (1);

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and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate or EURIBOR Rate (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, from time to time within fifteen (15) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered; provided that such amounts shall only be payable by the Borrower to the applicable Lender under this Section 3.04(1) so long as it is such Lender’s general policy or practice to demand compensation in similar circumstances under comparable provisions of other financing agreements.

(2) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender’s holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender’s capital or on the capital of such Lender’s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by it, or participations in or issuance of Letters of Credit by such Lender, to a level below that which such Lender or such Lender’s holding company, as the case may be, could have achieved but for such Change in Law (taking into consideration such Lender’s policies and the policies of such Lender’s holding company with respect to capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender additional amount or amounts as will compensate such Lender or such Lender’s holding company for any such reduction suffered; provided that such amounts shall only be payable by the Borrower to the applicable Lender under this Section 3.04(2) so long as it is such Lender’s general policy or practice to demand compensation in similar circumstances under comparable provisions of other financing agreements.

(3) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (1) or (2) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within fifteen (15) days after receipt thereof.

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of:

(1) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan or EURIBOR Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(2) 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 Eurodollar Rate Loan or EURIBOR Rate Loan on the date or in the amount notified by the Borrower; or
(3) any assignment of a Eurodollar Rate Loan or EURIBOR Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07; including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Eurodollar Rate Loan or EURIBOR Rate Loan or from fees payable to terminate the deposits from which such funds were obtained.

Notwithstanding the foregoing, no Lender may make any demand under this Section 3.05 with respect to the “floor” specified (x) in the proviso to the definition of “Eurodollar Rate” or (y) in the proviso to the definition of “EURIBOR Rate”.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(1) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall 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 good faith judgment of such Lender such designation or assignment (a) 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 (b) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(2) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurodollar Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurodollar Rate Loans until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(3) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(3) Conversion of Eurodollar Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender’s Eurodollar Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Rate Loans made by other Lenders, as applicable, are outstanding, such Lender’s Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Rate Loans to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurodollar Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

(4) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of Sections 3.01 or 3.04 shall not constitute a waiver of such Lender’s right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of Section 3.01 or 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the event giving rise to such claim and of such Lender’s intention to claim compensation therefor (except that, if the circumstance giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).
SECTION 3.07 Replacement of Lenders under Certain Circumstances. If (1) any Lender requests compensation under Section 3.04 or ceases to make Eurodollar Rate Loans or EURIBOR Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (2) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 or 3.04, (3) any Lender is a Non-Consenting Lender, (4) any Lender becomes a Defaulting Lender or (5) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent,

(a) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.07), all of its interests, rights and obligations under this Agreement (or, with respect to clause (3) above, all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver, or amendment, as applicable) and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.07(b)(iv);

(ii) such Lender shall have received payment of an amount equal to the applicable outstanding principal of its Loans, 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 and, in the case of a Repricing Transaction, any “prepayment premium” pursuant to Section 2.18 that would otherwise be owed in connection therewith) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to all, or a portion, as applicable, of such Lender’s Commitment and outstanding Loans and participations in L/C Obligations and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); provided that the failure of any such Lender to execute an Assignment and Assumption or deliver such Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such failure;

(iv) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification and confidentiality provisions under this Agreement, which shall survive as to such assigning Lender;

(v) 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;
(vi) such assignment does not conflict with applicable Laws;

(vii) any Lender that acts as an Issuing Bank may not be replaced hereunder at any time when it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such Issuing Bank or the depositing of Cash Collateral into a Cash Collateral Account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit; and

(viii) the Lender that acts as Administrative Agent cannot be replaced in its capacity as Administrative Agent other than in accordance with Section 9.11, or

(b) terminate the Commitment of such Lender or Issuing Bank, as the case may be, and (A) in the case of a Lender (other than an Issuing Bank), repay all Obligations of the Borrower owing to such Lender relating to the Loans and participations held by such Lender as of such termination date (including in the case of a Repricing Transaction, any “prepayment premium” pursuant to Section 2.18 that would otherwise be owed in connection therewith) and (B) in the case of an Issuing Bank, repay all Obligations of the Borrower owing to such Issuing Bank relating to the Loans and participations held by such Issuing Bank as of such termination date and Cash Collateralize, cancel or backstop, or provide for the deemed reissuance under another facility, on terms satisfactory to such Issuing Bank any Letters of Credit issued by it; provided that in the case of any such termination of the Commitment of a Non-Consenting Lender such termination shall be sufficient (together with all other consenting Lenders) to cause the adoption of the applicable consent, waiver or amendment of the Loan Documents and such termination shall, with respect to clause (3) above, be in respect of all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver and amendment.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans/Commitments and (iii) the Required Lenders or Required Facility Lenders, as applicable, have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “Non-Consenting Lender.”

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.

SECTION 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent.
Article IV

Conditions Precedent to Credit Extensions

SECTION 4.01 Conditions to Credit Extensions on Closing Date. The obligation of each Lender to make a Credit Extension hereunder on the Closing Date is subject to satisfaction (or waiver) of the following conditions precedent, except as otherwise agreed between the Borrower and the Administrative Agent:

(1) The Administrative Agent’s receipt of the following, each of which shall be originals, facsimiles or copies in .pdf format (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party (other than in the case clause (1)(e) below):

   (a) a Committed Loan Notice;

   (b) executed counterparts of this Agreement and the Guaranty;

   (c) each Collateral Document set forth on Schedule 4.01(1)(c) required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party that is party thereto, together with (subject to Section 6.13(2)):

      (i) certificates, if any, representing the Pledged Collateral that is certificated equity of the Borrower and the Loan Parties’ Material Domestic Subsidiaries accompanied by undated stock powers executed in blank; and

      (ii) evidence that all UCC-1 financing statements in the appropriate jurisdiction or jurisdictions for each Loan Party that the Administrative Agent and the Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been provided for, and arrangements for the filing thereof in a manner reasonably satisfactory to the Administrative Agent shall have been made;

   (d) certificates of good standing from the secretary of state of the state of organization of each Loan Party (to the extent such concept exists in such jurisdiction), customary certificates of resolutions or other action, incumbency certificates or other certificates of Responsible Officers of each Loan Party certifying true and complete copies of the Organizational Documents attached thereto and 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 or is to be a party on the Closing Date;

   (e) a customary legal opinion from Ropes & Gray LLP, counsel to the Loan Parties;

   (f) a certificate of a Responsible Officer certifying that the conditions set forth in Section 4.02 has been satisfied; and

   (g) a solvency certificate from a Financial Officer of the Borrower (after giving effect to the Transactions) substantially in the form attached hereto as Exhibit I;

(2) The First Lien/Second Lien Intercreditor Agreement shall have been duly executed and delivered by the Loan Parties thereto and the Second Lien Administrative Agent.

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(3) The Arrangers shall have received (i) the Annual Financial Statements and (ii) the Quarterly Financial Statements. The Arrangers shall have received the Pro Forma Financial Statements.

(4) The representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the Closing Date; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(5) No Default shall exist, or would result from such proposed Credit Extension on the Closing Date or from the application of the proceeds therefrom.

(6) The Administrative Agent or the relevant Issuing Bank (as applicable) shall have received a Request for Credit Extension in accordance with the requirements hereof.

(7) The Administrative Agent shall have received at least two (2) Business Days prior to the Closing Date all documentation and other information in respect of the Borrower and the Guarantors required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, that has been reasonably requested in writing by it at least ten (10) Business Days prior to the Closing Date.

(8) All fees and expenses (in the case of expenses, to the extent invoiced at least three (3) Business Days prior to the Closing Date (except as otherwise reasonably agreed by the Borrower)) required to be paid hereunder on the Closing Date shall have been paid, or shall be paid substantially concurrently with the initial Borrowing on the Closing Date.

(9) Substantially concurrently with the initial Borrowing(s) on the Closing Date, the Transactions shall have been consummated from the proceeds of the Facilities.

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.

SECTION 4.02 Conditions to Credit Extensions after the Closing Date. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or a Borrowing pursuant to any Incremental Amendment) after the Closing Date is subject to the following conditions precedent:

(1) The representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Extension; provided that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that, any representation and warranty that is qualified as to “materiality,”
"Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(i) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

(2) The Administrative Agent or the relevant Issuing Bank (as applicable) shall have received a Request for Credit Extension in accordance with the requirements hereof.

(3) Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, a continuation of Eurodollar Rate Loans or EURIBOR Rate Loans or a Borrowing pursuant to an Incremental Amendment) submitted by the Borrower after the Closing Date shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(1) and 4.02(2) have been satisfied on and as of the date of the applicable Credit Extension.

In addition, solely to the extent the Borrower has delivered to the Administrative Agent a Notice of Intent to Cure pursuant to Section 8.04, no request for a Credit Extension shall be honored after delivery of such notice until the applicable Cure Amount specified in such notice is actually received by the Borrower. For the avoidance of doubt, the preceding sentence shall have no effect on the continuation or conversion of any Loans outstanding.

Article V

Representations and Warranties

The Borrower and, in respect of Sections 5.01, 5.02, 5.04, 5.06, 5.13 and 5.17 only, Holdings, represent and warrant to the Administrative Agent and the Lenders, after giving effect to the Transactions, at the time of each Credit Extension (solely to the extent required to be true and correct for such Credit Extension pursuant to Section 2.14):

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its respective Restricted Subsidiaries that is a Material Subsidiary:

(1) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concept exists in such jurisdiction),

(2) has all corporate or other organizational power and authority to (a) own or lease its assets and carry on its business as currently conducted and (b) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party,

(3) is duly qualified and in good standing (to the extent such concept exists) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business as currently conducted requires such qualification,

(ii) is in compliance with all applicable Laws, orders, writs, injunctions and orders (including the United States Foreign Corrupt Practices Act of 1977 (the "FCPA"); and

(4) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;
except in each case referred to in the preceding clauses (2)(a), (3), (4) or (5), to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention. 

(1) The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate or other organizational action.

(2) None of the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party will:

(a) contravene the terms of any of such Person’s Organizational Documents;

(b) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Person or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under (i) any Contractual Obligation to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject; or

(c) violate any applicable Law;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in the preceding clauses (b) and (c), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority 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, except for:

(1) filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties,

(2) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement), and

(3) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto or thereto, as applicable. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each such Loan Party in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws, by general principles of equity and principles of good faith and fair dealing.
**SECTION 5.05 Financial Statements; No Material Adverse Effect.**

(1) (a) The Annual Financial Statements and the Quarterly Financial Statements fairly present in all material respects the financial condition of (x) in the case of the Annual Financial Statements, the McAfee Business and (y) in the case of the Quarterly Financial Statements, the Borrower and its Subsidiaries, in each case, as of the date(s) thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, (i) except as otherwise expressly noted therein and (ii) subject, in the case of the Quarterly Financial Statements, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) The unaudited pro forma consolidated statement of operations of the Borrower for the 12-month period ending on July 1, 2017 (which may be prepared on a combined or other pro forma basis in the good faith judgment of the Borrower with respect to predecessor and successor periods relative to the Original Transactions), prepared after giving effect to the Transactions as if the Transactions had occurred at the beginning of such period (collectively, the “Pro Forma Financial Statements”), copies of which have heretofore been furnished to the Administrative Agent, have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated results of operations of the Borrower and its Subsidiaries for the period covered thereby.

(2) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(3) The forecasts of consolidated statements of operations of the Borrower and its Subsidiaries for each fiscal year ending after the Closing Date until the fifth anniversary of the Closing Date, copies of which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that:

(a) no forecasts are to be viewed as facts,

(b) all forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Investors,

(c) no assurance can be given that any particular forecasts will be realized and

(d) actual results may differ and such differences may be material.

**SECTION 5.06 Litigation.** There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against Holdings, the Borrower or any of the Restricted Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

**SECTION 5.07 Labor Matters.** Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (1) there are no strikes or other labor disputes against the Borrower or the Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened in writing and (2) hours worked by and payment made based on hours worked to employees of each of the Borrower or the Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

**SECTION 5.08 Ownership of Property; Liens.** Each Loan Party and each of its respective Restricted Subsidiaries has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
SECTION 5.09 Environmental Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) each Loan Party and each of its Restricted Subsidiaries and their respective operations and properties is in compliance with all applicable Environmental Laws; (b) each Loan Party and each of its Restricted Subsidiaries has obtained and maintained all Environmental Permits required to conduct their operations; (c) none of the Loan Parties or any of their respective Restricted Subsidiaries is subject to any pending or, to the knowledge of the Borrower, threatened Environmental Claim in writing or Environmental Liability; (d) none of the Loan Parties or any of their respective Restricted Subsidiaries or predecessors has treated, stored, transported or Released Hazardous Materials at or from any currently or formerly owned, leased or operated real estate or facility except for such actions that were in compliance with Environmental Law; and (e) to the knowledge of any Loan Party or any Restricted Subsidiary, there are no occurrences, facts, circumstances or conditions which could reasonably be expected to give rise to an Environmental Claim.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Loan Party and each of its Restricted Subsidiaries has timely filed all Tax returns and reports required to be filed, and have timely paid all Taxes (including satisfying its withholding tax obligations) levied or imposed on their properties, income or assets (whether or not shown in a Tax return), except those which are being contested in good faith by appropriate actions diligently taken and for which adequate reserves have been provided in accordance with GAAP.

There is no proposed Tax assessment, deficiency or other claim against any Loan Party or any of its Restricted Subsidiaries except (i) those being actively contested by a Loan Party or such Restricted Subsidiary in good faith and by appropriate actions diligently taken and for which adequate reserves have been provided in accordance with GAAP or (ii) those which would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

SECTION 5.11 ERISA Compliance.

(1) Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws.

(2) (a) No ERISA Event has occurred or is reasonably expected to occur; and

(b) none of the Loan Parties or any of their respective ERISA Affiliates has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

except, with respect to each of the foregoing clauses of this Section 5.11(2), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(3) Except where noncompliance or the incurrence of an obligation would not reasonably be expected to result in a Material Adverse Effect, (a) each Foreign Plan has been maintained in compliance with its terms and with the requirements of any and all applicable Laws, and (b) none of Holdings, the Borrower or any Subsidiary has incurred any obligation in connection with the termination of or withdrawal from any Foreign Plan.

SECTION 5.12 Subsidiaries.

(1) As of the Closing Date, after giving effect to the Transactions, all of the outstanding Equity Interests in the Borrower and its Restricted Subsidiaries have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests that constitute Collateral owned by Holdings in the Borrower, and by the Borrower or any Subsidiary Guarantor in any of their respective Subsidiaries are owned free and clear of all Liens of any person except (a) those Liens created under the Collateral Documents or the Second Lien Credit Documents and (b) any nonconsensual Lien that is permitted under Section 7.01.
(2) As of the Closing Date, Schedule 5.12 sets forth:
(a) the name and jurisdiction of organization of each Subsidiary, and
(b) the ownership interests of Holdings in the Borrower and of the Borrower and any Subsidiary of the Borrower in each Subsidiary, including the percentage of such ownership.

SECTION 5.13 Margin Regulations; Investment Company Act.
(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it 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 Board of Governors of the Federal Reserve System of the United States), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.
(b) No Loan Party is required to be registered as an “investment company” under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Subsidiary Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the Transactions, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered and prior to the Closing Date); it being understood that for purposes of this Section 5.14, such written information and written data shall not include any projections, pro forma financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

SECTION 5.15 Intellectual Property; Licenses, etc. The Borrower and the Restricted Subsidiaries have good and marketable title to, or a valid license or right to use, all patents, patent rights, trademarks, servicemarks, trade names, copyrights, technology, software, know-how, database rights and other intellectual property rights (collectively, “IP Rights”) that to the knowledge of the Borrower are reasonably necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Borrower or any Subsidiary of the Borrower as currently conducted does not infringe upon, dilute, misappropriate or violate any IP Rights held by any Person except for such infringements, dilutions, misappropriations or violations, individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against any Loan Party or Subsidiary, that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and the Subsidiaries, on a consolidated basis, are Solvent.
SECTION 5.17 USA PATRIOT Act; Anti-Terrorism Laws. To the extent applicable, each of the Borrower and the Restricted Subsidiaries are in compliance, in all material respects, with (i) the USA PATRIOT Act, and (ii) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other applicable enabling legislation or executive order relating thereto. Neither Holdings, the Borrower nor any Restricted Subsidiary nor, to the knowledge of the Borrower, any director, officer or employee of Holdings, the Borrower or any of the Restricted Subsidiaries, is currently the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”) (“Sanctions”). No proceeds of the Loans will be used by Holdings, the Borrower or any Restricted Subsidiary directly or, to the knowledge of the Borrower, indirectly, for the purpose of financing activities of or with any Person, or in any country, that, at the time of such financing, is the subject of any Sanctions administered by OFAC, except to the extent licensed or otherwise approved by OFAC.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents and subject to limitations set forth in the Collateral and Guarantee Requirement, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents (including the delivery to Collateral Agent of any Pledged Collateral required to be delivered pursuant hereto or the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid, perfected and enforceable first priority Lien (subject to Liens permitted by Section 7.01 and to any applicable Intercreditor Agreement) on all right, title and interest of the respective Loan Parties in the Collateral described therein.

Notwithstanding anything herein (including this Section 5.18) or in any other Loan Document to the contrary, no Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign Law, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement, (C) on the Closing Date and until required pursuant to Section 6.13 or 4.01, the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to Section 4.01 or (D) any Excluded Assets.

Article VI

Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall (and, with respect to Sections 6.05(1) and 6.11 only, Holdings shall), and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in Section 6.02) each of the following:

(1) within ninety (90) days after the end of each fiscal year of the Borrower (or, solely for the fiscal years ending on or about December 30, 2017 and December 29, 2018, one hundred and fifty (150) days commencing with the fiscal year ending on or about December 30, 2017, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of operations and cash flows for such fiscal year (in the
case of such financial statements for the fiscal year ending on or about December 30, 2017, for the period from April 3, 2017 to the last day of such fiscal year), together with related notes thereto, setting forth in each case (commencing with the fiscal year ending on or about December 29, 2018) in comparative form the figures for the previous fiscal year (provided that financial statements or financial data for the fiscal year ending on or about December 30, 2017, for comparative purposes relative to the fiscal year ending on or about December 29, 2018, may be presented on a combined or other pro forma basis prepared in good faith by the Borrower), in reasonable detail and all prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion (a) will be prepared in accordance with generally accepted auditing standards and (b) will not be subject to any qualification as to the scope of such audit (but may contain a “going concern” explanatory paragraph or like qualification that is due to (i) the impending maturity of any Indebtedness, (ii) any anticipated inability to satisfy the Financial Covenant or any other financial covenant or (iii) an actual Default of the Financial Covenant or any default with respect to any other financial covenant);

(2) within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (or, solely for the fiscal quarters ending on or about September 30, 2017 and March 31, 2019, seventy-five (75) days after the end of such fiscal quarter and solely for the fiscal quarters ending on or about March 31, 2018, June 30, 2018 and September 29, 2018, sixty (60) days after the end of such fiscal quarter) commencing with the fiscal quarter ended on or about September 30, 2017, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related (a) consolidated statement of operations for such fiscal quarter and for the portion of the fiscal year then ended and (b) consolidated statement of cash flows for the portion of the fiscal year then ended, setting forth commencing with the fiscal quarter ending on or about September 29, 2018 (x) in the case of the preceding clause (a), in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year and (y) in the case of the preceding clause (b), in comparative form the figures for the corresponding portion of the previous fiscal year (provided that for any fiscal quarter ending in fiscal year 2018, comparative figures of prior fiscal periods shall be limited to the corresponding fiscal quarter of fiscal year 2017 (and not for the portion of the fiscal year then ended)), accompanied by an Officer’s Certificate stating that such financial statements fairly present in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject to normal year-end adjustments and the absence of footnotes, together with related notes thereto;

(3) within ninety (90) days after the end of each fiscal year of the Borrower (or, solely for the fiscal year ending on or about December 30, 2017, one hundred and fifty (150) days and solely for the year ending on or about December 29, 2018, one hundred and twenty (120) days) commencing with the fiscal year ending on or about December 30, 2017, a consolidated budget for the following fiscal year in form customarily prepared with regard to the Borrower and its Restricted Subsidiaries, which budget shall be prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such budget (it being understood that any projections contained therein are not to be viewed as facts, are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties and that no assurance can be given that any particular projections will be realized, that actual results may differ and that such differences may be material); provided that the requirements of this Section 6.01(3) shall not apply at any time following the consummation of the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date;
(4) simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(1) and 6.01(2), the related unaudited (it being understood that such information may be audited at the option of the Borrower) consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements; and

(5) at a time mutually agreed with the Administrative Agent that is promptly after the delivery of the information required pursuant to Sections 6.01(1) and 6.01(2) above, to participate in one conference call for Lenders (if requested by the Administrative Agent) to discuss the financial position and results of operations of the Borrower and its Subsidiaries for the most recently ended period for which financial statements have been delivered, which conference call will only pertain to matters available or distributed to “public side” Lenders; provided that if the Borrower holds a conference call open to the public or holders of any public securities to discuss the financial condition and results of operations of the Borrower and its Subsidiaries for the most recently ended measurement period for which financial statements have been delivered pursuant to Sections 6.01(1) or 6.01(2) above, such conference call will be deemed to satisfy the requirements of this Section 6.01(5).

Notwithstanding the foregoing, the obligations referred to in Sections 6.01(1) and 6.01(2) may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (A) the applicable financial statements of any Parent Company or (B) the Borrower’s or such Parent Company’s Form 10-K or 10-Q, as applicable, filed with the SEC (and the public filing of such report with the SEC shall constitute delivery under this Section 6.01); provided that with respect to each of the preceding clauses (A) and (B), (1) to the extent such information relates to a parent of the Borrower, if and so long as such Parent Company will have Independent Assets or Operations, such information is accompanied by consolidating information (which need not be audited) that explains in reasonable detail the differences between the information relating to such Parent Company and its Independent Assets or Operations, on the one hand, and the information relating to the Borrower and the consolidated Restricted Subsidiaries on a stand-alone basis, on the other hand and (2) to the extent such information is in lieu of information required to be provided under Section 6.01(1) (it being understood that such information may be audited at the option of the Borrower), such materials are accompanied by a report and opinion of an independent registered public accounting firm reasonably acceptable to the Administrative Agent, which report and opinion (a) will be prepared in accordance with generally accepted auditing standards and (b) will not be subject to any qualification as to the scope of such audit (but may contain a “going concern” explanatory paragraph or like qualification that is due to (i) the impending maturity of any Indebtedness, (ii) any anticipated inability to satisfy the Financial Covenant or any other financial covenant or (iii) an actual Default of the Financial Covenant or any default with respect to any other financial covenant).

Any financial statements required to be delivered pursuant to Sections 6.01(1) or 6.01(2) shall not be required to contain all purchase accounting adjustments relating to the Transactions or any other transaction(s) permitted hereunder to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in this Section 6.02):

(1) no later than five (5) days after the delivery of the financial statements referred to in Sections 6.01(1) and (2) (commencing with such delivery for the fiscal year ended on or about December 30, 2017), a duly completed Compliance Certificate signed by a Financial Officer of the Borrower;
(2) promptly after the same are publicly available, copies of all special reports and registration statements which the Borrower or any Restricted Subsidiary files with the SEC or with any Governmental Authority that may be substituted therefor or with any national securities exchange, as the case may be (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02;

(3) promptly after the furnishing thereof, copies of any notices of default to any holder of any class or series of debt securities of any Loan Party having an aggregate outstanding principal amount greater than the Threshold Amount or pursuant to the terms of the Second Lien Credit Agreement so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount (in each case, other than in connection with any board observer rights) and not otherwise required to be furnished to the Administrative Agent pursuant to any other clause of this Section 6.02;

(4) together with the delivery of the Compliance Certificate with respect to the financial statements referred to in Section 6.01(1), (a) a report setting forth the information required by Section 1(a) of the Perfection Certificate (or confirming that there has been no change in such information since the later of the Closing Date or the last report delivered pursuant to this clause (a)) and (b) a list of each Subsidiary of the Borrower that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such list or a confirmation that there is no change in such information since the later of the Closing Date and the last such list; and

(5) promptly, but subject to the limitations set forth in Section 6.10 and Section 10.09, such additional information regarding the business and financial affairs of any Loan Party or any Material Subsidiary that is a Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request in writing from time to time.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02(2) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which the Borrower posts such documents, or provides a link thereto, on the Borrower’s (or any Parent Company’s) website on the Internet at the website address listed on Schedule 10.02 hereto (or as such address may be updated from time to time in accordance with Section 10.02); or (b) on which such documents are posted on the Borrower’s behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (i) upon written request by the Administrative Agent, the Borrower will deliver paper copies of such documents to the Administrative Agent for further distribution by the Administrative Agent to each Lender (subject to the limitations on distribution of any such information to Public Lenders as described in this Section 6.02) until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents or link and, upon the Administrative Agent’s request, provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.
The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders and the Issuing Banks materials or information provided by or on behalf of the Borrower hereunder (collectively, the “Borrower Materials”) by posting the Borrower Materials on Intralinks, SyndTrak, ClearPar or another similar electronic system (the “Platform”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to Holdings, their Subsidiaries or their respective securities that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities (each, a “Public Lender”). The Borrower hereby agrees that (i) at the Administrative Agent’s request, all Borrower Materials that are to be made available to Public Lenders will be clearly and conspicuously marked “PUBLIC” which, at a minimum, means that the word “PUBLIC” will appear prominently on the first page thereof; (ii) by marking Borrower Materials “PUBLIC,” the Borrower will be deemed to have authorized the Administrative Agent, the Lenders and the Issuing Banks to treat such Borrower Materials as containing only Public-Side Information (provided, however, that to the extent such Borrower Materials constitute Information, they will be treated as set forth in Section 10.09); (iii) all Borrower Materials marked “PUBLIC” and, except to the extent the Borrower notifies the Administrative Agent to the contrary, any Borrower Materials provided pursuant to Sections 6.01(1), 6.01(2) or 6.02(1) are permitted to be made available through a portion of the Platform designated as “Public Side Information”; and (iv) the Administrative Agent and the Arrangers shall be entitled to treat Borrower Materials that are not specifically identified as “PUBLIC” as being suitable only for posting on a portion of the Platform not designated as “Public Side Information.” Notwithstanding the foregoing, the Borrower shall be under no obligation to mark the Borrower Materials “PUBLIC.”

Anything to the contrary notwithstanding, nothing in this Agreement will require Holdings, the Borrower or any Subsidiary to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter, or provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by Law or binding agreement or (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product; provided that in the event that the Borrower does not provide information that otherwise would be required to be provided hereunder in reliance on the exclusions in this paragraph relating to violation of any obligation of confidentiality, the Borrower shall use commercially reasonable efforts to provide notice to the Administrative Agent promptly upon obtaining knowledge that such information is being withheld (but solely if providing such notice would not violate such obligation of confidentiality).

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent of:

(1) the occurrence of any Default; and

(2) (a) any dispute, litigation, investigation or proceeding between any Loan Party and any arbitrator or Governmental Authority, (b) the filing or commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any of its Subsidiaries, including pursuant to any applicable Environmental Laws or in respect of IP Rights, the occurrence of any violation by any Loan Party or any of its Subsidiaries of, or liability under, any Environmental Law or Environmental Permit, or (c) the occurrence of any ERISA Event that, in any such case referred to in clauses (a), (b) or (c) of this Section 6.03(2), has resulted or would reasonably be expected to result in a Material Adverse Effect.
Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower (a) that such notice is being delivered pursuant to Section 6.03(1) or (2) (as applicable) and (b) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

SECTION 6.04 Payment of Obligations. Timely pay, discharge or otherwise satisfy, as the same shall become due and payable, all of its obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (1) any such Tax is being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with GAAP or (2) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 6.05 Preservation of Existence, etc.

(1) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization; and (2) take all reasonable action to obtain, preserve, renew and keep in full force and effect its rights, licenses, permits, privileges, franchises, and IP Rights material to the conduct of its business, except in the case of clause (1) or (2) to the extent (other than with respect to the preservation of the existence of the Borrower) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or pursuant to any merger, consolidation, liquidation, dissolution or disposition permitted by Article VII.

SECTION 6.06 Maintenance of Properties. Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted and any repairs and replacements that are the obligation of the owner or landlord of any property leased by the Borrower or any of the Restricted Subsidiaries excepted.

SECTION 6.07 Maintenance of Insurance. Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to the Borrower’s and the Restricted Subsidiaries’ 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 reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons, and will furnish to the Lenders, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried, provided that notwithstanding the foregoing, in no event will the Borrower or any Restricted Subsidiary be required to obtain or maintain insurance that is more restrictive than its normal course of practice. Subject to Section 6.13(2), each such policy of insurance will, as appropriate, (i) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear or (ii) in the case of each casualty insurance policy, contain an additional loss payable clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties, as the additional loss payee thereunder.

SECTION 6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and comply with the USA PATRIOT Act, sanctions administered by OFAC and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.
SECTION 6.09 Books and Records. Maintain proper books of record and account, in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that certain Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent 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 (subject to such accountants’ customary policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year absent the existence of an Event of Default and only one (1) such time shall be at the Borrower’s expense; provided further that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent shall give the Borrower the opportunity to participate in any discussions with the Borrower’s independent public accountants. For the avoidance of doubt, this Section 6.10 is subject to the last paragraph of Section 6.02.

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower’s expense, subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document, take all action necessary or reasonably requested by the Administrative Agent or the Collateral Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(1) (x) upon (i) the formation or acquisition of any new direct or indirect wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) by any Loan Party, (ii) the designation of any existing direct or indirect wholly owned Material Domestic Subsidiary (other than any Excluded Subsidiary) as a Restricted Subsidiary, (iii) any Subsidiary (other than any Excluded Subsidiary) becoming a wholly owned Material Domestic Subsidiary or (iv) an Excluded Subsidiary that is a wholly owned Material Domestic Subsidiary ceasing to be an Excluded Subsidiary but continuing as a wholly owned Material Domestic Subsidiary of the Borrower, (y) upon the acquisition of any material assets by the Borrower or any Subsidiary Guarantor or (z) with respect to any Subsidiary at the time it becomes a Loan Party, for any material assets held by such Subsidiary (in each case, other than assets constituting Collateral under a Collateral Document that becomes subject to the Lien created by such Collateral Document upon acquisition thereof (without limitation of the obligations to perfect such Lien) but excluding Excluded Assets):

(a) within the days specified below after such formation, acquisition or designation or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor under the Collateral and Guarantee Requirement to execute the Guaranty (or a joinder thereto) and other documentation the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Guaranty and the Collateral Documents and
(A) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after such formation, acquisition or designation, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent items listed in Section 6.11(2)(b), *mutatis mutandis*, with respect to any supplements to the Security Agreement, a counterpart signature page to the Intercompany Note, Intellectual Property Security Agreements and other security agreements and documents (if applicable), as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (consistent with the Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date as amended and in effect from time to time), in each case granting and perfecting Liens required by the Collateral and Guarantee Requirement;

(B) within sixty (60) days after such formation, acquisition or designation, cause each such Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and, if applicable, a joinder to the Intercompany Note substantially in the form of Annex I thereto with respect to the intercompany Indebtedness held by such Material Domestic Subsidiary and required to be pledged pursuant to the Collateral Documents;

(C) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 6.11(2)(b)) after such formation, acquisition or designation, take and cause (i) the applicable Material Domestic Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement and (ii) to the extent applicable, each direct or indirect parent of such applicable Material Domestic Subsidiary, in each case, to take customary action(s) (including the filing of Uniform Commercial Code financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected (subject to Liens permitted by Section 7.01) Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(D) within sixty (60) days (or ninety (90) days in the case of documents described in Section 6.11(2)(b)) after the reasonable request therefor by the Administrative Agent, deliver to the Administrative Agent a signed copy of a customary Opinion of Counsel, addressed to the Administrative Agent and the Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(1) as the Administrative Agent may reasonably request;

*provided* that actions relating to Liens on real property are governed by Section 6.11(2) and not this Section 6.11(1).
(2) **Material Real Property.**

(a) **Notice.**

(i) Within ninety (90) days after the formation, acquisition or designation of a Material Domestic Subsidiary that is required to become a Subsidiary Guarantor under the Collateral and Guarantee Requirement, the Borrower will, or will cause such Material Domestic Subsidiary to, furnish to the Collateral Agent a description of any Material Real Property (other than any Excluded Asset(s)) owned by such Material Domestic Subsidiary.

(ii) Within ninety (90) days after the acquisition of any Material Real Property (other than any Excluded Asset(s)) by a Loan Party (other than Holdings), after the Closing Date, the Borrower will, or will cause such Loan Party to, furnish to the Collateral Agent a description of any such Material Real Property.

(b) **Mortgages.** The Borrower will, or will cause the applicable Loan Party to, provide the Collateral Agent with a Mortgage with respect to any Material Real Property that is the subject of a notice delivered pursuant to Section 6.11(2)(a), within ninety (90) days of the acquisition, formation or designation of such Material Domestic Subsidiary or the acquisition of such Material Real Property (or such longer period as the Collateral Agent may agree in its sole discretion), together with:

(i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create, except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 7.01, a valid and subsisting perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(ii) fully paid American Land Title Association Lender's title insurance policies (or marked up title commitments having the effect of policies of title insurance) in form and substance, with endorsements available in the applicable jurisdiction without surveys or survey coverage (it being agreed that zoning reports from a nationally recognized zoning company shall be acceptable in lieu of zoning endorsements to title policies in any jurisdiction where there is a material difference in the cost of zoning reports and zoning endorsements) and in amounts, reasonably acceptable to the Collateral Agent (not to exceed the fair market value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Collateral Agent, insuring the Mortgages to be valid subsisting Liens on the property described therein, subject only to Liens permitted by Section 7.01 or such other Liens reasonably satisfactory to the Collateral Agent that do not have a material adverse impact on the use or value of the Mortgaged Properties, and providing for such other affirmative insurance and such coinsurance and direct access reinsurance as the Collateral Agent may reasonably request and is available in the applicable jurisdiction;

(iii) customary Opinions of Counsel for the applicable Loan Parties in states in which such Material Real Properties are located, with respect to the enforceability and perfection of the Mortgage(s) and any related fixture filings and the due authorization, execution and delivery of the Mortgages, in form and substance reasonably satisfactory to the Collateral Agent;
(iv) a completed “Life of Loan” Federal Emergency Management Agency standard flood hazard determination with respect to each Material Real Property containing improved land addressed to the Collateral Agent and otherwise in compliance with the Flood Insurance Laws; and

(v) as promptly as practicable after the reasonable request therefor by the Collateral Agent, environmental assessment reports and reliance letters (if any) that have been prepared in connection with such acquisition, designation or formation of any Material Domestic Subsidiary or acquisition of any Material Real Property; provided that there shall be no obligation to deliver to the Collateral Agent any environmental assessment report whose disclosure to the Collateral Agent would require the consent of a Person other than the Borrower or one of its Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained.

(3) Notwithstanding anything to the contrary in this Section 6.11, the Collateral Agent may grant one or more extensions of time from any time period set forth herein for the taking of or causing any action, delivering or furnishing any notice, information, documents, insurance or opinions or for the creation and perfection of any Liens in its reasonable discretion and any such extensions may, in the sole discretion of the Collateral Agent, be effective retroactively.

SECTION 6.12 Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (1) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits (including any cleanup, removal or remedial obligations) and (2) obtain and renew all Environmental Permits required to conduct its operations or in connection with its properties.

SECTION 6.13 Further Assurances and Post-Closing Covenant.

(1) Subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document and in each case at the expense of the Borrower, promptly upon reasonable request from time to time by the Administrative Agent or the Collateral Agent or as may be required by applicable Laws (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to satisfy the Collateral and Guarantee Requirement.

(2) As promptly as practicable, and in any event no later than one hundred and twenty (120) days after the Closing Date or such later date as the Administrative Agent reasonably agrees to in writing, including to reasonably accommodate circumstances unforeseen on the Closing Date, (a) deliver the documents or take the actions required pursuant to sub clauses (i) through (v) of Section 6.11(2)(b) hereof with respect to any Material Real Properties listed in Schedule 1.01(2) and (b) deliver the documents or take the actions specified in Schedule 6.13(2), in each case except to the extent otherwise agreed by the Collateral Agent pursuant to its authority as set forth in the definition of the term “Collateral and Guarantee Requirement.”
SECTION 6.14 Use of Proceeds. The proceeds of (a) the Closing Date Term Loans made on the Closing Date, together with the proceeds of the Second Lien Initial Term Loans, any Revolving Loans drawn on the Closing Date (to the extent permitted under this Agreement) and cash on hand, will be used to fund the Transactions, (b) any Revolving Loans will be used for working capital and general corporate purposes and for any other purpose not prohibited by the Loan Documents; provided that the Closing Date Revolving Facility shall not be utilized to finance the Parent Distribution, (c) the Initial Incremental Term Loans will be used solely (i) to finance certain acquisitions and investments, including all or a portion of the purchase price for Skyhigh Networks, Inc., (ii) to pay fees, costs and expenses related to such acquisitions and investments and the transactions contemplated by the First Amendment and any other transaction occurring on the First Amendment Effective Date and (iii) for other general corporate purposes not prohibited by this Agreement, (d) the Term B Loans made on the Second Amendment Effective Date will be used (i) to refinance the Closing Date Term Loans on the Second Amendment Effective Date and (ii) to pay fees, costs and expenses in connection therewith and (e) the 2019 Term B Euro Incremental Loan and 2019 Term B USD Incremental Loan made on the Third Amendment Effective Date will be used (i) to pay the 2019 Dividend and (ii) to pay fees, costs and expenses in connection therewith.

SECTION 6.15 Maintenance of Ratings. Use commercially reasonable efforts to maintain (1) a public corporate credit rating (but not any specific rating) from S&P and a public corporate family rating (but not any specific rating) from Moody’s, in each case in respect of the Borrower, and (2) a public rating (but not any specific rating) in respect of each Term Facility comprising the Term B Loans as of the Third Amendment Effective Date from each of S&P and Moody’s.

Article VII

Negative Covenants

So long as the Termination Conditions are not satisfied:

SECTION 7.01 Liens. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly, create, incur or assume any Lien (except any Permitted Lien(s)) that secures obligations under any Indebtedness or any related guarantee of Indebtedness on any asset or property of the Borrower or any Restricted Subsidiary, or any income or profits therefrom.

The expansion of Liens by virtue of accretion or amortization of original issue discount, the payment of dividends in the form of Indebtedness, and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 7.01.

SECTION 7.02 Indebtedness.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly:

(i) create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness), or

(ii) issue any shares of Disqualified Stock or permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; provided that the Borrower may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, in each case, if (any Indebtedness, Disqualified Stock or Preferred Stock incurred or issued pursuant to following clauses (A), (B) and (C), “Permitted Ratio Debt”):
(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 4.75 to 1.00;

(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 5.75 to 1.00; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than 6.00 to 1.00,

in each case, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such Test Period;

provided further that (I) Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under this Section 7.02(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to this Section 7.02(a), together with any principal amounts incurred or issued by such Restricted Subsidiaries under Section 7.02(b)(14)(a) and Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), in each case then outstanding, would exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (i) $500.0 million and (ii) 65.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), (II) Permitted Ratio Debt in the form of Indebtedness (x) shall not mature earlier than the Original Term Loan Maturity Date and (y) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Term B Loans on the date of incurrence of such Permitted Ratio Debt, (III) if the terms of any such Permitted Ratio Debt in the form of revolving loans or commitments contain a Previously Absent Financial Maintenance Covenant that is in effect prior to the applicable Latest Maturity Date of the Revolving Facility, such Previously Absent Financial Maintenance Covenant shall be included for the benefit of the Revolving Facility and (IV) if any such Indebtedness in clause (A) of the definition of Permitted Ratio Debt consists of syndicated Dollar-denominated or Euro-denominated term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14.
(b) The provisions of Section 7.02(a) will not apply to:

(1) Indebtedness under the Loan Documents (including Incremental Loans, Other Loans, Extended Term Loans, Loans made pursuant to Extended Revolving Commitments and Replacement Loans);

(2) the incurrence by the Borrower and any Guarantor of Indebtedness pursuant to the Second Lien Credit Documents or consisting of “Permitted Incremental Equivalent Debt” (or equivalent term) (as defined in the Second Lien Credit Agreement) or any Refinancing Indebtedness in respect thereof (including any “Credit Agreement Refinancing Indebtedness” (or equivalent term) (as defined in the Second Lien Credit Agreement)) in an aggregate outstanding principal amount not to exceed $600.0 million (plus (x)(i) the amount of any “Incremental Loans” and “Permitted Incremental Equivalent Debt” (or equivalent terms) (each, as defined in the Second Lien Credit Agreement (as in effect on the date hereof)) permitted under Sections 2.14(4)(c) and 7.02 (or equivalent provisions) of the Second Lien Credit Agreement (as in effect on the date hereof) and (ii) any Refinancing Indebtedness in respect thereof and (y) the amount of accrued interest, fees and premiums (including tender premium) and penalties (if any) with respect to any such Indebtedness under this clause (b)(2) refinanced, and fees, expenses, original issue discount and upfront fees incurred in connection with any such refinancing);

(3) the incurrence of Indebtedness by the Borrower and any Restricted Subsidiary in existence on the Closing Date (excluding Indebtedness described in the preceding clauses (1) and (2)); provided that any such item of Indebtedness with an aggregate outstanding principal amount on the Closing Date in excess of $15.0 million shall be set forth on Schedule 7.02;

(4) the incurrence of Attributable Indebtedness and Indebtedness (including Capitalized Lease Obligations and Purchase Money Obligations) and Disqualified Stock incurred or issued by the Borrower or any Restricted Subsidiary and Preferred Stock issued by any Restricted Subsidiary, to finance the purchase, lease, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or other assets, including assets that are used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets in an aggregate principal amount, together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts) and all other Indebtedness, Disqualified Stock or Preferred Stock incurred or issued and outstanding under this clause (4) at such time, not to exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (I) $230.0 million and (II) 30.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis);

(5) Indebtedness incurred by the Borrower or any Restricted Subsidiary (a) constituting reimbursement obligations with respect to letters of credit, bank guarantees, banker’s acceptances, warehouse receipts, or similar instruments issued or entered into, or relating to obligations or liabilities incurred, in the ordinary course of business or consistent with industry practice, including in respect of workers’ compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance, unemployment insurance or other social security legislation or other Indebtedness with respect to reimbursement-type obligations regarding workers’ compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or (b) as an account party in respect of letters of credit, bank guarantees or similar instruments in favor of suppliers, trade creditors or other Persons issued or incurred in the ordinary course of business or consistent with industry practice;
(6) the incurrence of Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnouts, other contingent consideration obligations and other deferred purchase price or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;

(7) the incurrence of Indebtedness by the Borrower and owing to a Restricted Subsidiary or the issuance of Disqualified Stock of the Borrower to a Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to any Restricted Subsidiary); provided that any such Indebtedness for borrowed money owing to a Restricted Subsidiary that is not a Guarantor is expressly subordinated in right of payment to the Loans to the extent permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness or Disqualified Stock (except to the Borrower or another Restricted Subsidiary or any pledge of such Indebtedness or Disqualified Stock constituting a Permitted Lien) will be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) or issuance of such Disqualified Stock (to the extent such Disqualified Stock is then outstanding) not permitted by this clause (7);

(8) the incurrence of Indebtedness of a Restricted Subsidiary to the Borrower or another Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to the Borrower or any Restricted Subsidiary) to the extent permitted by Section 7.05; provided that any such Indebtedness for borrowed money incurred by a Guarantor and owing to a Restricted Subsidiary that is not a Guarantor is expressly subordinated in right of payment to the Guaranty of the Loans of such Guarantor to the extent permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any such subsequent transfer of any such Indebtedness (except to the Borrower or a Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien) will be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause (8);

(9) the issuance of shares of Preferred Stock or Disqualified Stock of a Restricted Subsidiary to the Borrower or a Restricted Subsidiary (or to any Parent Company which is substantially contemporaneously transferred to the Borrower or any Restricted Subsidiary); provided that any subsequent issuance or transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary that holds such Preferred Stock or Disqualified Stock ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock or Disqualified Stock (except to the Borrower or another Restricted Subsidiary or any pledge of such Preferred Stock or Disqualified Stock constituting a Permitted Lien) will be deemed, in each case, to be an issuance of such shares of Preferred Stock or Disqualified Stock (to the extent such Preferred Stock or Disqualified Stock is then outstanding) not permitted by this clause (9);
(10) the incurrence of Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes);

(11) the incurrence of obligations in respect of self-insurance and obligations in respect of performance, bid, appeal and surety bonds and performance, banker’s acceptance facilities and completion guarantees and similar obligations provided by the Borrower or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with industry practice, including those incurred to secure health, safety and environmental obligations;

(12) the incurrence of:

(a) Indebtedness or issuance of Disqualified Stock of the Borrower and the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference up to 200.0% of the net cash proceeds received by the Borrower since the Closing Date from the issue or sale of Equity Interests of the Borrower or contributions to the capital of the Borrower, including through consolidation, amalgamation or merger (in each case, other than proceeds of Disqualified Stock or any exercise of the cure right set forth in Section 8.04 and other than proceeds received from the Borrower or a Restricted Subsidiary) as determined in accordance with clauses (3)(b) and (3)(c) of Section 7.05(a) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments pursuant to Section 7.05(a) or to make Permitted Investments (other than Permitted Investments specified in clause (1), (2) or (3) of the definition thereof); and

(b) Indebtedness or issuance of Disqualified Stock of the Borrower and the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (12)(b), together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) (i) the greater of (I) $200.0 million and (II) 25.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus, without duplication, (ii) in the event of any extension, replacement, refinancing, renewal or defeasance of any such Indebtedness, Disqualified Stock or Preferred Stock, an amount equal to (x) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased plus (y) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Indebtedness, Disqualified Stock or Preferred Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees, underwriting, arrangement and similar fees) incurred in connection with the issuance of such new Indebtedness, Disqualified Stock or Preferred Stock, or the extension, replacement, refunding, refinancing, renewal or defeasance of such Indebtedness, Disqualified Stock or Preferred Stock, minus (iii) any General Debt Basket Reallocated Amount;
(13) the incurrence or issuance by the Borrower of Refinancing Indebtedness or the incurrence or issuance by a Restricted Subsidiary of Refinancing Indebtedness that serves to Refinance any Indebtedness (including any Designated Revolving Commitments) permitted under Section 7.02(a) and clauses (b)(3) and (12)(a) above, this clause (13) and clauses (14) and (30), or any successive Refinancing Indebtedness with respect to any of the foregoing;

(14) (a) the incurrence or issuance of:

(x) Indebtedness or Disqualified Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary, incurred or issued to finance an acquisition or investment (or other purchase of assets), or

(y) Indebtedness, Disqualified Stock or Preferred Stock (I) of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement or (II) that is assumed by the Borrower or any Restricted Subsidiary in connection with such acquisition or investment (or other purchase of assets),

in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), not to exceed (i) the greater of $270.0 million and 35.0% of Consolidated EBITDA plus (ii) an unlimited amount so long as in the case of this clause (ii) only, either:

(A) with respect to Indebtedness secured by the Collateral on a pari passu basis with the First Lien Obligations, the First Lien Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 4.75 to 1.00 and (II) the First Lien Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness;

(B) with respect to Indebtedness secured by the Collateral on a basis that is junior in priority to the First Lien Obligations, the Secured Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 5.75 to 1.00 and (II) the Secured Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness; or

(C) with respect to Indebtedness that is not secured by the Collateral, including all Indebtedness of Restricted Subsidiaries that are not Guarantors, or any Disqualified Stock or Preferred Stock, the Total Net Leverage Ratio for the Test Period preceding the date on which such Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued (without netting any cash received from the incurrence of such Indebtedness proposed to be incurred) would be no greater than the greater of (I) 6.00 to 1.00 and (II) the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of such Indebtedness or the issuance of such Disqualified Stock or Preferred Stock;
provided that (x) with respect to such Indebtedness, Restricted Subsidiaries of the Borrower that are not Guarantors may not incur Indebtedness or issue Disqualified Stock or Preferred Stock under clause (14)(a) if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate principal amount of Indebtedness, liquidation preference of Disqualified Stock and amount of Preferred Stock of such Restricted Subsidiaries incurred or issued pursuant to clause (14)(a), together with any principal amounts incurred, assumed or issued by such Restricted Subsidiaries under Section 7.02(a) and any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), in each case then outstanding, would exceed (as of the date of such indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (i) $500.0 million and (ii) 65.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), (y) such Indebtedness (I) shall not mature earlier than the Original Term Loan Maturity Date and (II) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of the Term B Loans on the date of incurrence of such Indebtedness and (z) if any such Indebtedness under clause (i) or clause (ii)(A) consists of syndicated Dollar-denominated or Euro-denominated term loans secured by a Lien on the Collateral ranking pari passu with the First Lien Obligations under this Agreement, then the Borrower shall comply with the “most favored nation” pricing provisions of Section 2.14(5)(c) (to the extent then applicable) as if such Indebtedness were Incremental Term Loans incurred pursuant to Section 2.14;

(b) so long as not created in contemplation of such acquisition or investment, (i) Indebtedness or Disqualified Stock that is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition or investment (or other purchase of assets) and (ii) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement, in each case in an aggregate principal amount or liquidation preference, together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), not to exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is assigned or acquired) (A) the greater of $115.0 million and 15.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis) plus (B) an unlimited amount of Indebtedness, Disqualified Stock or Preferred Stock so long as, after giving pro forma effect to the assumption or acquisition of such Indebtedness, Disqualified Stock or preferred stock and such acquisition or investment (or other purchase of assets), the Borrower is in compliance with the Financial Covenant (whether or not then in effect) calculated on a pro forma basis as of the last day of the most recently ended Test Period;

15) the incurrence of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or consistent with industry practice;

16) the incurrence of Indebtedness of the Borrower or any Restricted Subsidiary supported by letters of credit or bank guarantees issued in connection herewith, any Credit Agreement Refinancing Indebtedness or Permitted Incremental Equivalent Debt, in each case, in a principal amount not in excess of the stated amount of such letters of credit or bank guarantees;

17) (a) the incurrence of any guarantee by the Borrower or a Restricted Subsidiary of Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations incurred by the Borrower or such Restricted Subsidiary is permitted by this Agreement, or (b) any co-issuance by the Borrower or any Restricted Subsidiary of any Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations by the Borrower or such Restricted Subsidiary is permitted by this Agreement;
the incurrence of Indebtedness issued by the Borrower or any Restricted Subsidiary to future, present or former employees, directors, officers, members of management, consultants and independent contractors thereof, their respective Controlled Investment Affiliates or Immediate Family Members and permitted transferees thereof, in each case to finance the purchase or redemption of Equity Interests of the Borrower or any Parent Company to the extent described in Section 7.05(b)(4);

(19) customer deposits and advance payments received in the ordinary course of business or consistent with industry practice from customers for goods and services purchased in the ordinary course of business or consistent with industry practice;

(20) the incurrence of (a) Indebtedness owed to banks and other financial institutions incurred in the ordinary course of business or consistent with industry practice in connection with ordinary banking arrangements to manage cash balances of the Borrower and its Restricted Subsidiaries and (b) Indebtedness in respect of Cash Management Services, including Cash Management Obligations;

(21) Indebtedness incurred by a Restricted Subsidiary in connection with bankers’ acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business or consistent with industry practice on arm’s-length commercial terms;

(22) the incurrence of Indebtedness of the Borrower or any Restricted Subsidiary consisting of (a) the financing of insurance premiums or (b) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business or consistent with industry practice;

(23) the incurrence of Indebtedness, Disqualified Stock or Preferred Stock by Restricted Subsidiaries of the Borrower that are not Guarantors in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (23), together with any Refinancing Indebtedness in respect of any of the foregoing (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness is issued, incurred or otherwise obtained) the greater of (I) $270.0 million and (II) 35.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis);

(24) the incurrence of Indebtedness by the Borrower or any Restricted Subsidiary undertaken in connection with cash management (including netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and related or similar services or activities) with respect to the Borrower, any Subsidiaries or any joint venture in the ordinary course of business or consistent with industry practice, including with respect to financial accommodations of the type described in the definition of Cash Management Services;

(25) Qualified Securitization Facilities and, to the extent constituting Indebtedness, Receivables Financing Transactions;
(26) guarantees incurred in the ordinary course of business or consistent with industry practice in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners;

(27) the incurrence of Indebtedness attributable to (but not incurred to finance) the exercise of appraisal rights or the settlement of any claims or actions (whether actual, contingent or potential) with respect to the Transactions or any other acquisition (by merger, consolidation or amalgamation or otherwise) in accordance with the terms hereof;

(28) the incurrence of Indebtedness representing deferred compensation to employees of any Parent Company, the Borrower or any Restricted Subsidiary, including Indebtedness consisting of obligations under deferred compensation or any other similar arrangements incurred in connection with the Transactions, any investment or any acquisition (by merger, consolidation or amalgamation or otherwise) permitted under this Agreement;

(29) the incurrence of Indebtedness arising out of any Sale-Leaseback Transaction incurred in the ordinary course of business or consistent with industry practice;

(30) (a) Credit Agreement Refinancing Indebtedness and (b) Permitted Incremental Equivalent Debt;

(31) the incurrence of Indebtedness, Disqualified Stock or Preferred Stock by Restricted Subsidiaries of the Borrower that are not Guarantors to fund working capital requirements in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (31), together with any Refinancing Indebtedness in respect thereof (excluding any Incremental Amounts), does not exceed (as of the date such Indebtedness, Disqualified Stock or Preferred Stock is issued, incurred or otherwise obtained) the greater of (I) $40.0 million and (II) 5.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis); and

(32) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (1) through (31) above.

(c) For purposes of determining compliance with this Section 7.02:

(1) the principal amount of Indebtedness outstanding under any clause of this Section 7.02 will be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness;

(2) guarantees of, or obligations in respect of letters of credit relating to, Indebtedness that are otherwise included in the determination of a particular amount of Indebtedness will not be included in the determination of such amount of Indebtedness; provided that the incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was incurred in compliance with this Section 7.02.

The accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock and increases in the amount of Indebtedness.
outstanding solely as a result of fluctuations in the exchange rate of currencies, in each case, will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 7.02. Any Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, to refinance Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, pursuant to clauses (2), (3), (4), (12), (13), (14), (23), (30) and (31) of Section 7.02(b) will be permitted to include additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay (I) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased and (II) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock (and with respect to Indebtedness under Designated Revolving Commitments, including an amount equal to any unutilized Designated Revolving Commitments being refinanced, extended, replaced, refunded, renewed or defeased to the extent permanently terminated at the time of incurrence of such Refinancing Indebtedness).

For purposes of determining compliance with any Dollar denominated restriction on the incurrence of Indebtedness or issuance of Disqualified Stock or Preferred Stock, the Dollar equivalent principal amount of Indebtedness or liquidation preference of Disqualified Stock or amount of Preferred Stock denominated in a foreign currency will be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness, Disqualified Stock or Preferred Stock was incurred or issued (or, in the case of revolving credit debt, the date such Indebtedness was first committed or first incurred (whichever yields the lower Dollar equivalent)); provided that if such Indebtedness, Disqualified Stock or Preferred Stock is issued to Refinance other Indebtedness, Disqualified Stock or Preferred Stock denominated in a foreign currency, and such refinancing would cause the applicable Dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar denominated restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness, Disqualified Stock or Preferred Stock does not exceed (i) the principal amount of such Indebtedness, the liquidation preference of such Disqualified Stock or the amount of such Preferred Stock (as applicable) being refinanced, extended, replaced, refunded, renewed or defeased plus (ii) any accrued and unpaid interest on the Indebtedness, any accrued and unpaid dividends on the Preferred Stock, and any accrued and unpaid dividends on the Disqualified Stock being so refinanced, extended, replaced, refunded, renewed or defeased, plus (iii) the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such refinanced Indebtedness, Preferred Stock or Disqualified Stock and any defeasance costs and any fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with the issuance of such new Indebtedness, Preferred Stock or Disqualified Stock or the extension, replacement, refunding, refinancing, renewal or defeasance of such refinanced Indebtedness, Preferred Stock or Disqualified Stock (and with respect to Indebtedness under Designated Revolving Commitments, including an amount equal to any unutilized Designated Revolving Commitments being refinanced, extended, replaced, refunded, renewed or defeased to the extent permanently terminated at the time of incurrence of such Refinancing Indebtedness).

The principal amount of any Indebtedness incurred or Disqualified Stock or Preferred Stock issued to refinance other Indebtedness, Disqualified Stock or Preferred Stock, if incurred or issued in a different currency from the Indebtedness, Disqualified Stock or Preferred Stock, as applicable, being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness or Disqualified Stock or Preferred Stock is denominated that is in effect on the date of such refinancing. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date will be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

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SECTION 7.03 Fundamental Changes. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, consolidate, amalgamate or merge with or into or wind up into another Person, or liquidate or dissolve 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 (other than as part of the Transactions), except that:

(1) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); provided that
(a) the Borrower shall be the continuing or surviving Person,
(b) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia and
(c) in the case of a merger or consolidation of Holdings with and into the Borrower,
(i) Holdings shall not be an obligor in respect of any Indebtedness that is not permitted to be Indebtedness of the Borrower under this Agreement,
(ii) Holdings shall have no direct Subsidiaries at the time of such merger or consolidation other than the Borrower,
(iii) no Event of Default exists at such time or after giving effect to such transaction and
(iv) after giving effect to such transaction, a direct parent of the Borrower will (A) expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower and (B) pledge 100% of the Equity Interests of the Borrower held by such direct parent to the Administrative Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Administrative Agent and the Borrower;

(2) (a) any Restricted Subsidiary that is not a Loan Party may merge or consolidate with or into any other Restricted Subsidiary that is not a Loan Party,
(b) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary that is a Loan Party; provided that a Loan Party shall be the continuing or surviving Person;
(c) any merger the sole purpose of which is to reincorporate or reorganize a Loan Party in another jurisdiction in the United States will be permitted; and
(d) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders; provided that in the case of clause (d), the Person who receives the assets of such dissolving or liquidated Restricted Subsidiary that is a Guarantor shall be a Loan Party or such disposition shall otherwise be permitted under Section 7.05 or the definition of “Permitted Investments”;

(3) any Restricted Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Restricted Subsidiary;

(4) so long as no Event of Default has occurred and is continuing or would result therefrom, the Borrower may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person; provided that (a) the Borrower shall be the continuing or surviving corporation or (b) if the Person formed by or surviving any such merger or consolidation is not the Borrower (or, in connection with a disposition of all or substantially all of the Borrower’s assets, is the transferee of such assets) (any such Person, a “Successor Borrower”):

(i) the Successor Borrower will:

(A) be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia;

(B) expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower and

(C) deliver to the Administrative Agent (I) an Officer’s Certificate stating that such merger or consolidation or other transaction and such supplement to this Agreement or any Loan Document (as applicable) comply with this Agreement and (II) an Opinion of Counsel including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent;

(ii) substantially contemporaneously with such transaction (or at a later date as agreed by the Administrative Agent),

(A) each Guarantor, unless it is the other party to such merger or consolidation, will by a supplement to the Guaranty (or in another form reasonably satisfactory to the Administrative Agent and the Borrower) reaffirm its Guaranty of the Obligations (including the Successor Borrower’s obligations under this Agreement),

(B) each Loan Party, unless it is the other party to such merger or consolidation, will, by a supplement to the Security Agreement (or in another form reasonably satisfactory to the Administrative Agent), confirm its grant or pledge thereunder,

(C) if reasonably requested by the Administrative Agent, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, will, by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent and the Borrower), confirm that its obligations thereunder shall apply to the Successor Borrower’s obligations under this Agreement;
(iii) after giving pro forma effect to such incurrence, the Borrower would be permitted to incur at least $1.00 of additional Permitted Ratio Debt; and

(iv) to the extent reasonably requested by the Administrative Agent, the Administrative Agent shall have received at least two (2) Business Days prior to the consummation of such transaction all documentation and other information in respect of the Successor Borrower required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act;

provided further that if the foregoing are satisfied, the Successor Borrower would succeed to, and be substituted for, the Borrower under this Agreement and in the case of the disposition of all or substantially all assets, the original Borrower will be released;

(5) so long as no Event of Default has occurred and is continuing or would result therefrom, Holdings may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person, provided that (a) Holdings will be the continuing or surviving Person or (b) if:

(i) the Person formed by or surviving any such merger or consolidation is not Holdings,

(ii) Holdings is not the Person into which the applicable Person has been liquidated or

(iii) in connection with a disposition of all or substantially all of Holding’s assets, the Person that is the transferee of such assets is not Holdings (any such Person described in the preceding clauses (i) through (iii), a “Successor Holdings”), then the Successor Holdings will:

(A) be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,

(B) expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Borrower,

(C) pledge 100% of the Equity Interests of the Borrower held by such Successor Holding Entity to the Administrative Agent as Collateral to secure the Obligations in accordance with the Security Agreement or otherwise in form and substance reasonably satisfactory to the Administrative Agent and the Borrower,

(D) if requested by the Administrative Agent, deliver, or cause the Borrower to deliver, to the Administrative Agent (I) an Officer’s Certificate stating that such merger or consolidation or other transaction and such supplement to this Agreement or any Collateral Document (as applicable) comply with this Agreement and (II) an Opinion of Counsel including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent; and
(iv) to the extent reasonably requested by the Administrative Agent, the Administrative Agent shall have received at least two (2) Business
Days prior to the consummation of such transaction all documentation and other information in respect of the Successor Holdings required
under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act;

provided further that if the foregoing are satisfied, the Successor Holdings will succeed to, and be substituted for, Holdings under this Agreement
and in the case of the disposition of all or substantially all assets, the original Holdings will be released;

(6) any Restricted Subsidiary may merge or consolidate with (or dispose of all or substantially all of its assets to) any other Person in order
to effect a Permitted Investment or other investment permitted pursuant to Section 7.05;

(7) a merger, dissolution, liquidation, consolidation or disposition, the purpose of which is to effect a disposition permitted pursuant to
Section 7.04 or a disposition that does not constitute any Asset Sale (other than a transaction described in clause (b) of the definition of Asset
Sale);

(8) the Borrower, Holdings and any Restricted Subsidiary may (a) convert into a corporation, partnership, limited partnership, limited
liability company or trust organized or existing under the laws of the jurisdiction of organization of the Borrower or the laws of a jurisdiction in
the United States and (b) change its name; and

(9) the Loan Parties and the Restricted Subsidiaries may consummate the Transactions.

SECTION 7.04 Asset Sales. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, consummate any Asset
Sale unless:

(1) the Borrower or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other
Person assuming responsibility for, any liabilities, contingent or otherwise in connection with such Asset Sale) at least equal to the fair market
value (measured at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed of and

(2) except in the case of a Permitted Asset Swap, with respect to any Asset Sale pursuant to this Section 7.04 for a purchase price in excess
of $50.0 million, at least 75.0% of the consideration for such Asset Sale, together with all other Asset Sales since the Closing Date (on a
cumulative basis), received by the Borrower or a Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; provided
that each of the following will be deemed to be cash or Cash Equivalents for purposes of this clause (2):

(a) any liabilities (as shown on the Borrower’s or any Restricted Subsidiary’s most recent balance sheet or in the footnotes thereto or
if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Borrower’s or a
Restricted Subsidiary’s balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such
balance sheet, as determined in good faith by the Borrower) of the Borrower or any Restricted Subsidiary, other than liabilities that are by
their terms subordinated in right of payment to the Obligations, that are (i) assumed by the transferee of any such assets (or a third party in
connection with such transfer) or (ii) otherwise cancelled or terminated in connection with the transaction with such transferee (other than
intercompany debt owed to the Borrower or aRestricted Subsidiary);
(b) any securities, notes or other obligations or assets received by the Borrower or any Restricted Subsidiary from such transferee or in connection with such Asset Sale (including earnouts and similar obligations) that are converted by the Borrower or a Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of such Asset Sale;

(c) any Designated Non-Cash Consideration received by the Borrower or any Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of (i) $155.0 million and (ii) 20.0% of Consolidated EBITDA of the Borrower and the Restricted Subsidiaries for the most recently ended Test Period (calculated on a pro forma basis), with the fair market value of each item of Designated Non-Cash Consideration being measured, at the Borrower’s option, either at the time of contractually agreeing to such Asset Sale or at the time received and, in either case, without giving effect to any subsequent change(s) in value;

(d) Indebtedness of any Restricted Subsidiary that ceases to be a Restricted Subsidiary as a result of such Asset Sale (other than intercompany debt owed to the Borrower or a Restricted Subsidiary), to the extent that the Borrower and each other Restricted Subsidiary are released from any guarantee of payment of the principal amount of such Indebtedness in connection with such Asset Sale; or

(e) any Investment, Capital Stock, assets, property or capital or other expenditure of the kind referred to in Section 2.05(2)(b)(ii).

To the extent any Collateral is disposed of as expressly permitted by this Section 7.04 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and, if requested by the Administrative Agent, upon the certification by the Borrower that such disposition is permitted by this Agreement, the Administrative Agent and the Collateral Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

SECTION 7.05 Restricted Payments.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, directly or indirectly:

(A) declare or pay any dividend or make any payment or distribution on account of the Borrower’s or any Restricted Subsidiary’s Equity Interests (in each case, solely in such Person’s capacity as holder of such Equity Interests), including any dividend or distribution payable in connection with any merger, amalgamation or consolidation, other than:

(i) dividends, payments or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Borrower or a Parent Company or in options, warrants or other rights to purchase such Equity Interests; or
(ii) dividends, payments or distributions by a Restricted Subsidiary so long as, in the case of any dividend, payment or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a wholly owned Subsidiary, the Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend, payment or distribution in accordance with its Equity Interests in such class or series of securities or such other amount to which it is entitled pursuant to the terms of such Equity Interest;

(B) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Borrower or any Parent Company, including in connection with any merger, amalgamation or consolidation, in each case held by Persons other than the Borrower or a Restricted Subsidiary;

(C) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case, prior to any scheduled repayment, sinking fund payment or final maturity, any Junior Indebtedness with an aggregate outstanding principal amount in excess of the Threshold Amount, other than:

(i) Indebtedness permitted under clauses (7), (8) and (9) of Section 7.02(b); or

(ii) the payment, redemption, repurchase, defeasance, acquisition or retirement for value of Junior Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement; or

(D) make any Restricted Investment;

(all such payments and other actions set forth in clauses (A) through (D) above being collectively referred to as “Restricted Payments”), unless, at the time of and immediately after giving effect to such Restricted Payment:

(1) in the case of a Restricted Payment described in clauses (A) and (B) above utilizing clause 3(a) or (g) below, no Event of Default under Section 8.01(1) or Section 8.01(6) will have occurred and be continuing or would occur as a consequence thereof;

(2) [reserved];

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments (including the fair market value of any non-cash amount) made by the Borrower and its Restricted Subsidiaries after the Third Amendment Effective Date (excluding Restricted Payments permitted by 7.05(b) other than clause (1) thereof), is less than the sum of (without duplication):

(a) 50.0% of the Consolidated Net Income of the Borrower and the Restricted Subsidiaries for the period (taken as one accounting period) commencing on April 3, 2017 to the end of the most recently ended fiscal quarter for which internal financial statements of the Borrower are available (as determined in good faith by the Borrower) preceding such Restricted Payment or, in the case such Consolidated Net Income for such period is a deficit, minus 100.0% of such deficit; plus
(b) 100.0% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Borrower and its Restricted Subsidiaries since the Closing Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 7.02(b)(12)(a)) from the issue or sale of:

(i) (A) Equity Interests of the Borrower, including Treasury Capital Stock (as defined below), but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(I) Equity Interests to any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates, Immediate Family Members or any permitted transferees thereof) of the Borrower, its Subsidiaries or any Parent Company after the Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with Section 7.05(b)(4); and

(II) Designated Preferred Stock; and

(B) Equity Interests of Parent Companies, to the extent the proceeds of any such issuance or consideration for any such sale are contributed to the Borrower (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with Section 7.05(b)(4)); or

(ii) Indebtedness of the Borrower or any Restricted Subsidiary, that has been converted into or exchanged for Equity Interests of the Borrower or any Parent Company;

provided that this clause (b) will not include the proceeds from (v) any exercise of the cure right set forth in Section 8.04, (w) Refunding Capital Stock (as defined below) applied in accordance with Section 7.05(b)(2) below, (x) Equity Interests or convertible debt securities of the Borrower sold to a Restricted Subsidiary, (y) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (z) Excluded Contributions;

plus

(c) 100.0% of the aggregate amount of cash, Cash Equivalents and the fair market value of marketable securities or other property contributed to the capital of the Borrower following the Closing Date (including the fair market value of any Indebtedness contributed to the Borrower or its Subsidiaries for cancellation) or that becomes part of the capital of the Borrower through consolidation, amalgamation or merger following the Closing Date, in each case not involving cash consideration payable by the Borrower (other than (w) net cash proceeds of any exercise of the cure right set forth in Section 8.04, (x) net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 7.02(b)(12)(a), (y) cash, Cash Equivalents and marketable securities or other property that are contributed by a Restricted Subsidiary or (z) Excluded Contributions); plus
(d) 100.0% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by the Borrower or a Restricted Subsidiary by means of:

(i) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of, or other returns on investments from, Restricted Investments made by the Borrower or its Restricted Subsidiaries (including cash distributions and cash interest received in respect of Restricted Investments) and repurchases and redemptions of such Restricted Investments from the Borrower or its Restricted Subsidiaries (other than by the Borrower or a Restricted Subsidiary) and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments made by the Borrower or its Restricted Subsidiaries, in each case after the Closing Date (excluding any Excluded Contributions made pursuant to clause (2) of the definition thereof);

(ii) the sale (other than to the Borrower or a Restricted Subsidiary) of Equity Interests of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than, in each case, to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment, but including such cash or fair market value to the extent exceeding the amount of such Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Closing Date (excluding any Excluded Contributions made pursuant to clause (2) of the definition thereof); or

(iii) any returns, profits, distributions and similar amounts received on account of any Permitted Investment subject to a Dollar-denominated or ratio based Basket (to the extent in excess of the original amount of the Investment); plus

(e) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Borrower or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Borrower or a Restricted Subsidiary after the Closing Date, the fair market value of the Investment in such Unrestricted Subsidiary (or the assets transferred) at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation, consolidation or transfer of assets, other than to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment, but, to the extent exceeding the amount of such Permitted Investment, including such excess amounts of cash or fair market value; plus

(f) 100% of the aggregate amount of any Excluded Proceeds (except to the extent utilized to repurchase, redeem, defease, acquire, or retire for value any Junior Indebtedness pursuant to clause (b)(13) below); plus

(g) $100.0 million.
(b) The provisions of Section 7.05(a) will not prohibit:

(1) the payment of any dividend or other distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or other distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or other distribution or redemption payment would have complied with the provisions of this Section 7.05;

(2) (a) the redemption, repurchase, defeasance, discharge, retirement or other acquisition of (i) any Equity Interests of the Borrower, any Restricted Subsidiary or any Parent Company, including any accrued and unpaid dividends thereon ("Treasury Capital Stock") or (ii) Junior Indebtedness, in each case, made (x) in exchange for, or out of the proceeds of, a sale or issuance (other than to a Restricted Subsidiary) of Equity Interests of the Borrower or any Parent Company (in the case of proceeds, to the extent any such proceeds therefrom are contributed to the Borrower) (in each case, other than Disqualified Stock) ("Refunding Capital Stock") and (y) within 120 days of such sale or issuance,

(b) the declaration and payment of dividends on Treasury Capital Stock out of the proceeds of a sale or issuance (other than to a Restricted Subsidiary of the Borrower or to an employee stock ownership plan or any trust established by the Borrower or any Restricted Subsidiary) of Refunding Capital Stock made within 120 days of such sale or issuance, and

(c) if, immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon by the Borrower was permitted under clause (6)(a) or (b) of this Section 7.05(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any Parent Company) in an aggregate amount per annum no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the principal payment on, defeasance, redemption, repurchase, exchange or other acquisition or retirement of:

(a) Junior Indebtedness of the Borrower or a Guarantor made by exchange for, or out of the proceeds of the sale, issuance or incurrence of, new Junior Indebtedness of the Borrower or a Guarantor or Disqualified Stock of the Borrower or a Guarantor within 120 days of such sale, issuance or incurrence,

(b) Disqualified Stock of the Borrower or a Guarantor made by exchange for, or out of the proceeds of the sale, issuance or incurrence of Disqualified Stock or Junior Indebtedness of the Borrower or a Guarantor, made within 120 days of such sale, issuance or incurrence,

(c) Disqualified Stock of a Restricted Subsidiary that is not a Guarantor made by exchange for, or out of the proceeds of the sale or issuance of, Disqualified Stock of a Restricted Subsidiary that is not a Guarantor, made within 120 days of such sale or issuance, that, in each case, is Refinancing Indebtedness incurred or issued, as applicable, in compliance with Section 7.02, and
(d) any Junior Indebtedness or Disqualified Stock that constitutes Acquired Indebtedness;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) (including related stock appreciation rights or similar securities) of the Borrower or any Parent Company held by any future, present or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any equity subscription or equity holder agreement (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Borrower or any Parent Company in connection with any such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management of the Borrower, any of its Subsidiaries or any Parent Company in connection with the Transactions; provided that the aggregate amount of Restricted Payments made under this clause (4) does not exceed $25.0 million in any calendar year (increasing to $50.0 million following an underwritten public Equity Offering by the Borrower or any Parent Company) with unused amounts in any calendar year being carried over to succeeding calendar years; provided further that each of the amounts in any calendar year under this clause (4) may be increased by an amount not to exceed:

(a) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Borrower and, to the extent contributed to the Borrower, the cash proceeds from the sale of Equity Interests of any Parent Company, in each case to any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company that occurs after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of Section 7.05(a); plus

(b) the amount of any cash bonuses otherwise payable to members of management, employees, directors, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any of its Subsidiaries or any Parent Company that are foregone in exchange for the receipt of Equity Interests of the Borrower or any Parent Company pursuant to any compensation arrangement, including any deferred compensation plan; plus

(c) the cash proceeds of life insurance policies received by the Borrower or its Restricted Subsidiaries (or by any Parent Company to the extent contributed to the Borrower (other than in the form of Disqualified Stock)) after the Closing Date; minus

(d) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (a), (b) and (c) of this clause (4);

provided that the Borrower may elect to apply all or any portion of the aggregate increase contemplated by clauses (a), (b) and (c) above in any calendar year; provided further that cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any Parent Company or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Borrower or any Parent Company will not be deemed to constitute a Restricted Payment for purposes of this Section 7.05 or any other provision of this Agreement;
(5) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Borrower or any Restricted Subsidiary or any class or series of Preferred Stock of any Restricted Subsidiary issued in accordance with Section 7.02; provided, that after giving pro forma effect to such dividend or distribution, including the amount thereof in Consolidated Interest Expense solely for the purposes of this clause (5), the Borrower would have had an Interest Coverage Ratio of at least 2.00 to 1.00;

(6) (a) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock issued by the Borrower or any Restricted Subsidiary after the Closing Date;

(b) the declaration and payment of dividends or distributions to any Parent Company, the proceeds of which will be used to fund the payment of dividends or distributions to holders of any class or series of Designated Preferred Stock issued by such Parent Company after the Closing Date; provided that the amount of dividends and distributions paid pursuant to this clause (b) will not exceed the aggregate amount of cash actually contributed to the Borrower from the sale of such Designated Preferred Stock; or

(c) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 7.05(b);

provided that in the case of each of clauses (a), (b) and (c) of this clause (6), for the most recently ended Test Period preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Borrower would have had an Interest Coverage Ratio of at least 2.00 to 1.00;

(7) (a) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable by any future, present or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or permitted transferees) of the Borrower, any Restricted Subsidiary or any Parent Company,

(b) any repurchases or withholdings of Equity Interests in connection with the exercise of stock options, warrants or similar rights if such Equity Interests represent a portion of the exercise price of, or withholding obligations with respect to, such options, warrants or similar rights or required withholding or similar taxes and

(c) loans or advances to officers, employees, managers, consultants and independent contractors of the Borrower, any Restricted Subsidiary or any Parent Company in connection with such Person’s purchase of Equity Interests of the Borrower or any Parent Company; provided that no cash is actually advanced pursuant to this clause (c) other than to pay taxes due in connection with such purchase, unless immediately repaid;
(8) the declaration and payment of dividends on the Borrower’s common equity (or the payment of dividends to any Parent Company to fund a payment of dividends on such company’s common equity), following the first public offering of the Borrower’s common equity or the common equity of any Parent Company after the Closing Date, in an aggregate amount per annum not to exceed 6.0% of Market Capitalization;

(9) Restricted Payments in an amount that does not exceed the aggregate amount of Excluded Contributions;

(10) Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (10) after the Third Amendment Effective Date not to exceed (as of the date any such Restricted Payment is made) $100.0 million; provided that if this clause (10) is utilized to make a Restricted Investment, the amount deemed to be utilized under this clause (10) will be the amount of such Restricted Investment at any time outstanding (with the fair market value of such Investment being measured at the time made and without giving effect to subsequent changes in value, but subject to adjustment as set forth in the definition of “Investment”);

(11) distributions or payments of Securitization Fees;

(12) any Restricted Payment made in connection with the Transactions and the fees and expenses related thereto;

(13) the repurchase, redemption, defeasance, acquisition or retirement for value of any Junior Indebtedness from Excluded Proceeds (except to the extent utilized to make Restricted Payments pursuant to clause (f) of Section 7.05(a));

(14) the declaration and payment of dividends or distributions by the Borrower or any Restricted Subsidiary to, or the making of loans or advances to, the Borrower or any Parent Company in amounts required for any Parent Company to pay in each case without duplication:

(a) franchise, excise and similar taxes and other fees and expenses, required to maintain their corporate or other legal existence;

(b) for any taxable period (or portion thereof) for which the Borrower or any of its Restricted Subsidiaries are members of a consolidated, combined, unitary or similar income tax group for U.S. federal or applicable foreign, state or local income tax purposes of which a Parent Company is the common parent (a “Tax Group”), to pay the portion of any U.S. federal, foreign, state or local income Taxes (as applicable) of such Tax Group for such taxable period that are attributable to the taxable income of the Borrower and/or the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries); provided that for each taxable period, (A) the amount of such payments made in respect of such taxable period in the aggregate will not exceed the amount that the Borrower and the applicable Restricted Subsidiaries (and, to the extent permitted below, the applicable Unrestricted Subsidiaries), as applicable, would have been required to pay in respect of such taxable income as stand-alone taxpayers or a stand-alone Tax Group and (B) the amount of such payments made in respect of an Unrestricted Subsidiary will be permitted only to the extent that cash distributions were made by an Unrestricted Subsidiary to the Borrower or any Restricted Subsidiary for such purpose;
(c) for any taxable period (or portion thereof) for which the Borrower and any Parent Company is a partnership or disregarded entity for U.S. federal income tax purposes (amounts permitted to be distributed, loaned or advanced pursuant to this clause (c), “Tax Distributions”): cash distributions from the Borrower at such times and in such amounts necessary to permit each Parent Company to make cash distributions to each direct or indirect member of the Parent Company in accordance with the terms of its relevant operating agreement, in an aggregate amount not to exceed the sum of (I) any non-income Taxes payable by such member with respect to the Borrower and (II) the product of (A) the taxable income of the Borrower allocable to such member for such period (assuming the Borrower for this purpose is a regarded entity for U.S. federal income tax purposes), determined by taking into account any basis step-up in the assets of the Borrower or any of its Subsidiaries resulting from the Transactions (other than any basis adjustment arising under section 743 of the Code), and (B) the maximum combined effective tax rate applicable to any direct or indirect equity owner of the Borrower or Parent Company for such taxable period (taking into account the Medicare Contribution Tax on net investment income tax, the character of the taxable income in question (e.g. long-term capital gain, qualified dividend income, etc.) and the deductibility of state and local income taxes for U.S. federal income tax purposes (and any applicable limitations thereon, including the limitations in Sections 67 and 68 of the Code) and adjusted to the extent necessary to calculate federal, state and local tax liability separately so as to take into account the limitations under Section 163 of the Code and the calculation under the applicable state and local tax laws of taxable income and taxable losses and the extent to which such losses may offset such income) increased if necessary to apply alternative minimum tax rates and rules in years in which the alternative minimum tax applies (or would apply based on the assumptions stated herein) to the relevant distributee if the distributee were an individual or a corporation, assuming each distributee’s sole asset is its direct or indirect interest in the Borrower); provided that the amount of any Tax Distribution permitted under this clause (c) shall be reduced by the amount of any income taxes that are paid directly by the Borrower and attributable to such member and would otherwise have been taken into account in the calculation of such Tax Distribution; provided further that (1) Tax Distributions in respect of a taxable year may be made based on estimates of taxable income, with adjustments being made to subsequent Tax Distributions to reflect differences between such estimates and final calculations of taxable income, (2) Tax Distributions may be increased by an amount sufficient to enable any Parent Company to pay any Taxes arising from the Partnership Audit Rules and attributable to the operations and activities of Borrower and its Subsidiaries (calculated by assuming that such Parent Company does not make the election described in Section 6226 of the Code (or any analogous state, local or non-U.S. law) and is unable to reduce the amount of any Tax pursuant to the provisions of Section 6225 of the Code (or any analogous state, local or non-U.S. law)), and (3) if, following an audit or examination, there is an adjustment that would affect the calculation of taxable income or taxable loss for a given period or portion thereof, or in the event that a Parent Company files an amended tax return which has such effect, then, additional Tax Distributions may be made (increased by an additional amount estimated to be sufficient to cover any interest or penalties) to give effect to such adjustment or amended tax return; and

(d) salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, employees, directors, officers, members of management, consultants and independent contractors of any Parent Company, and any payroll, social security or similar taxes thereof;
(e) general corporate or other operating, administrative, compliance and overhead costs and expenses (including expenses relating to auditing and other accounting matters) of any Parent Company;

(f) fees and expenses (including ongoing compliance costs and listing expenses) related to any equity or debt offering of a Parent Company (whether or not consummated);

(g) amounts that would be permitted to be paid directly by the Borrower or its Restricted Subsidiaries under Section 7.07(b) (other than clause 2(a) thereof);

(h) interest or principal on Indebtedness the proceeds of which have been contributed to the Borrower or any Restricted Subsidiary or that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower or any Restricted Subsidiary incurred in accordance with Section 7.02;

(i) to finance Investments or other acquisitions or investments otherwise permitted to be made pursuant to this Section 7.05 if made by the Borrower; provided that:

   (i) such Restricted Payment must be made within 120 days of the closing of such Investment, acquisition or investment,

   (ii) such Parent Company must, promptly following the closing thereof, cause (A) all property acquired (whether assets or Equity Interests) to be contributed to the capital of the Borrower or a Restricted Subsidiary or (B) the merger, amalgamation, consolidation or sale of the Person formed or acquired into the Borrower or a Restricted Subsidiary (to the extent not prohibited by Section 7.03) in order to consummate such Investment, acquisition or investment,

   (iii) such Parent Company and its Affiliates (other than the Borrower or any Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Borrower or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Agreement,

   (iv) any property received by the Borrower may not increase amounts available for Restricted Payments pursuant to clause (3) of Section 7.05(a), and

   (v) to the extent constituting an Investment, such Investment will be deemed to be made by the Borrower or such Restricted Subsidiary pursuant to another provision of this Section 7.05 (other than pursuant to clause (9) of this Section 7.05(b)) or pursuant to the definition of “Permitted Investments” (other than clause (9) thereof); and

(j) amounts payable pursuant to the Transaction Documents;

(15) the distribution, by dividend or otherwise, or other transfer or disposition of shares of Capital Stock of, Equity Interests in, or Indebtedness owed to the Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, substantially all the assets of which are cash and Cash Equivalents);
(16) cash payments, or loans, advances, dividends or distributions to any Parent Company to make payments, in lieu of issuing fractional shares in connection with share dividends, share splits, reverse share splits, mergers, consolidations, amalgamations or other business combinations and in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Borrower, any Restricted Subsidiary or any Parent Company;

(17) (a) Restricted Payments described in clauses (A) and (B) of the definition thereof contained in Section 7.05(a); provided that after giving pro forma effect thereto and the application of the net proceeds therefrom, the Total Net Leverage Ratio for the Test Period immediately preceding such Restricted Payment would be no greater than 4.25 to 1.00 and (b) Restricted Payments described in clauses (C) and (D) of the definition thereof contained in Section 7.05(a); provided that after giving pro forma effect thereto and the application of the net proceeds therefrom, the Total Net Leverage Ratio for the Test Period immediately preceding such Restricted Payment would be no greater than 4.25 to 1.00;

(18) payments made for the benefit of the Borrower or any Restricted Subsidiary because such payments (a) would not otherwise be Restricted Payments and (b) would be permitted by Section 7.07;

(19) payments and distributions to dissenting stockholders of Restricted Subsidiaries pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of any Restricted Subsidiary that complies with the terms of this Agreement or any other transaction that complies with the terms of this Agreement;

(20) the payment of dividends, other distributions and other amounts by the Borrower to, or the making of loans to, any Parent Company in the amount required for such parent to, if applicable, pay amounts equal to amounts required for any Parent Company, if applicable, to pay interest or principal (including AHYDO Payments) on Indebtedness, the proceeds of which have been permanently contributed to the Borrower or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower or any Restricted Subsidiary incurred in accordance with this Agreement; provided that the aggregate amount of such dividends, distributions, loans and other amounts shall not exceed the amount of cash actually contributed to the Borrower for the incurrence of such Indebtedness;

(21) the making of cash payments in connection with any conversion of Convertible Indebtedness of the Borrower or any Restricted Subsidiary in an aggregate amount since the date of this Agreement not to exceed the sum of (a) the principal amount of such Convertible Indebtedness plus (b) any payments received by the Borrower or any Restricted Subsidiary pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transaction;

(22) any payments in connection with (a) a Permitted Bond Hedge Transaction and (b) the settlement of any related Permitted Warrant Transaction (i) by delivery of shares of the Borrower’s common equity upon settlement thereof or (ii) by (A) set-off against the related Permitted Bond Hedge Transaction or (B) payment of an early termination amount thereof in common equity upon any early termination thereof;
(23) the refinancing of any Junior Indebtedness with the Net Proceeds of, or in exchange for, any Refinancing Indebtedness;

(24) the prepayment of Second Lien Term Loans on the Second Amendment Effective Date in an aggregate principal amount not to exceed $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith);

(25) the prepayment of Second Lien Term Loans in an aggregate principal amount taken together with all other Restricted Payments made pursuant to this clause (25) not to exceed (as of the date any such Restricted Payment is made) $50,000,000 (plus, for the avoidance of doubt, any premiums and accrued interest paid in connection therewith); and

(26) the 2019 Dividend.

provided that at the time of, and after giving effect to, any Restricted Payment pursuant to clause (17) in respect of Restricted Payments described in clauses (A) or (B) of the definition thereof, no Event of Default will have occurred and be continuing or would occur as a consequence thereof. For purposes of clauses (7) and (14) above, taxes will include all interest and penalties with respect thereto and all additions thereto.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date the Restricted Payment is made, or at the Borrower’s election, the date a commitment is made to make such Restricted Payment, of the assets or securities proposed to be transferred or issued by the Borrower or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

For the avoidance of doubt, this Section 7.05 will not restrict the making of any AHYDO Payment with respect to, and required by the terms of, any Indebtedness of the Borrower or any Restricted Subsidiary permitted to be incurred under this Agreement.

SECTION 7.06 Change in Nature of Business. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business(es) or any other activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the business conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date.

SECTION 7.07 Transactions with Affiliates.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Borrower (each of the foregoing, an “Affiliate Transaction”) involving aggregate payments or consideration in excess of $75.0 million, unless such Affiliate Transaction is on terms, taken as a whole, that are not materially less favorable to the Borrower or the relevant Restricted Subsidiary than those that would have been obtained at such time in a comparable transaction by the Borrower or such Restricted Subsidiary with a Person other than an Affiliate of the Borrower on an arm’s-length basis or, if in the good faith judgment of the Board of Directors no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view.
(b) The foregoing restriction will not apply to the following:

(1) (a) transactions between or among the Borrower and one or more Restricted Subsidiaries or between or among Restricted Subsidiaries or, in any case, any entity that becomes a Restricted Subsidiary as a result of such transaction and (b) any merger, consolidation or amalgamation of the Borrower and any Parent Company; provided that such merger, consolidation or amalgamation of the Borrower is otherwise in compliance with the terms of this Agreement;

(2) (a) Restricted Payments permitted by Section 7.05 (including any transaction specifically excluded from the definition of the term “Restricted Payments,” including pursuant to the exceptions contained in the definition thereof and the parenthetical exclusions of such definition, but excluding any Restricted Payment permitted by Section 7.05(14)(g)), (b) any Permitted Investment(s) or any acquisition otherwise permitted hereunder and (c) Indebtedness permitted by Section 7.02;

(3) (a) the payment of management, consulting, monitoring, transaction, advisory and other fees, indemnities and expenses pursuant to the Management Services Agreement (including any unpaid management, consulting, monitoring, transaction, advisory and other fees, indemnities and expenses accrued in any prior year) and any termination fees pursuant to the Management Services Agreement, or any amendment thereto or replacement thereof so long as any such amendment or replacement is not materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders when taken as a whole, as compared to the Management Services Agreement as in effect on the Closing Date,

(b) the payment of indemnification and similar amounts to, and reimbursement of expenses to, the Investors and their officers, directors, employees and Affiliates, in each case, approved by, or pursuant to arrangements approved by, the Board of Directors;

(c) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to future, present or former employees, officers, directors, managers, consultants or independent contractors or guarantees in respect thereof for bona fide business purposes or in the ordinary course of business or consistent with industry practice,

(d) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with current, former or future officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Subsidiary or any Parent Company and

(e) any payment of compensation or other employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers current, former or future officers, directors, employees, managers, consultants and independent contractors of the Borrower, any Subsidiary or any Parent Company;

(4) the payment of fees and compensation paid to, and indemnities and reimbursements and employment and severance arrangements provided to, or on behalf of or for the benefit of, present, future or former employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) of the Borrower, any Parent Company or any Restricted Subsidiary;
(5) transactions in which the Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or stating that the terms, when taken as a whole, are not materially less favorable to the Borrower or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Borrower or such Restricted Subsidiary with a Person that is not an Affiliate of the Borrower on an arm’s-length basis;

(6) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any agreement as in effect as of the Closing Date, or any amendment thereto or replacement thereof (so long as any such amendment or replacement is not materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders, when taken as a whole, as compared to the applicable agreement as in effect on the Closing Date);

(7) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any equity holders agreement or the equivalent (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date and any amendment thereto and, similar agreements or arrangements that it may enter into thereafter; provided that the existence of, or the performance by the Borrower or any Restricted Subsidiary of obligations under any future amendment to any such existing agreement or arrangement or under any similar agreement or arrangement entered into after the Closing Date will only be permitted by this clause (7) to the extent that the terms of any such amendment or new agreement or arrangement are not otherwise materially disadvantageous in the good faith judgment of the Board of Directors to the Lenders, when taken as a whole, as compared to the original agreement or arrangement in effect on the Closing Date;

(8) the Transactions and the payment of all fees and expenses related to the Transactions, including Transaction Expenses;

(9) transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business or consistent with industry practice and otherwise in compliance with the terms of this Agreement that are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors or the senior management of the Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(10) the issuance, sale or transfer of Equity Interests (other than Disqualified Stock) of the Borrower or any Parent Company to any Person and the granting and performing of customary rights (including registration rights) in connection therewith, and any contribution to the capital of the Borrower;

(11) sales of accounts receivable, or participations therein, or Securitization Assets or related assets in connection with any Qualified Securitization Facility and any other transaction effected in connection with a Qualified Securitization Facility or a financing related thereto;

(12) payments by the Borrower or any Restricted Subsidiary made for any financial advisory, consulting, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved by, or made pursuant to arrangements approved by, a majority of the Board of Directors in good faith;
(13) payments with respect to Indebtedness, Disqualified Stock and other Equity Interests (and cancellation of any thereof) of the Borrower, any Parent Company and any Restricted Subsidiary and Preferred Stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, member of management, consultant or independent contractor (or their respective Controlled Investment Affiliates or Immediate Family Members or permitted transferees) of the Borrower, any of its Subsidiaries or any Parent Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any equity subscription or equity holder agreement that are, in each case, approved by the Borrower in good faith; and any employment agreements, severance arrangements, stock option plans and other compensatory arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or arrangements with any such employees, directors, officers, members of management, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members or any permitted transferees thereof) that are, in each case, approved by the Borrower in good faith;

(14) (a) investments by Affiliates in securities or Indebtedness of the Borrower or any Restricted Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Borrower or such Restricted Subsidiary generally to other investors on the same or more favorable terms and (b) payments to Affiliates in respect of securities or Indebtedness of the Borrower or any Restricted Subsidiary contemplated in the foregoing subclause (a) or that were acquired from Persons other than the Borrower and the Restricted Subsidiaries, in each case, in accordance with the terms of such securities or Indebtedness;

(15) payments to or from, and transactions with, any joint venture or Unrestricted Subsidiary in the ordinary course of business or consistent with past practice, industry practice or industry norms (including, any cash management activities related thereto);

(16) payments by the Borrower (and any Parent Company) and its Subsidiaries pursuant to tax sharing agreements among the Borrower (and any Parent Company) and its Subsidiaries; provided that in each case the amount of such payments by the Borrower and its Subsidiaries are permitted under Section 7.05(b)(14);

(17) any lease entered into between the Borrower or any Restricted Subsidiary, as lessee and any Affiliate of the Borrower, as lessor, and any transaction(s) pursuant to that lease, which lease is approved by the Board of Directors or senior management of the Borrower in good faith;

(18) intellectual property licenses in the ordinary course of business or consistent with industry practice;

(19) the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided to equity holders of the Borrower or any Parent Company pursuant to any equity holders agreement or registration rights agreement entered into on or after the Closing Date;
transactions permitted by, and complying with, Section 7.03 solely for the purpose of (a) reorganizing to facilitate any initial public offering of securities of the Borrower or any Parent Company, (b) forming a holding company or (c) reincorporating the Borrower in a new jurisdiction;

transactions undertaken in good faith (as determined by the Board of Directors or certified by senior management of the Borrower in an Officer’s Certificate) for the purposes of improving the consolidated tax efficiency of the Borrower and its Restricted Subsidiaries and not for the purpose of circumventing Articles VI and VII of this Agreement; so long as such transactions, when taken as a whole, do not result in a material adverse effect on the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, when taken as a whole, in each case, as determined in good faith by the Board of Directors or certified by senior management of the Borrower in an Officer’s Certificate;

transactions with a Person that is an Affiliate of the Borrower (other than an Unrestricted Subsidiary) solely because the Borrower or any Restricted Subsidiary owns Equity Interests in such Person and (b) transactions with any Person that is an Affiliate solely because a director or officer of such Person is a director or officer of the Borrower, any Restricted Subsidiary or any Parent Company;

pledges and other transfers of Equity Interests in Unrestricted Subsidiaries and (b) any transactions with an Affiliate in which the consideration paid consists solely of Equity Interests of the Borrower or a Parent Company;

the sale, issuance or transfer of Equity Interests (other than Disqualified Stock) of the Borrower;

investments by any Investor or Parent Company in securities or Indebtedness of the Borrower or any Guarantor;

payments in respect of (a) the Obligations (or any Credit Agreement Refinancing Indebtedness), (b) the Second Lien Term Loans or (c) other Indebtedness, Disqualified Stock or Preferred Stock of the Borrower and its Subsidiaries held by Affiliates; provided that such Obligations were acquired by an Affiliate of the Borrower in compliance herewith;

transactions undertaken in the ordinary course of business pursuant to membership in a purchasing consortium; and

any transactions and payments contemplated by, and the performance by the Parent Borrower or any Restricted Subsidiary of any other obligations under, each of the Transaction Documents (and any amendment thereto and similar agreements or arrangements that it may enter into thereafter), including any Restricted Payment made in connection with such transactions or used to fund amounts owed to Affiliates (including Restricted Payments to any Parent Company to permit payment by such Parent Company of such amounts), provided that the existence of, or the performance by the Borrower or any Restricted Subsidiary of obligations under any such amendment to such Transaction Document or under such similar agreement or arrangement entered into after the Closing Date will only be permitted by this clause (28) to the extent that the terms of any such amendment or new agreement or arrangement are not otherwise materially disadvantageous in the good faith judgment of the Borrower to the Lenders when taken as a whole (as compared to such Transaction Document in effect on the Closing Date).
SECTION 7.08 Burdensome Agreements.

(a) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary that is not a Guarantor (or, solely in the case of clause (4), that is a Subsidiary Guarantor) to, directly or indirectly, create or otherwise cause to exist or become effective any consensual encumbrance or consensual restriction (other than this Agreement or any other Loan Document) on the ability of any Restricted Subsidiary that is not a Guarantor (or, solely in the case of clause (4), that is a Subsidiary Guarantor) to:

1. (a) pay dividends or make any other distributions to the Borrower or any Restricted Subsidiary that is a Guarantor on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or
   (b) pay any Indebtedness owed to the Borrower or to any Restricted Subsidiary that is a Guarantor;
2. make loans or advances to the Borrower or to any Restricted Subsidiary that is a Guarantor;
3. sell, lease or transfer any of its properties or assets to the Borrower or to any Restricted Subsidiary that is a Guarantor; or
4. with respect to (a) any Subsidiary Guarantor (and, solely to the extent this clause (4)(a) relates to Hedging Obligations of Restricted Subsidiaries, the Borrower), Guaranty the Obligations or (b) with respect to the Borrower or any Subsidiary Guarantor, create, incur or cause to exist or become effective Liens on property of such Person for the benefit of the Lenders with respect to the Obligations under the Loan Documents to the extent such Lien is required to be given to the Secured Parties pursuant to the Loan Documents;

provided that any dividend or liquidation priority between or among classes or series of Capital Stock, and the subordination of any obligation (including the application of any remedy bars thereto) to any other obligation will not be deemed to constitute such an encumbrance or restriction.

(b) Section 7.08(a) will not apply to any encumbrances or restrictions existing under or by reason of:

1. encumbrances or restrictions in effect on the Closing Date, including pursuant to the Loan Documents and any Hedge Agreements, Hedging Obligations and the related documentation;
2. the Second Lien Credit Documents;
3. Purchase Money Obligations and Capitalized Lease Obligations that impose restrictions of the nature discussed in clauses (3) and 4(b) above on the property so acquired;
4. applicable Law or any applicable rule, regulation or order;
5. any agreement or other instrument of a Person, or relating to Indebtedness or Equity Interests of a Person, acquired by or merged, amalgamated or consolidated with and into the Borrower or any Restricted Subsidiary or an Unrestricted Subsidiary that is designated as a Restricted Subsidiary, or any other transaction entered into in connection with any such
(6) contracts or agreements for the sale or disposition of assets, including any restrictions with respect to a Subsidiary of the Borrower pursuant to an agreement that has been entered into for the sale or disposition of any of the Capital Stock or assets of such Subsidiary;

(7) [reserved];

(8) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business or consistent with industry practice or arising in connection with any Liens permitted by Section 7.01;

(9) provisions in agreements governing Indebtedness, Disqualified Stock or Preferred Stock of Restricted Subsidiaries that are not Guarantors permitted to be incurred subsequent to the Closing Date pursuant to Section 7.02;

(10) provisions in joint venture agreements and other similar agreements (including equity holder agreements) relating to such joint venture or its members or entered into in the ordinary course of business;

(11) customary provisions contained in leases, sub-leases, licenses, sub-licenses, Equity Interests or similar agreements, including with respect to intellectual property and other agreements;

(12) restrictions created in connection with any Qualified Securitization Facility or Receivables Financing Transaction that, in the good faith determination of the Board of Directors of the Borrower, are necessary or advisable to effect such Qualified Securitization Facility or Receivables Financing Transaction;

(13) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Borrower or any Restricted Subsidiary is a party entered into in the ordinary course of business or consistent with industry practice; provided that such agreement prohibits the encumbrance of solely the property or assets of the Borrower or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Borrower or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary;

(14) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary;

(15) customary provisions restricting assignment of any agreement;
restrictions arising in connection with cash or other deposits permitted under Section 7.01;

any other agreement or instrument governing any Indebtedness, Disqualified Stock, or Preferred Stock permitted to be incurred or issued pursuant to Section 7.02 entered into after the Closing Date that contains encumbrances and restrictions that either (i) are no more restrictive in any material respect, taken as a whole, with respect to the Borrower or any Restricted Subsidiary than (A) the restrictions contained in the Loan Documents and the Second Lien Credit Documents as of the Closing Date or (B) those encumbrances and other restrictions that are in effect on the Closing Date with respect to the Borrower or that Restricted Subsidiary pursuant to agreements in effect on the Closing Date, (ii) are not materially more disadvantageous, taken as a whole, to the Lenders than is customary in comparable financings for similarly situated issuers or (iii) will not materially impair the Borrower’s ability to make payments on the Obligations when due, in each case in the good faith judgment of the Borrower;

(i) under terms of Indebtedness and Liens in respect of Indebtedness permitted to be incurred pursuant to Section 7.02(b)(4) and any permitted refinancing in respect of the foregoing and (ii) agreements entered into in connection with any Sale-Leaseback Transaction entered into in the ordinary course of business or consistent with industry practice;

customary restrictions and conditions contained in documents relating to any Lien so long as (i) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien and (ii) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 7.08;

any encumbrance or restriction with respect to a Restricted Subsidiary that was previously an Unrestricted Subsidiary which encumbrance or restriction exists pursuant to or by reason of an agreement that such Subsidiary is a party to or entered into before the date on which such Subsidiary became a Restricted Subsidiary; provided that such agreement was not entered into in anticipation of an Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction does not extend to any assets or property of the Borrower or any other Restricted Subsidiary other than the assets and property of such Restricted Subsidiary;

any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refinancings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (20) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refinancings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive in any material respect with respect to such encumbrance and other restrictions, taken as a whole, than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;

any encumbrance or restriction existing under, by reason of or with respect to Refinancing Indebtedness; provided that the encumbrances and restrictions contained in the agreements governing that Refinancing Indebtedness are, in the good faith judgment of the Borrower, not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced; and
SECTION 7.09 Accounting Changes. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make any change in fiscal year; provided, however, that the Borrower may, upon written notice to the Administrative Agent, (i) change its fiscal year to a calendar year ending December 31 and (ii) change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, and in the case of each of (i) and (ii), the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

SECTION 7.10 Modification of Terms of Subordinated Indebtedness. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, amend, modify or change in any manner materially adverse to the interests of the Lenders, as determined in good faith by the Borrower, any term or condition of any Junior Indebtedness that is contractually subordinated in right of payment and having an aggregate outstanding principal amount greater than the Threshold Amount (other than as a result of any Refinancing Indebtedness in respect thereof) with respect to the payment subordination thereof, without the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed); provided, however, that no amendment, modification or change of any term or condition of any Junior Indebtedness permitted by any subordination provisions set forth in the applicable Junior Indebtedness or any other stand-alone subordination agreement in respect thereof shall be deemed to be materially adverse to the interests of the Lenders.

SECTION 7.11 Holdings. Holdings shall not engage in any material operating or business activities; provided that the following and any activities incidental thereto shall be permitted in any event:

(i) its ownership of the Equity Interests of the Borrower and its other Subsidiaries, including receipt and payment of Restricted Payments and other amounts in respect of Equity Interests,

(ii) the maintenance of its legal existence (including the ability to incur and pay, as applicable, fees, costs and expenses and taxes relating to such maintenance),

(iii) the performance of its obligations with respect to the Transactions, the Transaction Documents, the Loan Documents, the Second Lien Credit Documents and any other documents governing Indebtedness permitted hereby,

(iv) any public offering of its common equity or any other issuance, registration or sale of its Equity Interests,

(v) financing activities, including the issuance of securities, incurrence of debt, receipt and payment of dividends and distributions, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of the Borrower and its other Subsidiaries,

(vi) if applicable, participating in tax, accounting and other administrative matters as a member of the consolidated group and the provision of administrative and advisory services (including treasury and insurance services) to its Subsidiaries of a type customarily provided by a holding company to its Subsidiaries,
(vii) holding any cash or property (but not operate any property),
(viii) providing indemnification to officers and directors,
(ix) merging, amalgamating or consolidating with or into any Person (in compliance with Section 7.03), (x) repurchases of Indebtedness through open market purchases and Dutch auctions,
(x) activities incidental to Permitted Acquisitions or similar Investments consummated by the Borrower and the Restricted Subsidiaries, including the formation of acquisition vehicle entities and intercompany loans and/or Investments incidental to such Permitted Acquisitions or similar Investments,
(xi) any transaction with the Borrower and/or any Restricted Subsidiary to the extent expressly permitted under this Section 7, and
(xii) any activities incidental or reasonably related to the foregoing.

SECTION 7.12 Financial Covenant. The Borrower and each of the Restricted Subsidiaries covenant and agree that:

(1) If on the last day of any Test Period (commencing with the fiscal quarter ending on or about December 30, 2017) there are outstanding Revolving Loans and Letters of Credit (excluding (a) undrawn Letters of Credit in an aggregate amount not to exceed $30.0 million and (b) Letters of Credit to the extent Cash Collateralized or backstopped (whether drawn or undrawn) on terms reasonably acceptable to the applicable Issuing Bank) in an aggregate principal amount exceeding 35% of the aggregate principal amount of all Revolving Commitments under all outstanding Revolving Facilities (including any Incremental Revolving Facilities), the Borrower shall not permit the First Lien Net Leverage Ratio as of the last day of such Test Period to be greater than 6.30 to 1.00 (such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent pursuant to Section 6.01(1) and Section 6.01(2) for such Test Period) (the “Financial Covenant”).

(2) The provisions of this Section 7.12 are for the benefit of the Revolving Lenders only and the Required Facility Lenders in respect of the Revolving Facility may amend, waive or otherwise modify this Section 7.12 or the defined terms used in this Section 7.12 (solely in respect of the use of such defined terms in this Section 7.12) or waive any Default or Event of Default resulting from a breach of this Section 7.12 without the consent of any Lenders other than the Required Facility Lenders in respect of the Revolving Facility.

Article VIII

Events of Default and Remedies

SECTION 8.01 Events of Default. Each of the events referred to in clauses (1) through (11) of this Section 8.01 shall constitute an “Event of Default”:

(1) Non-Payment. The Borrower fails to pay (a) when and as required to be paid herein, any amount of principal of any Loan or (b) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or
(2) **Specific Covenants.** The Borrower, any Subsidiary Guarantor or, in the case of Section 7.11, Holdings, fails to perform or observe any term, covenant or agreement contained in Section 6.03(1), 6.05(1) (solely with respect to the Borrower, other than in a transaction permitted under Section 7.03 or 7.04) or Article VII; *provided* that the Borrower’s failure to comply with the Financial Covenant or a breach of a financial maintenance covenant under any Incremental Revolving Commitments or any revolving facility that constitutes Credit Agreement Refinancing Indebtedness (each, a “Financial Covenant Event of Default”) shall not constitute an Event of Default with respect to any Term Loans or Term Commitments unless and until the Required Facility Lenders for the Revolving Facilities have actually terminated the Revolving Commitments and declared all Obligations with respect to the applicable Revolving Facility to be immediately due and payable pursuant to Section 8.02 as a result of such failure to comply (and such declaration has not been rescinded as of the applicable date) (the occurrence of such termination and declaration by the Required Facility Lenders for the Revolving Facilities, a “Financial Covenant Cross Default”); *provided further* that any Financial Covenant Event of Default is subject to cure pursuant to Section 8.04; or

(3) **Other Defaults.** The Borrower or any Subsidiary Guarantor fails to perform or observe any other covenant or agreement (not specified in Section 8.01(1) or (2) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(4) **Representations and Warranties.** Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be untrue in any material respect when made or deemed made; or

(5) **Cross-Default.** The Borrower or any Restricted Subsidiary (a) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) of not less than the Threshold Amount, or (b) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Hedging Obligations, termination events or equivalent events pursuant to the terms of such Hedging Obligations and not as a result of any default hereunder by the Borrower or any Restricted Subsidiary), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem all of such Indebtedness to be made, prior to its stated maturity; *provided* that (A) such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Section 8.02 and (B) this clause (5)(b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or
(6) **Insolvency Proceedings, etc.** The Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, 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, administrator, administrative receiver or similar officer for it or for any or all of any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver 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 undischarged or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding;

(7) **Judgments.** There is entered against the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, a final non-appealable judgment and order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not paid or covered by insurance or indemnities as to which the insurer or indemnity has been notified of such judgment or order and the applicable insurance company or indemnity has not denied coverage thereof) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days;

(8) **ERISA.** (a) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan, (b) the Borrower or any Subsidiary Guarantor or any of their respective ERISA Affiliates 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, or (c) with respect to a Foreign Plan, a termination, withdrawal or noncompliance with applicable Law or plan terms occurs, except, with respect to each of the foregoing clauses of this Section 8.01(8), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect; or

(9) **Invalidity of Loan Documents.** Any material provision of the Loan Documents, taken as a whole, at any time after its execution and delivery and for any reason (other than (a) as expressly permitted by a Loan Document (including as a result of a transaction permitted under Section 7.03 or 7.04), (b) as a result of acts or omissions by an Agent or any Lender or (c) due to the satisfaction in full of the Termination Conditions) ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of the Loan Documents, taken as a whole (other than as a result of the satisfaction of the Termination Conditions), or any Loan Party denies in writing that it has any or further liability or obligation under the Loan Documents, taken as a whole (other than (i) as expressly permitted by a Loan Document (including as a result of a transaction permitted under Section 7.03 or 7.04) or (ii) as a result of the satisfaction of the Termination Conditions), or purports in writing to revoke or rescind the Loan Documents, taken as a whole, prior to the satisfaction of the Termination Conditions; or

(10) **Collateral Documents.** Any Collateral Document with respect to a material portion of the Collateral after delivery thereof pursuant to Section 4.01, 6.11, 6.13 or pursuant to the provisions of any Collateral Document for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction not prohibited under this Agreement) ceases to create, or any Lien purported to be created by any Collateral Document with respect to a material portion of the Collateral shall be asserted in writing by any Loan Party (prior to the satisfaction of
the Termination Conditions) not to be, a valid and perfected Lien with the priority required by such Collateral Document (or other security purported to be created on the applicable Collateral) or, and security interest in, any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 7.01, except to the extent that any such loss of perfection or priority results from the failure of the Administrative Agent or the Collateral Agent to maintain possession of Collateral actually delivered to it and pledged under the Collateral Documents, to file Uniform Commercial Code amendments relating to a Loan Party’s change of name or jurisdiction of formation (solely to the extent that the Borrower provides the Collateral Agent written notice thereof in accordance with the Security Agreement, and the Collateral Agent and the Borrower have agreed that the Collateral Agent will be responsible for filing such amendments) or continuation statements and except as to Collateral consisting of real property to the extent that such losses are covered by a lender’s title insurance policy and such insurer has not denied coverage; or

(11) **Change of Control.** There occurs any Change of Control.

**SECTION 8.02 Remedies upon Event of Default.** Subject to Section 8.04, if any Event of Default occurs and is continuing, the Administrative Agent may with the consent of the Required Lenders and shall, at the request of the Required Lenders, take any or all of the following actions:

1. declare the Commitments of each Lender and any obligation of the Issuing Banks to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligation will be terminated;
2. declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable under any 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;
3. require that the Borrower Cash Collateralize the then outstanding Letters of Credit (in an amount equal to the then Outstanding Amount thereof); and
4. exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided that (a) upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under Title 11 of the United States Code entitled “Bankruptcy,” as now or hereafter in effect, or any successor thereto (the “Bankruptcy Code”), the Commitments of each Lender and any obligation of the Issuing Banks to issue Letters of Credit, will automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid will automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid will automatically become effective, in each case without further act of the Administrative Agent or any Lender and (b) notwithstanding anything to the contrary, if the only Events of Default then having occurred and continuing are pursuant to a Financial Covenant Event of Default, then, unless a Financial Covenant Cross Default has occurred and is continuing, the Administrative Agent shall only take the actions set forth in this Section 8.02 at the request (or with the consent) of the Required Facility Lenders under the Revolving Facilities (as opposed to the Required Lenders) and only with respect to the Revolving Commitments, Revolving Loans, Letters of Credit and Obligations under the Revolving Facilities.

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SECTION 8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in clause (a) of the proviso to Section 8.02), subject to any Intercreditor Agreement then in effect, any amounts received on account of the Obligations will 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 (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Lenders, ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and L/C Borrowings, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings (including to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit), the Obligations under Secured Hedge Agreements and Cash Management Obligations under Secured Cash Management Agreements, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.03(3), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above will be applied to satisfy 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 will be applied to the other Obligations, if any, in the order set forth above and, if no Obligations remain outstanding, will be paid to the Borrower.

Notwithstanding the foregoing, amounts received from any Loan Party shall not be applied to any Excluded Swap Obligation of such Loan Party.

SECTION 8.04 Right to Cure.

(1) Notwithstanding anything to the contrary contained in Section 8.01 or Section 8.02, but subject to Sections 8.04(2) and (3), for the purpose of determining whether an Event of Default under the Financial Covenant has occurred, the Borrower may on one or more occasions designate any portion of the Net Proceeds from any Permitted Equity Issuance or of any contribution to the common equity capital of the Borrower (or from any other contribution to capital or sale or issuance of any other Equity Interests on terms reasonably satisfactory to the Administrative Agent) (the "Cure Amount") as an increase to Consolidated EBITDA of the Borrower for the applicable fiscal quarter; provided that
(a) such amounts to be designated are actually received by the Borrower (i) on or after the first Business Day of the applicable fiscal quarter and (ii) on or prior to the tenth (10th) Business Day after the date on which financial statements are required to be delivered with respect to such applicable fiscal quarter (the “Cure Expiration Date”),

(b) such amounts to be designated do not exceed the maximum aggregate amount necessary to cure any Event of Default under the Financial Covenant as of such date and

(c) the Borrower will have provided notice to the Administrative Agent on the date such amounts are designated as a “Cure Amount” (it being understood that to the extent such notice is provided in advance of delivery of a Compliance Certificate for the applicable period, the amount of such Net Proceeds that is designated as the Cure Amount may be lower than specified in such notice to the extent that the amount necessary to cure any Event of Default under the Financial Covenant is less than the full amount of such originally designated amount).

The Cure Amount used to calculate Consolidated EBITDA for one fiscal quarter will be used and included when calculating Consolidated EBITDA for each Test Period that includes such fiscal quarter. The parties hereby acknowledge that this Section 8.04(1) may not be relied on for purposes of calculating any financial ratios other than as applicable to the Financial Covenant (and may not be included for purposes of determining pricing, mandatory prepayments and the availability or amount permitted pursuant to any covenant under Article VII) and may not result in any adjustment to any amounts (including the amount of Indebtedness) or increase in cash with respect to the fiscal quarter with respect to which such Cure Amount was received other than the amount of the Consolidated EBITDA referred to in the immediately preceding sentence, except to the extent such proceeds are actually applied to prepay Indebtedness under the Facilities. Notwithstanding anything to the contrary contained in Section 8.01 and Section 8.02, (A) upon designation of the Cure Amount by the Borrower in an amount necessary to cure any Event of Default under the Financial Covenant, the Financial Covenant will be deemed satisfied and complied with as of the end of the relevant fiscal quarter with the same effect as though there had been no failure to comply with the Financial Covenant and any Event of Default under the Financial Covenant (and any other Default as a result thereof) will be deemed not to have occurred for purposes of the Loan Documents, (B) from and after the date that the Borrower delivers a written notices to the Administrative Agent that it intends to exercise its cure right under this Section 8.04 (a “Notice of Intent to Cure”) neither the Administrative Agent nor any Lender may exercise any rights or remedies under Section 8.02 (or under any other Loan Document) on the basis of any actual or purported Event of Default under the Financial Covenant (and any other Default as a result thereof) until and unless the Cure Expiration Date has occurred without the Cure Amount having been designated and (C) no Lender or Issuing Bank shall be required to (but in its sole discretion may) make any Revolving Loan or issue or amend any Letter of Credit from and after such time as the Administrative Agent has received the Notice of Intent to Cure unless and until the Cure Amount is actually received.

(2) In each period of four consecutive fiscal quarters, there shall be no more than two (2) fiscal quarters in which the cure right set forth in Section 8.04(1) is exercised.

(3) There shall be no more than five (5) fiscal quarters in which the cure rights set forth in Section 8.04(1) are exercised during the term of the Facilities; provided that, so long as the Closing Date Revolving Facility is no longer outstanding, there may be an additional fiscal quarter after the Original Revolving Facility Maturity Date in which the cure rights set forth in this Section 8.04 are exercised during the term of any Revolving Commitments.
Article IX

Administrative Agent and Other Agents

SECTION 9.01 Appointment and Authorization of the Administrative Agent.

(1) Each Lender and Issuing Bank hereby irrevocably appoints Morgan Stanley Senior Funding, Inc., 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 IX (other than Sections 9.07, 9.11, 9.12, 9.15 and 9.16) are solely for the benefit of the Administrative Agent, the Lenders and each Issuing Bank and the Borrower shall not have rights as a third-party beneficiary of any such provision. The Administrative Agent hereby represents and warrants that it is either (i) a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii) or (ii) a Withholding U.S. Branch.

(2) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacities as a Lender and a potential Hedge Bank or Cash Management Bank) and the Issuing Banks hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX and Article X with respect to the Administrative Agent (including Sections 10.04 and 10.05), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including any Intercreditor Agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 9.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any such Person serving as an Agent and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.
SECTION 9.03 Exculpatory Provisions. The Administrative Agent and Collateral Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents. Without limiting the generality of the foregoing, each Agent (including the Administrative Agent):

(1) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent or Arranger is not intended to connotate any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(2) 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 such 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 no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such 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

(3) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Persons shall be liable for any action taken or not taken by it (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 the final and non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender, or an Issuing Bank.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, 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 the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm
receipt of items expressly required to be delivered to the Administrative Agent. The duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender or the holder of any Note; and nothing in this Agreement or in any other Loan Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein.

Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each Arranger is named as such for recognition purposes only, and in its capacity as such shall have no powers, duties, responsibilities or liabilities with respect to this Agreement or the other Loan Documents or the transactions contemplated hereby and thereby; it being understood and agreed that each Arranger shall be entitled to all indemnification and reimbursement rights in favor of the Arrangers as, and to the extent, provided for under Section 10.05. Without limitation of the foregoing, each Arranger shall not, solely by reason of this Agreement or any other Loan Documents, have any fiduciary relationship in respect of any Lender or any other Person.

SECTION 9.04 Lack of Reliance on the Administrative Agent. Independently and without reliance upon the Administrative Agent, each Lender and the holder of each Note, to the extent it deems appropriate, has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of Holdings, the Borrower and the Restricted Subsidiaries in connection with the making and the continuance of the Loans and the taking or not taking of any action in connection herewith and (ii) its own appraisal of the creditworthiness of Holdings, the Borrower and the Restricted Subsidiaries and, except as expressly provided in this Agreement, the Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender or the holder of any Note with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter. The Administrative Agent shall not be responsible to any Lender or the holder of any Note for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of this Agreement or any other Loan Document or the financial condition of Holdings, the Borrower or any of the Restricted Subsidiaries or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any other Loan Document, or the financial condition of Holdings, the Borrower or any of the Restricted Subsidiaries or the existence or possible existence of any Default or Event of Default.

SECTION 9.05 Certain Rights of the Administrative Agent. If the Administrative Agent requests instructions from the Required Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Loan Document, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders; and the Administrative Agent shall not incur liability to any Lender by reason of so refraining. Without limiting the foregoing, neither any Lender nor the holder of any Note shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any other Loan Document in accordance with the instructions of the Required Lenders.

SECTION 9.06 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any note, writing, resolution, notice, statement, certificate, telex, teletype or facsimile message, cablegram, radiogram, order or other document or telephone message signed, sent or made by any Person that the Administrative Agent believed to be the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan
Document and its duties hereunder and thereunder, upon advice of counsel selected by the Administrative Agent. 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 Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or issuances 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.

SECTION 9.07 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents 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 Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub agent and to the Agent-Related Persons 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. Notwithstanding anything to the contrary in this Section 9.07 or Section 9.15, the Administrative Agent shall not delegate to any Supplemental Administrative Agent responsibility for receiving any payments under any Loan Document for the account of any Lender, which payments shall be received directly by the Administrative Agent, without prior written consent of the Borrower (not to unreasonably withheld or delayed).

SECTION 9.08 Indemnification. Whether or not the transactions contemplated hereby are consummated, to the extent the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) is not reimbursed and indemnified by the Borrower, the Lenders will reimburse and indemnify the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) in proportion to their respective Pro Rata Shares for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent or any other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the Administrative Agent) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent’s or any other Agent-Related Person’s gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision). In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.08 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower, provided that such reimbursement by the Lenders shall not affect the Borrower’s continuing reimbursement obligations with respect thereto, provided further that the failure of any Lender to indemnify or reimburse the Administrative Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 9.08 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.
SECTION 9.09 The Administrative Agent in Its Individual Capacity. With respect to its obligation to make Loans under this Agreement, the Administrative Agent shall have the rights and powers specified herein for a “Lender” and may exercise the same rights and powers as though it were not performing the duties specified herein; and the term “Lender,” “Required Lenders” or any similar terms shall, unless the context clearly indicates otherwise, include the Administrative Agent in its respective individual capacities. The Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, investment banking, trust or other business with, or provide debt financing, equity capital or other services (including financial advisory services) to any Loan Party or any Affiliate of any Loan Party (or any Person engaged in a similar business with any Loan Party or any Affiliate thereof) as if they were not performing the duties specified herein, and may accept fees and other consideration from any Loan Party or any Affiliate of any Loan Party for services in connection with this Agreement and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 9.10 [Reserved].

SECTION 9.11 Resignation by the Administrative Agent. The Administrative Agent may resign from the performance of all its respective functions and duties hereunder or under the other Loan Documents at any time by giving 30 Business Days prior written notice to the Lenders and the Borrower. If the Administrative Agent becomes subject to a Lender-Related Distress Event, then the Administrative Agent may be removed as the Administrative Agent at the reasonable request of the Required Lenders. If the Administrative Agent becomes subject to an Agent-Related Distress Event, then the Borrower may remove the Administrative Agent from such role upon 15 days’ prior written notice to the Lenders. Such resignation or removal shall take effect upon the appointment of a successor Administrative Agent as provided below.

Notwithstanding anything to the contrary in this Agreement, no successor Administrative Agent shall be appointed unless such successor Administrative Agent represents and warrants that it is (i) a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of U.S. Treasury Regulations Section 1.1441-1, or (ii) a Withholding U.S. Branch.

Upon any such notice of resignation by, or notice of removal of, the Administrative Agent, the Required Lenders shall appoint a successor Administrative Agent hereunder or thereunder who shall be a commercial bank or trust company reasonably acceptable to the Borrower, which acceptance shall not be unreasonably withheld or delayed (provided that the Borrower’s approval shall not be required if an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing).

If a successor Administrative Agent shall not have been so appointed within such 30 Business Day period, the Administrative Agent, with the consent of the Borrower (which consent shall not be unreasonably withheld or delayed, provided that the Borrower’s consent shall not be required if an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing), shall then appoint a successor Administrative Agent who shall serve as Administrative Agent hereunder or thereunder until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.
If no successor Administrative Agent has been appointed pursuant to the foregoing by the 35th Business Day after the date such notice of resignation was given by the Administrative Agent or such notice of removal was given by the Required Lenders or the Borrower, as applicable, the Administrative Agent’s resignation shall nonetheless become effective and the Required Lenders shall thereafter perform all the duties of the Administrative Agent hereunder or under any other Loan Document until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above. The retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Banks under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed and 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 or Issuing Bank directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 9.11.

Upon the acceptance of a successor’s appointment as Administrative Agent hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (i) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (ii) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring 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 9.11).

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 Administrative Agent’s resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 10.04 and 10.05 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Upon a resignation or removal of the Administrative Agent pursuant to this Section 9.11, the Administrative Agent (i) shall continue to be subject to Section 10.09 and (ii) shall remain indemnified to the extent provided in this Agreement and the other Loan Documents and the provisions of this Article IX (and the analogous provisions of the other Loan Documents) shall continue in effect for the benefit of the Administrative Agent for all of its actions and inactions while serving as the Administrative Agent.

SECTION 9.12 Collateral Matters. Each Lender (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) irrevocably authorizes and directs the Administrative Agent and the Collateral Agent to take the actions to be taken by them as set forth in Sections 7.04 and 10.24.
Each Lender hereby agrees, and each holder of any Note by the acceptance thereof will be deemed to agree, that, except as otherwise set forth herein, any action taken by the Required Lenders or the Required Facility Lenders, as applicable, in accordance with the provisions of this Agreement or the Collateral Documents, and the exercise by the Required Lenders or the Required Facility Lenders, as applicable, of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. The Collateral Agent is hereby authorized on behalf of all of the Lenders, without the necessity of any notice to or further consent from any Lender, from time to time, to take any action with respect to any Collateral or Collateral Documents which may be necessary to perfect and maintain perfected the security interest in and liens upon the Collateral granted pursuant to the Collateral Documents.

Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Collateral Agent’s authority to release particular types or items of Collateral pursuant to this Section 9.12. In each case as specified in this Section 9.12, Section 7.04 and Section 10.24, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrower’s expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents, this Section 9.12, Section 7.04 and Section 10.24.

The Collateral Agent shall have no obligation whatsoever to the Lenders or to any other Person to assure that the Collateral exists or is owned by any Loan Party or is cared for, protected or insured or that the Liens granted to the Collateral Agent herein or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to the Collateral Agent in this Section 9.12, Section 7.04, Section 10.24 or in any of the Collateral Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its sole discretion, given the Collateral Agent’s own interest in the Collateral as one of the Lenders and that the Collateral Agent shall have no duty or liability whatsoever to the Lenders, except for its gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

SECTION 9.13 [Reserved].

SECTION 9.14 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, 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, any Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, any Issuing Bank and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, any Issuing Bank and the Administrative Agent under Sections 2.09 and 10.04) allowed in such judicial proceeding; and
and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank 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 relevant Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective 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 Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (i) of the first proviso to Section 10.01(1) of this Agreement), (iii) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.
SECTION 9.15 Appointment of Supplemental Administrative Agents.

(1) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a “Supplemental Administrative Agent” and collectively as “Supplemental Administrative Agents”).

(2) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and 10.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent or such Supplemental Administrative Agent, as the context may require.

(3) Should any instrument in writing from any Loan Party be reasonably required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments reasonably acceptable to it promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 9.16 Intercreditor Agreements. The Administrative Agent and Collateral Agent are hereby authorized to enter into any Intercreditor Agreement to the extent contemplated by the terms hereof, and the parties hereto acknowledge that such Intercreditor Agreement is binding upon them. Each Secured Party (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreements, (b) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into the Intercreditor Agreements and to subject the Liens on the Collateral securing the Obligations to the provisions thereof and (c) without any further consent of the Lenders, hereby authorizes and instructs the Administrative Agent and the Collateral Agent to negotiate, execute and deliver on behalf of the Secured Parties any Intercreditor agreement or any amendment (or amendment and restatement) to the Collateral Documents or any Intercreditor Agreement contemplated hereunder (including any such amendment (or amendment and restatement) of the First Lien/Second Lien Intercreditor Agreement).
Agreement or other intercreditor agreement to provide for the incurrence of any Indebtedness permitted hereunder that will be secured on a junior lien or pari passu basis to (x) the Obligations and/or (y) any Indebtedness pursuant to the Second Lien Credit Documents. In addition, each Secured Party hereby authorizes the Administrative Agent and the Collateral Agent to enter into (i) any amendments to any Intercreditor Agreements, and (ii) any other intercreditor arrangements, in the case of clauses (i) and (ii) to the extent required to give effect to the establishment of intercreditor rights and privileges as contemplated and required or permitted by this Agreement (including any such amendment (or amendment and restatement) of the First Lien/Second Lien Intercreditor Agreement or other intercreditor agreement to provide for the incurrence of any Indebtedness permitted hereunder that will be secured on a junior lien or pari passu basis to (x) the Obligations and/or (y) any Indebtedness pursuant to the Second Lien Credit Documents).

Each Secured Party acknowledges and agrees that any of the Administrative Agent and Collateral Agent (or one or more of their respective Affiliates) may (but are not obligated to) act as the “Debt Representative” or like term for the holders of Credit Agreement Refinancing Indebtedness under the security agreements with respect thereto or any Intercreditor Agreement then in effect. Each Lender waives any conflict of interest, now contemplated or arising hereafter, in connection therewith and agrees not to assert against any Agent or any of its affiliates any claims, causes of action, damages or liabilities of whatever kind or nature relating thereto.

SECTION 9.17 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

SECTION 9.18 Withholding Tax. To the extent required by any applicable Laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 3.01, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within ten (10) days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of such Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 9.18. The agreements in this Section 9.18 shall survive the resignation or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

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SECTION 10.01 Amendments, etc.

(1) Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, 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 (other than (x) with respect to any amendment or waiver contemplated in clauses (g), (h) or (i) below (in the case of clause (i), to the extent permitted by Section 2.14), which shall only require the consent of the Required Facility Lenders under the applicable Facility or Facilities, as applicable (and not the Required Lenders) and (y) with respect to any amendment or waiver contemplated in clauses (a), (b) or (c), which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders) (or by the Administrative Agent with the consent of the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and the Administrative Agent hereby agrees to acknowledge any such waiver, consent or amendment that otherwise satisfies the requirements of this Section 10.01 as promptly as possible, however, to the extent the final form of such waiver, consent or amendment has been delivered to the Administrative Agent at least one Business Day prior to the proposed effectiveness of the consents by the Lenders party thereto, the Administrative Agent shall acknowledge such waiver, consent or amendment (i) immediately, in the case of any amendment which does not require the consent of any existing Lender under this Agreement or (ii) otherwise, within two hours of the time copies of the Required Lender consents or other applicable Lender consents required by this Section 10.01 have been provided to 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:

(a) extend or increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Section 4.01 or 4.02 or the waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.07 or 2.08 (other than pursuant to Section 2.08(2)) or any payment of fees or premiums hereunder or under any Loan Document with respect to payments to any Lender without the written consent of such Lender, it being understood that none of the following will constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of principal, interest, fees or premiums: (i) the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans, (ii) the waiver of any Default or Event of Default, and (iii) any change to the definition of “First Lien Net Leverage Ratio,” “Secured Net Leverage Ratio,” “Total Net Leverage Ratio,” “Interest Coverage Ratio” or, in each case, in the component definitions thereof;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or Unreimbursed Amount, or any fees or other amounts payable hereunder or under any other Loan Document to any Lender without the written consent of such Lender, it being understood that none of the following will constitute a reduction in any rate of interest or any fees: any change to the definition of “First Lien Net Leverage Ratio,” “Secured Net Leverage Ratio,” “Total Net Leverage Ratio,” “Interest Coverage Ratio,” or, in each case, in the component definitions thereof; provided that only the consent of (A) the Required Lenders shall be necessary to amend the definition of “Default Rate” and (B) the Required Lenders or, with respect to any Default Rate payable in respect of the Revolving Facility, the Required Facility Lenders under the Closing Date Revolving Facility, shall be necessary to waive any obligation of the Borrower to pay interest at the Default Rate;
(d) except as contemplated by clause (C) in the second proviso immediately succeeding clause (i) of this Section 10.01(1), change any provision of this Section 10.01 or the definition of “Required Lenders” or “Required Facility Lenders,” “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents or Section 2.13 or 8.03, without the written consent of each Lender directly and adversely affected thereby;

(e) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the aggregate value of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in a transaction permitted under Section 7.03 or Section 7.04, release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;

(g) amend, waive or otherwise modify any term or provision (including the waiver of any conditions set forth in Section 4.02 as to any Credit Extension under one or more Revolving Facilities) which directly affects Lenders under one or more Revolving Facilities and does not directly affect Lenders under any other Facilities, in each case, without the written consent of the Required Facility Lenders under such applicable Revolving Facility or Facilities with respect to Revolving Commitments (and in the case of multiple Facilities which are affected, such Required Facility Lenders shall consent together as one Facility); provided, however, that the waivers described in this clause (g) shall not require the consent of the Required Lenders or any other Lenders other than the Required Facility Lenders under the applicable Revolving Facility or Facilities (it being understood that any amendment to the conditions of effectiveness of Incremental Commitments set forth in Section 2.14 shall be subject to clause (i) below);

(h) amend, waive or otherwise modify the Financial Covenant or any definition related thereto (solely in respect of the use of such defined terms in the Financial Covenant) or waive any Default or Event of Default resulting from a failure to perform or observe the Financial Covenant) without the written consent of the Required Facility Lenders under the applicable Revolving Facility or Facilities with respect to Revolving Commitments (such Required Facility Lenders shall consent together as one Facility); provided, however, that the amendments, waivers and other modifications described in this clause (h) shall not require the consent of the Required Lenders or any other Lenders other than the Required Facility Lenders under the applicable Revolving Facility or Facilities;

(i) amend, waive or otherwise modify any term or provision (including the availability and conditions to funding (subject to the requirements of Section 2.14) with respect to Incremental Term Loans and Incremental Revolving Commitments, but excluding the rate of interest applicable thereto which shall be subject to clause (c) above)) which directly affects Lenders of one or more Incremental Term Loans or Incremental Revolving Commitments and does not directly affect Lenders under any other Facility, in each case, without the written consent of the Required Facility Lenders under such applicable Incremental Term Loans or Incremental Revolving Commitments (and in the case of multiple Facilities which are affected, such Required Facility Lenders shall consent together as one Facility); provided, however, that, to the extent permitted under
Section 2.14, no amendments or waivers described in this clause (i) shall require the consent of the Required Lenders or any other Lenders and shall only require the consent of the Required Facility Lenders under such applicable Incremental Term Loans or Incremental Revolving Commitments, including to the extent such amendment or waiver includes provisions that benefit the Lenders under any other Facility and are not adverse to such other Lenders;

provided that:

(I) no amendment, waiver or consent shall, unless in writing and signed by each Issuing Bank in addition to the Lenders required above, affect the rights or duties of such Issuing Bank under this Agreement or any Issuing Bank Document relating to any Letter of Credit issued or to be issued by it; provided, however, that this Agreement may be amended to adjust the mechanics related to the issuance of Letters of Credit, including mechanical changes relating to the existence of multiple Issuing Banks, with only the written consent of the Administrative Agent, the applicable Issuing Bank and the Borrower so long as the obligations of the Revolving Lenders, if any, who have not executed such amendment, and if applicable the other Issuing Banks, if any, who have not executed such amendment, are not adversely affected thereby;

(II) [reserved]

(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, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document; and

(IV) Section 10.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification;

provided further that notwithstanding the foregoing:

(A) no Defaulting Lender shall have any right to approve or disapprove of 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 than Defaulting Lenders), except that the Commitment of such Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders);

(B) no Lender consent is required to effect any amendment or supplement to any Intercreditor Agreement (i) that is for the purpose of adding the holders of Permitted Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or any other Permitted Indebtedness that is Secured Indebtedness (or a Debt Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of such Intercreditor Agreement, as applicable (it being understood that any such amendment, modification or supplement may make such other changes to the applicable Intercreditor Agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing and provided such other changes are not adverse, in any material respect, to the interests of the Lenders) or (ii) that is expressly contemplated by any Intercreditor Agreement in connection with joiners and supplements; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document without the prior written consent of the Administrative Agent or the Collateral Agent, as applicable;
(C) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans, the Revolving Loans and L/C Obligations and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders;

(D) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section 10.01 if such Class of Lenders were the only Class of Lenders hereunder at the time;

(E) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent (or the Collateral Agent, as applicable) to cure any ambiguity, omission, defect or inconsistency (including amendments, supplements or waivers to any of the Collateral Documents, guarantees, intercreditor agreements or related documents executed by any Loan Party or any other Subsidiary in connection with this Agreement if such amendment, supplement or waiver is delivered in order to cause such Collateral Documents, guarantees, intercreditor agreements or related documents to be consistent with this Agreement and the other Loan Documents) so long as, in each case, the Lenders shall have received at least five (5) Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; provided that the consent of the Lenders or the Required Lenders, as the case may be, shall not be required to make any such changes necessary to be made in connection with any borrowing of Incremental Loans, any borrowing of Other Loans, any Extension or any borrowing of Replacement Loans and otherwise to effect the provisions of Section 2.14, 2.15 or 2.16 or the immediately succeeding paragraph of this Section 10.01, respectively; and

(F) the Borrower and the Administrative Agent may, without the input or consent of the other Lenders, (i) effect changes to any Mortgage as may be necessary or appropriate in the opinion of the Collateral Agent and (ii) effect changes to this Agreement that are necessary and appropriate to effect the offering process set forth in Section 2.05(1)(e).

(2) In addition, notwithstanding anything to the contrary contained in this Section 10.01, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the Replacement Loans (as defined below) to permit the refinancing of all outstanding Term Loans of any Class ("Replaced Loans") with replacement term loans ("Replacement Loans") hereunder; provided that
(a) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Replaced Loans, plus accrued interest, fees, premiums (if any) and penalties thereon and reasonable fees and expenses incurred in connection with such refinancing of Replaced Loans with such Replacement Loans,

(b) the All-In Yield with respect to such Replacement Loans (or similar interest rate spread applicable to such Replacement Loans) shall not be higher than the All-In Yield for such Replaced Loans (or similar interest rate spread applicable to such Replaced Loans) immediately prior to such refinancing,

(c) the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the Weighted Average Life to Maturity of such Replaced Loans at the time of such refinancing, and

(d) all other terms (other than with respect to pricing, interest rate margins, fees, discounts, rate floors and prepayment or redemption terms) applicable to such Replacement Loans shall either, at the option of the Borrower, (i) reflect market terms and conditions (taken as a whole) at the time of incurrence of such Replacement Loans (as determined by the Borrower in good faith) or (ii) if not otherwise consistent with the terms of such Replaced Loans, not be materially more restrictive to the Borrower (as determined by the Borrower in good faith), when taken as a whole, than the terms of such Replaced Loans, except with respect to covenants and other terms applicable to any period after the Latest Maturity Date of the Loans in effect immediately prior to such refinancing.

Each amendment to this Agreement providing for Replacement Loans may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower to effect the provisions of this paragraph, and for the avoidance of doubt, this paragraph shall supersede any other provisions in this Section 10.01 to the contrary.

(3) In addition, notwithstanding anything to the contrary in this Section 10.01,

(a) the Guaranty, the Collateral Documents and related documents executed by Loan Parties in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause the Guaranty, Collateral Documents or other document to be consistent with this Agreement and the other Loan Documents (including by adding additional parties as contemplated herein or therein) and

(b) if the Administrative Agent and the Borrower shall have jointly identified an obvious error, mistake, ambiguity, incorrect cross-reference or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then the Administrative Agent (acting in its sole discretion) and the Borrower or any other relevant Loan Party shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document. Notification of such amendment shall be made by the Administrative Agent to the Lenders promptly upon such amendment becoming effective.
SECTION 10.02 Notices and Other Communications; Facsimile Copies.

(1) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (2) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to Holdings, the Borrower or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

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 facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next succeeding Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (2) below shall be effective as provided in such subsection (2).

(2) Electronic Communication. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

(3) 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), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next succeeding Business Day for the recipient, 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.
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 Agent-Related Persons or any Arranger (collectively, the “Agent Parties”) have any liability to Holdings, the Borrower, any Lender, 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 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 non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

Change of Address. Each Loan Party and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by written notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by written notice to the Borrower and the Administrative Agent. 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, facsimile number and electronic 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 may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

Reliance by the Administrative Agent. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed 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, each Lender and the Agent-Related Persons 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.

SECTION 10.03 No Waiver; Cumulative Remedies. No failure by any Lender 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 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; provided, however, 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) any Issuing Bank from exercising the rights and remedies that inure to its benefit (solely in its capacity as Issuing Bank, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.10 (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.

SECTION 10.04 Costs and Expenses. The Borrower agrees (a) if the Closing Date occurs and to the extent not paid or reimbursed on or prior to the Closing Date, to pay or reimburse the Administrative Agent and the Arrangers for all reasonable and documented out-of-pocket costs and expenses of the Administrative Agent and such Arrangers incurred in connection with the preparation, negotiation, syndication, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated hereby and thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs of a single U.S. counsel and, if necessary, a single local counsel in each relevant material jurisdiction, and (b) upon presentation of a summary statement, together with any supporting documentation reasonably requested by the Borrower, to pay or reimburse the Administrative Agent, each Issuing Bank and the other Lenders, taken as a whole, promptly following a written demand therefor for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of one counsel to the Administrative Agent and the Lenders taken as a whole (and, if necessary, one local counsel in any relevant material jurisdiction and solely in the case of a conflict of interest, one additional counsel in each relevant material jurisdiction to each group of affected Lenders similarly situated taken as a whole)). The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within thirty (30) Business Days following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

SECTION 10.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Agents, each Issuing Bank, each other Lender, the Arrangers and their respective Related Persons (collectively, the “Indemnities”) from and against any and all losses, claims, damages, liabilities or expenses (including Attorney Costs and Environmental Liabilities) to which any such Indemnity may become subject arising out of, resulting from or in connection with (but limited, in the case of legal fees and expenses, to the reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnities taken as a whole and, if reasonably necessary, a single local counsel for all
Indemnitees taken as a whole in each relevant material jurisdiction, and solely in the case of a conflict of interest, one additional counsel in each relevant
material jurisdiction to each group of affected Indemnitees similarly situated taken as a whole) any actual or threatened claim, litigation, investigation or
proceeding relating to the Transactions or to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan
Documents, the Loans, the Letters of Credit or the use, or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank 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), whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or
threatened claim, litigation, investigation or proceeding), and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the
"Indemnified Liabilities"); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages,
liabilities or expenses resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its Related Indemnified
Persons as determined by a final, non-appealable judgment of a court of competent jurisdiction, (y) a material breach of any obligations under any Loan
Document by such Indemnitee or any of its Related Indemnified Persons as determined by a final, non-appealable judgment of a court of competent
jurisdiction or (z) any dispute solely among Indemnitees other than any claims against an Indemnitee in its capacity or in fulfilling its role as an
administrative agent or arranger or any similar role under any Loan Document and other than any claims arising out of any act or omission of Holdings
or any of its Affiliates (as determined by a final, non-appealable judgment of a court of competent jurisdiction). To the extent that the undertakings to
indemnify and hold harmless set forth in this Section 10.05 may be unenforceable in whole or in part because they are violative of any applicable Law
or public policy, the Borrower shall contribute the maximum portion that they are permitted to pay and satisfy under applicable Law to the payment and
satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the
use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with
this Agreement (except to the extent such damages are found in a final non-appealable judgment of a court of competent jurisdiction to have resulted
from the willful misconduct, bad faith or gross negligence of such Indemnitee), nor shall any Indemnitee or any Loan Party have any liability for any
special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection
herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or
paid by an Indemnitee to a third party for which such Indemnitee is otherwise entitled to indemnification pursuant to this Section 10.05). In the case of
an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not
such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person,
whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other
Loan Documents is consummated. All amounts due under this Section 10.05 shall be paid within thirty (30) Business Days after written demand
therefor. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination
of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 10.05 shall not apply to Taxes,
except any Taxes that represent losses or damages arising from any non-Tax claim. Notwithstanding the foregoing, each Indemnitee shall be obligated to
refund and return promptly any and all amounts paid by any Loan Party or any of its Affiliates under this Section 10.05 to such Indemnitee for any such
fees, expenses or damages to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof.

SECTION 10.06 Marshaling; Payments Set Aside. None of the Administrative Agent or any Lender shall be under any obligation to
marshal any assets in favor of the Loan Parties or any other party or against or in payment of any or all of the Obligations. To the extent that any
payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent 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 such Agent 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 severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any 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 Overnight Rate from time to time in effect.

SECTION 10.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and registered assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 7.03, 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 (including to existing Lenders and their Affiliates) except (i) to an assignee in accordance with the provisions of Section 10.07(b) (such an assignee, an “Eligible Assignee”) and (A) in the case of any Eligible Assignee that, immediately prior to or upon giving effect to such assignment, is an Affiliated Lender, in accordance with the provisions of Section 10.07(h), (B) in the case of any Eligible Assignee that is Holdings, the Borrower or any Subsidiary of the Borrower, in accordance with the provisions of Section 10.07(l), or (C) in the case of any Eligible Assignee that, immediately prior to or upon giving effect to such assignment, is a Debt Fund Affiliate, in accordance with the provisions of Section 10.07(k), (ii) by way of participation in accordance with the provisions of Section 10.07(d), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(f), or (iv) to an SPC in accordance with the provisions of Section 10.07(g) (and any other attempted assignment or transfer by any party hereto shall be null and void) (or in the case of any such attempted assignment or transfer to a Disqualified Institution shall be subject to the provisions set forth in the fourth sentence of the definition of “Lender”). 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 Section 10.07(d) and, to the extent expressly contemplated hereby, Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this Section 10.07(b), participations in L/C Obligations) 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 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

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(B) in any case not described in subsection (b)(i)(A) of this Section 10.07, the aggregate amount of the Commitment or, 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 $1.0 million, in the case of USD Term Loans, not less than €1.0 million, in the case of Euro Term Loans, and not less than $5.0 million, in the case of Revolving Loans and Revolving Commitments, unless each of the Administrative Agent and, so long as no Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing, the Borrower otherwise consents (in the case of an assignment of Term Loans, each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Loans or the Commitment assigned (it being understood that assignments under separate Facilities shall not be required to be made on a pro rata basis).

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 10.07(b)(i)(B) and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Section 8.01(1) or, solely with respect to the Borrower, Section 8.01(6) has occurred and is continuing at the time of such assignment determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if a “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date or (2) in respect of an assignment of all or a portion of the Term Loans only, such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that (x) consent for any affiliate of a Disqualified Institution that is not a Disqualified Institution may be withheld, (y) the Borrower shall be deemed to have consented to any assignment of all or a portion of the Term Loans unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice of a failure to respond to such request for assignment and (z) no consent of the Borrower shall be required for an assignment of all or a portion of the Loans pursuant to Section 10.07(b), (k) or (l);

(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; provided that no consent of the Administrative Agent shall be required for an assignment of all or a portion of the Loans pursuant to Section 10.07(b), (k) or (l);

(C) the consent of each applicable Issuing Bank at the time of such assignment (such consent not to be unreasonably withheld or delayed) shall be required; provided that no consent of the applicable Issuing Bank shall be required for any assignment not related to Revolving Commitments or Revolving Exposure; and

(D) [Reserved]
(E) with respect to assignments of any Commitments and Loans under the Revolving Facility, the consent of TPG VII Manta
Holdings II, LP (such consent not to be unreasonably withheld or delayed) shall be required (so long as TPG VII Manta Holdings II, LP
and its affiliates hold, directly or indirectly, at least a majority of the aggregate ordinary voting power represented by the issued and
outstanding Equity Interests of the Borrower) unless an Event of Default under Section 8.01(1) or, solely with respect to the Borrower,
Section 8.01(6) has occurred and is continuing at the time of such assignment determined as of the date the Assignment and Assumption
with respect to such assignment is delivered to the Administrative Agent or, if a “Trade Date” is specified in the Assignment and
Assumption, as of the Trade Date (it being understood that TPG VII Manta Holdings II, LP shall be an express third party beneficiary of
the provisions in this Section 10.07(b)(iii)(E)).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and
Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent,
manually), and shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced in the sole
discretion of the Administrative Agent). Other than in the case of assignments pursuant to Section 10.07(l), the Eligible Assignee, if it shall not be
a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and all applicable tax forms.

(v) No Assignments to Certain Persons. No such assignment shall be made (A) to Holdings, the Borrower or any of the Borrower’s
Subsidiaries except as permitted under Sections 2.05(1)(e) and 10.07(l), (B) subject to Sections 10.07(h), (k) and (l) below, to any Affiliate of the
Borrower, (C) to a natural person, (D) to any Disqualified Institution or (E) to any Defaulting Lender.

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 sub participations, 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 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 in accordance with its Pro Rata Share. 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 clause (c) of this Section 10.07 (and, in the case of an
Affiliated Lender or a Person that, after giving effect to such assignment, would become an Affiliated Lender, to the requirements of clause (h) of this
Section 10.07), from and after the effective date specified in each Assignment and Assumption, other than in connection with an assignment pursuant to
Section 10.07(l), (x) 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 (y) 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, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment), but shall in any event continue to be subject to Section 10.09. Upon request, and the surrender by the assigning Lender of its Note, 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 Section 10.07(d).

(c) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent’s Office a copy of each Assignment and Assumption delivered to it, each Affiliated Lender Assignment and Assumption delivered to it, each notice of cancellation of any Loans delivered by the Borrower pursuant to subsections (h) or (l) below, and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans, L/C Obligations (specifying Unreimbursed Amounts), L/C Borrowings and amounts due under Section 2.03, 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 Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Agent and, with respect to its own Loans, any Lender, at any reasonable time and from time to time upon reasonable prior notice. This Section 10.07(c) and Section 2.11 shall be construed so that all Loans are at all times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations). Notwithstanding the foregoing, in no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is an Affiliated Lender, nor shall the Administrative Agent be obligated to monitor the aggregate amount of the Term Loans or Incremental Term Loans held by Affiliated Lenders.

(d) 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, the Borrower and its Affiliates, a Defaulting Lender or a Disqualified Institution) (each, a “Participant”) in all or a portion of such Lender’s rights or obligations under this Agreement (including all or a portion of its Commitment or the Loans (including such Lender’s participations in L/C Obligations) 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 Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall 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(1) (other than clauses (g), (h) and (i) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section 10.07, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Section 3.01 (including subsections (2), (3) and (4), as applicable) as though it were a Lender; provided that any forms required to be provided under Section 3.01(3) shall be provided solely to the participating Lender), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 10.07.
To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.10 as though it were a Lender; provided that such Participant shall agree to be subject to Section 2.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower’s prior written consent. Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations issued thereunder on which is entered the name and address of each Participant and the principal amounts (and related interest amounts) of each Participant’s interest in the Loans or other obligations under this Agreement (the “Participant Register”). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender and the Borrower 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; provided that no Lender shall have the obligation to disclose all or a portion of the Participant Register (including the identity of the Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or other obligations under this Agreement) to any Person except to the extent such disclosure is necessary to establish that any such commitments, loans, letters of credit or other obligations are in registered form for U.S. federal income tax purposes or such disclosure is otherwise required under Treasury Regulations Section 5f.103-1(c).

(f) 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 or any other central 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.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) such SPC and the applicable Loan or any applicable part thereof shall be appropriately reflected in the Participant Register. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the Lender hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

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Any Lender may at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (x) Dutch auctions or other offers to purchase or take by assignment open to all Lenders on a pro rata basis in accordance with procedures determined by such Affiliated Lender in its sole discretion or (y) open market purchase on a non-pro rata basis, in each case subject to the following limitations:

(i) Affiliated Lenders will not (A) receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans or Commitments required to be delivered to Lenders pursuant to Article II or (B) make any challenge to the Administrative Agent’s or any other Lender’s attorney-client privilege on the basis of its status as a Lender;

(ii) [reserved];

(iii) each Lender (other than any other Affiliated Lender) that assigns any Loans to an Affiliated Lender pursuant to clause (y) above shall deliver to the Administrative Agent and the Borrower a customary Big Boy Letter;

(iv) the aggregate principal amount of Term Loans of any Class under this Agreement held by Affiliated Lenders at the time of any such purchase or assignment shall not exceed 25% of the aggregate principal amount of Term Loans of such Class outstanding at such time under this Agreement (such percentage, the “Affiliated Lender Cap”); provided that to the extent any assignment to an Affiliated Lender would result in the aggregate principal amount of all Term Loans of any Class held by Affiliated Lenders exceeding the Affiliated Lender Cap, the assignment of such excess amount will be void ab initio;

(v) as a condition to each assignment pursuant to this subsection (h), the Administrative Agent and the Borrower shall have been provided a notice in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender pursuant to which such Affiliated Lender (in its capacity as such) shall waive any right to bring any action in connection with such Loans against the Administrative Agent, in its capacity as such; and

(vi) the assigning Lender and the Affiliated Lender purchasing such Lender’s Term Loans shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit D-2 hereto (an “Affiliated Lender Assignment and Assumption”).

Notwithstanding anything to the contrary contained herein, any Affiliated Lender that has purchased Term Loans pursuant to this subsection (h) may, in its sole discretion, contribute, directly or indirectly, the principal amount of such Term Loans or any portion thereof, plus all accrued and unpaid interest thereon, to the Borrower for the purpose of cancelling and extinguishing such Term Loans. Upon the date of such contribution, assignment or transfer, (x) the aggregate outstanding principal amount of Term Loans shall reflect such cancellation and extinguishing of the Term Loans then held by the Borrower and (y) the Borrower shall promptly provide notice to the Administrative Agent of such contribution of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register.
Each Affiliated Lender agrees to notify the Administrative Agent and the Borrower promptly (and in any event within ten (10) Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent and the Borrower promptly (and in any event within ten (10) Business Days) if it becomes an Affiliated Lender. The Administrative Agent may conclusively rely upon any notice delivered pursuant to the immediately preceding sentence or pursuant to clause (v) of this subsection (h) and shall not have any liability for any losses suffered by any Person as a result of any purported assignment to or from an Affiliated Lender.

(i) Notwithstanding anything in Section 10.01 or the definition of “Required Lenders,” or “Required Facility Lenders” to the contrary, for purposes of determining whether the Required Lenders and Required Facility Lenders (in respect of a Class of Term Loans) have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 10.07(j), any plan of reorganization pursuant to the U.S. Bankruptcy Code, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, no Affiliated Lender shall have any right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action and, except with respect to any amendment, modification, waiver, consent or other action (x) in Section 10.01 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (y) that alters an Affiliated Lender’s pro rata share of any payments given to all Lenders, or (z) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender in the same Class, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph) (but, in any event, in connection with any amendment, modification, waiver, consent or other action, shall be entitled to any consent fee, calculated as if all of such Affiliated Lender’s Loans had voted in favor of any matter for which a consent fee or similar payment is offered).

(j) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender hereby agrees that, and each Affiliated Lender Assignment and Assumption shall provide a confirmation that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Term Loans held by such Affiliated Lender in any manner in the Administrative Agent’s sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Term Loans held by it as the Administrative Agent directs; provided that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Obligations held by such Affiliated Lender in a disproportionately adverse manner than the proposed treatment of similar Obligations held by Term Lenders that are not Affiliated Lenders.

(k) Although any Debt Fund Affiliate(s) shall be Eligible Assignees and shall not be subject to the provisions of Section 10.07(h), (i) or (j), any Lender may, at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, a Debt Fund Affiliate only through (x) Dutch auctions or other offers to purchase or take by assignment open to all Lenders on a pro rata basis in accordance with procedures of
the type described in Section 2.05(1)(e) (for the avoidance of doubt, without requiring any representation as to the possession of material non-public information by such Affiliate) or (y) open market purchase on a non-pro rata basis. Notwithstanding anything in Section 10.01 or the definition of “Required Lenders” to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, all Term Loans, Revolving Commitments and Revolving Loans held by Debt Fund Affiliates, in the aggregate, may not account for more than 49.9% of the Term Loans, Revolving Commitments and Revolving Loans of Lenders included in determining whether the Required Lenders have consented to any action pursuant to Section 10.01.

(l) Any Lender may, so long as no Event of Default has occurred and is continuing, at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to Holdings, the Borrower or any Subsidiary of the Borrower through (x) Dutch auctions or other offers to purchase open to all Lenders on a pro rata basis in accordance with procedures of the type described in Section 2.05(1)(e) or (y) open market purchases on a non-pro rata basis; provided that:

(i) (x) if the assignee is Holdings or a Subsidiary of the Borrower, upon such assignment, transfer or contribution, the applicable assignee shall automatically be deemed to have contributed or transferred the principal amount of such Term Loans, plus all accrued and unpaid interest thereon, to the Borrower; or (y) if the assignee is the Borrower (including through contribution or transfers set forth in clause (x)), (a) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to the Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer, (b) the aggregate outstanding principal amount of Term Loans of the remaining Lenders shall reflect such cancellation and extinguishing of the Term Loans then held by the Borrower and (c) the Borrower shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register;

(ii) [reserved];

(iii) each Lender (other than an Affiliated Lender) that assigns any Loans to Holdings, the Borrower or any Subsidiary of the Borrower pursuant to clause (y) above shall deliver to the Administrative Agent and the Borrower a customary Big Boy Letter; and

(iv) purchases of Term Loans pursuant to this subsection (l) may not be funded with the proceeds of Revolving Loans.

(m) Notwithstanding anything to the contrary contained herein, without the consent of the Borrower or the Administrative Agent, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.
The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans or Commitments, or disclosure of confidential information, to any Disqualified Institution.

SECTION 10.08 Resignation of Issuing Bank. Notwithstanding anything to the contrary contained herein, any Issuing Bank may, upon thirty (30) Business Days’ notice to the Borrower and the Lenders, resign as an Issuing Bank, so long as on or prior to the expiration of such 30-Business Day period with respect to such resignation, the relevant Issuing Bank shall have identified a successor Issuing Bank reasonably acceptable to the Borrower willing to accept its appointment as successor Issuing Bank. In the event of any such resignation of an Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders willing to accept such appointment a successor Issuing Bank hereunder; provided that no failure by the Borrower to appoint any such successor shall affect the resignation of the relevant Issuing Bank except as expressly provided above. If an Issuing Bank resigns as an Issuing Bank, it shall retain all the rights and obligations of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank 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(3)).

SECTION 10.09 Confidentiality. Each of the Agents, the Arrangers, the Lenders and each Issuing Bank agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, legal counsel, independent auditors, agents, trustees, advisors and representatives (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, with such Affiliate being responsible for such Person’s compliance with this Section 10.09; provided, however, that such Agent, Arranger, Lender or Issuing Bank, as applicable, shall be principally liable to the extent this Section 10.09 is violated by one or more of its Affiliates or any of its or their respective employees, directors or officers), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners); provided, however, that each Agent, each Arranger, each Lender and each Issuing Bank agrees to notify the Borrower promptly thereof (except in connection with any request as part of a regulatory examination) to the extent it is legally permitted to do so, (c) to the extent required by applicable laws or regulations or by any subpoena or otherwise as required by applicable Law or regulation or as requested by a governmental authority; provided that such Agent, such Arranger, such Lender or such Issuing Bank, as applicable, agrees that it will (x) notify the Borrower as soon as practicable in the event of any such disclosure by such Person (except in connection with any request as part of a regulatory examination) unless such notification is prohibited by law, rule or regulation and (y) seek confidential treatment with respect to any such disclosure, (d) to any other party hereto, (e) subject to an agreement containing provisions at least as restrictive as those of this Section 10.09, to (i) subject to Section 10.07(1)(b)(v)(D), 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 (or its agent) invited to be an Additional Lender or (ii) with the prior consent of the Borrower, any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any of their Subsidiaries or any of their respective obligations; provided that such disclosure
shall be made subject to the acknowledgment and acceptance by such prospective Lender, Participant or Eligible Assignee that such Information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as is otherwise reasonably acceptable to the Borrower, the Agents and the Arrangers, including as set forth in any confidential information memorandum or other marketing materials) in accordance with the standard syndication process of the Agents and the Arrangers or market standards for dissemination of such type of information which shall in any event require “click through” or other affirmative action on the part of the recipient to access such confidential information, (f) for purposes of establishing a “due diligence” defense, (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, (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, or (iii) service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and 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 by any Person of this Section 10.09 or any other confidentiality provision in favor of any Loan Party, (y) becomes available to any Agent, any Arranger, any Lender, any Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Agent, such Lender, such Issuing Bank or the applicable Affiliate to be subject to a confidentiality restriction in respect thereof in favor of Holdings, the Borrower or any Affiliate thereof or (z) is independently developed by the Agents, the Lenders, the Issuing Banks, the Arrangers or their respective Affiliates, in each case, so long as not based on information obtained in a manner that would otherwise violate this Section 10.09.

For purposes of this Section 10.09, “Information” means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary or Affiliate thereof or their respective businesses, other than any such information that is available to any Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that no information received from Holdings, the Borrower or any Subsidiary thereof after the date hereof shall be deemed nonconfidential on account of such information not being clearly identified at the time of delivery as being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 10.09 shall be considered to have complied with its obligation to do so in accordance with its customary procedures 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 Agent, each Arranger, each Lender and each Issuing Bank acknowledges that (a) the Information may include trade secrets, protected confidential information, or 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 such information and (c) it will handle such information in accordance with applicable Law, including United States Federal and state securities Laws and to preserve its trade secret or confidential character.

The respective obligations of the Agents, the Arrangers, the Lenders and any Issuing Bank under this Section 10.09 shall survive, to the extent applicable to such Person, (x) the payment in full of the Obligations and the termination of this Agreement, (y) any assignment of its rights and obligations under this Agreement and (z) the resignation or removal of any Agent.

SECTION 10.10 Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever
currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such Issuing Bank to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party then due and payable under this Agreement or any other Loan Document to such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document; 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 2.17 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 Issuing Banks, 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 and each Issuing Bank under this Section 10.10 are in addition to other rights and remedies (including other rights of setoff) that such Lender or such Issuing Bank may have. Each Lender and each Issuing Bank 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.

SECTION 10.11 Interest Rate Limitation. 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 any 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 an 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.

SECTION 10.12 Counterparts; Integration; Effectiveness. This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents 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 of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging (including in .pdf format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.13 Electronic Execution of Assignments and Certain Other Documents. The words “delivery,” “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other modifications, Committed Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
SECTION 10.14 Survival of Representations and Warranties. 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.

SECTION 10.15 Severability. 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.

SECTION 10.16 GOVERNING LAW.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE BORROWER, HOLDINGS, THE ADMINISTRATIVE AGENT AND EACH LENDER EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION 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 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. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) THE BORROWER, HOLDINGS, THE ADMINISTRATIVE AGENT AND EACH LENDER EACH 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 10.16. 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.

SECTION 10.17 WAIVER OF RIGHT TO TRIAL BY JURY. 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 10.17.

SECTION 10.18 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent, each Lender, each other party hereto and their respective successors and assigns.

SECTION 10.19 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of setoff, rights on account of any banker’s lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provision of this Section 10.19 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

SECTION 10.20 Use of Name, Logo, etc. Each Loan Party consents to the publication in the ordinary course by Administrative Agent or the Arrangers of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party’s name, product photographs, logo or trademark; provided that any such material shall be provided to the Borrower for its review a reasonable period of time in advance of publication. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and the Arrangers.

SECTION 10.21 USA PATRIOT Act. Each Lender that is subject to the USA PATRIOT Act 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, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA 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 USA PATRIOT Act.

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SECTION 10.22 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.

SECTION 10.23 No Advisory or Fiduciary Responsibility. 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), each of the Borrower and Holdings acknowledges and agrees that (i) (A) the arranging and other services regarding this Agreement provided by the Agents, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each Agent, Arranger and 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, Holdings or any of their respective Affiliates, or any other Person and (B) none of the Agents, the Arrangers nor any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Arrangers, 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, Holdings and their respective Affiliates, and none of the Agents, the Arrangers nor any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby waives and releases any claims that it may have against the Agents, the Arrangers 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.

SECTION 10.24 Release of Collateral and Guarantee Obligations; Subordination of Liens.

(a) The Lenders and the Issuing Banks hereby irrevocably agree that the Liens granted to the Administrative Agent or the Collateral Agent by the Loan Parties on any Collateral shall be automatically released (i) in full, as set forth in clause (b) below, (ii) upon the sale or other transfer of such Collateral (including as part of or in connection with any other sale or other transfer permitted hereunder (including any Receivables Financing Transaction)) to any Person other than another Loan Party, to the extent such sale, transfer or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Loan Party by a Person that is not a Loan Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 10.01), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guaranty (in accordance with the second succeeding sentence), (vi) as required by the Collateral Agent to effect any sale, transfer or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Collateral Documents and (vii) to the extent such Collateral otherwise becomes Excluded Assets. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of
the Loan Documents. Additionally, the Lenders and the Issuing Banks hereby irrevocably agree that the Guarantors shall be released from the
Guaranties upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary, or
otherwise becoming an Excluded Subsidiary. The Lenders and the Issuing Banks hereby authorize the Administrative Agent and the Collateral Agent, as
applicable, to execute and deliver any instruments, documents, consents, acknowledgements, and agreements necessary or desirable to evidence or
confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of
any Lender or Issuing Bank. Any representation, warranty or covenant contained in any Loan Document relating to any such released Collateral or
Guarantor shall no longer be deemed to be repeated.

(b) Notwithstanding anything to the contrary contained herein or any other Loan Document, when the Termination Conditions are
satisfied, upon request of the Borrower, the Administrative Agent or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any
Secured Party) take such actions as shall be required to release its security interest in all Collateral, and to release all obligations under any Loan
Document, whether or not on the date of such release there may be any (i) Hedging Obligations in respect of any Secured Hedge Agreements, (ii) Cash
Management Obligations in respect of any Secured Cash Management Agreements, (iii) contingent obligations not then due and (iv) Outstanding
Amount of L/C Obligations related to any Letter of Credit that has been Cash Collateralized, backstopped by a letter of credit reasonably satisfactory to
the applicable Issuing Bank or deemed reissued under another agreement reasonably acceptable to the applicable Issuing Bank. Any such release of
Obligations shall be deemed subject to the provision that such Obligations shall be reinstated if after such release any portion of any payment in respect
of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution,
liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or
trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been
made.

SECTION 10.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any
Loan Document or in any other agreement, arrangement or understanding among the parties hereto, each party hereto acknowledges that any liability of
any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and
conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder
which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;
(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, 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 any EEA Resolution Authority.

SECTION 10.26 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedge Agreement 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 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 hereunder shall in no event affect the rights of any Covered Party under a Supported QFC or any QFC Credit Support.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MCAFEE, LLC, as the Borrower

By: ____________________________________________
   Name:                                          
   Title:                                         

MCAFEE FINANCE 2, LLC, as Holdings

By: ____________________________________________
   Name:                                          
   Title:                                         

[Signature Page to First Lien Credit Agreement]
MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, Collateral Agent, Issuing Bank, Revolving Lender and Term Lender

By:  
Name:  
Title:  

By:  
Name:  
Title:  

[Signature Page to First Lien Credit Agreement]
[Signature Page to First Lien Credit Agreement]
Exhibit B

[see attached]
FORM OF CLOSING DATE REVOLVING NOTE

$ ______________

[New York, New York]

[Date]

FOR VALUE RECEIVED, the undersigned (the “Borrower”) hereby promises to pay to [LENDER] or its registered assigns (the “Lender”) in accordance with Section 10.07 of the Credit Agreement (as defined below), in lawful money of the United States of America in immediately available funds at the Administrative Agent’s Office (such term, and each other capitalized term used but not defined herein, having the meaning assigned to it in the First Lien Credit Agreement, dated as of September 29, 2017 (as amended, restated, amended and restated, refinanced, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among McAfee, LLC, a Delaware limited liability company, as the Borrower, McAfee Finance 2, LLC, a Delaware limited liability company, as Holdings, Morgan Stanley Senior Funding, Inc., as Administrative Agent, as Collateral Agent and as an Issuing Bank, the Lenders and the other parties from time to time party thereto, (A) on the dates set forth in the Credit Agreement, the lesser of (i) the principal amount set forth above and (ii) the aggregate unpaid principal amount of all Revolving Loans under the Closing Date Revolving Facility made by the Lender to the Borrower pursuant to the Credit Agreement, and (B) interest from the date hereof on the principal amount from time to time outstanding on each such Revolving Loan at the rate or rates per annum and payable on such dates, as provided in the Credit Agreement.

The Borrower promises to pay interest, on demand, on any overdue principal and, to the extent permitted by law, overdue interest from their due dates at the rate or rates provided in the Credit Agreement.

The Borrower hereby waives diligence, presentment, demand, protest and notice of any kind whatsoever, subject to entry in the Register. The non-exercise by the holder hereof of any of its rights hereunder in any particular instance shall not constitute a waiver thereof in that or any subsequent instance.

All Borrowings evidenced by this note and all payments and prepayments of the principal hereof and interest hereon and the respective dates thereof shall be endorsed by the holder hereof on the schedule attached hereto and made a part hereof or on a continuation thereof which shall be attached hereto and made a part hereof, or otherwise recorded by such holder in its internal records; provided, however, that the failure of the holder hereof to make such a notation or any error in such notation shall not affect the obligations of the Borrower under this note.

This note is one of the Revolving Notes referred to in the Credit Agreement that, among other things, contains provisions for the acceleration of the maturity hereof upon the happening of certain events, for optional and mandatory prepayment of the principal hereof prior to the maturity hereof and for the amendment or waiver of certain provisions of the Credit Agreement, all upon the terms and conditions therein specified. This note is also entitled to the benefits of the Guaranty and is secured by the Collateral.

THIS NOTE MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE CREDIT AGREEMENT. TRANSFERS OF THIS NOTE MUST BE RECORDED IN THE REGISTER MAINTAINED BY THE ADMINISTRATIVE AGENT PURSUANT TO THE TERMS OF THE CREDIT AGREEMENT.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[The remainder of this page is intentionally left blank.]
IN WITNESS WHEREOF, the undersigned has caused this note to be duly executed by its authorized officer as of the day and year first above written.

MCAFEE, LLC

By: 
Name: 
Title: 

[Revolving Note]

B-3-2
<table>
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<tr>
<th>Date</th>
<th>Amount of Loan</th>
<th>Maturity Date</th>
<th>Payments of Principal/Interest</th>
<th>Principal Balance of Note</th>
<th>Name of Person Making the Notation</th>
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</table>
Exhibit C

[see attached]
FORM OF 2020 EXTENDED REVOLVING NOTE

FOR VALUE RECEIVED, the undersigned (the “Borrower”) hereby promises to pay to [LENDER] or its registered assigns (the “Lender”) in accordance with Section 10.07 of the Credit Agreement (as defined below), in lawful money of the United States of America in immediately available funds at the Administrative Agent’s Office (such term, and each other capitalized term used but not defined herein, having the meaning assigned to it in the First Lien Credit Agreement, dated as of September 29, 2017 (as amended, restated, amended and restated, refinanced, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among McAfee, LLC, a Delaware limited liability company, as the Borrower, McAfee Finance 2, LLC, a Delaware limited liability company, as Holdings, Morgan Stanley Senior Funding, Inc., as Administrative Agent, as Collateral Agent and as an Issuing Bank, the Lenders and the other parties from time to time party thereto, (A) on the dates set forth in the Credit Agreement, the lesser of (i) the principal amount set forth above and (ii) the aggregate unpaid principal amount of all 2020 Extended Revolving Loans made by the Lender to the Borrower pursuant to the Credit Agreement, and (B) interest from the date hereof on the principal amount from time to time outstanding on each such 2020 Extended Revolving Loans at the rate or rates per annum and payable on such dates, as provided in the Credit Agreement.

The Borrower promises to pay interest, on demand, on any overdue principal and, to the extent permitted by law, overdue interest from their due dates at the rate or rates provided in the Credit Agreement.

The Borrower hereby waives diligence, presentment, demand, protest and notice of any kind whatsoever, subject to entry in the Register. The non-exercise by the holder hereof of any of its rights hereunder in any particular instance shall not constitute a waiver thereof in that or any subsequent instance.

All Borrowings evidenced by this note and all payments and prepayments of the principal hereof and interest hereon and the respective dates thereof shall be endorsed by the holder hereof on the schedule attached hereto and made a part hereof or on a continuation thereof which shall be attached hereto and made a part hereof, or otherwise recorded by such holder in its internal records; provided, however, that the failure of the holder hereof to make such a notation or any error in such notation shall not affect the obligations of the Borrower under this note.

This note is one of the Revolving Notes referred to in the Credit Agreement that, among other things, contains provisions for the acceleration of the maturity hereof upon the happening of certain events, for optional and mandatory prepayment of the principal hereof prior to the maturity hereof and for the amendment or waiver of certain provisions of the Credit Agreement, all upon the terms and conditions therein specified. This note is also entitled to the benefits of the Guaranty and is secured by the Collateral.

THIS NOTE MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE CREDIT AGREEMENT. TRANSFERS OF THIS NOTE MUST BE RECORDED IN THE REGISTER MAINTAINED BY THE ADMINISTRATIVE AGENT PURSUANT TO THE TERMS OF THE CREDIT AGREEMENT.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[The remainder of this page is intentionally left blank.]
IN WITNESS WHEREOF, the undersigned has caused this note to be duly executed by its authorized officer as of the day and year first above written.

MCAFEE, LLC

By:  

Name:  
Title:  

[Revolving Note]

B-3-2
<table>
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<tr>
<th>Date</th>
<th>Amount of Loan</th>
<th>Maturity Date</th>
<th>Payments of Principal/Interest</th>
<th>Principal Balance of Note</th>
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Exhibit D

[see attached]
## Closing Date USD Term Loan Commitment

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<tr>
<th>Lender Name</th>
<th>Closing Date USD Term Loan Commitments</th>
<th>Percentage</th>
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<tr>
<td>Morgan Stanley Senior Funding, Inc.</td>
<td>$2,555,000,000.00</td>
<td>100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$2,555,000,000.00</td>
<td>100</td>
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## Closing Date Euro Term Loan Commitment

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<tr>
<th>Lender Name</th>
<th>Closing Date Euro Term Loan Commitments</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Morgan Stanley Senior Funding, Inc.</td>
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<td>100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>€507,000,000.00</td>
<td>100</td>
</tr>
</tbody>
</table>

## 2020 Extended Revolving Commitments (including the 2020 Incremental Revolving Commitments)

<table>
<thead>
<tr>
<th>Lender Name</th>
<th>2020 Extended Revolving Commitments</th>
<th>2020 Incremental Revolving Commitments</th>
<th>Total Revolving Commitments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morgan Stanley Senior Funding, Inc.</td>
<td>$91,000,000.00</td>
<td>$14,000,000.00</td>
<td>$105,000,000.00</td>
</tr>
<tr>
<td>JPMorgan Chase Bank, N.A.</td>
<td>$51,000,000.00</td>
<td>$30,000,000.00</td>
<td>$81,000,000.00</td>
</tr>
<tr>
<td>Goldman Sachs Bank USA</td>
<td>$71,000,000.00</td>
<td>$60,000,000.00</td>
<td>$131,000,000.00</td>
</tr>
<tr>
<td>Bank of America, N.A.</td>
<td>$70,000,000.00</td>
<td>$0</td>
<td>$70,000,000.00</td>
</tr>
<tr>
<td>Barclays Bank PLC</td>
<td>$32,000,000.00</td>
<td>$0</td>
<td>$32,000,000.00</td>
</tr>
<tr>
<td>Citibank, N.A.</td>
<td>$32,000,000.00</td>
<td>$38,000,000.00</td>
<td>$70,000,000.00</td>
</tr>
<tr>
<td>Royal Bank of Canada</td>
<td>$43,000,000.00</td>
<td>$0</td>
<td>$43,000,000.00</td>
</tr>
<tr>
<td>Deutsche Bank AG New York Branch</td>
<td>$32,000,000.00</td>
<td>$0</td>
<td>$32,000,000.00</td>
</tr>
<tr>
<td>Royal Bank of Canada</td>
<td>$32,000,000.00</td>
<td>$0</td>
<td>$32,000,000.00</td>
</tr>
<tr>
<td>UBS AG, Stamford Branch</td>
<td>$32,000,000.00</td>
<td>$0</td>
<td>$32,000,000.00</td>
</tr>
<tr>
<td>HSBC Bank USA, N.A.</td>
<td>$29,000,000.00</td>
<td>$29,000,000.00</td>
<td>$58,000,000.00</td>
</tr>
<tr>
<td>Mizuho Bank, Ltd.</td>
<td>$16,000,000.00</td>
<td>$34,000,000.00</td>
<td>$50,000,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$500,000,000.00</td>
<td>$175,000,000.00</td>
<td>$675,000,000.00</td>
</tr>
</tbody>
</table>

1. For the avoidance of doubt, amounts set forth in this column reflect Revolving Commitments assigned to such Revolving Lender pursuant to the Effective Date Assignments.
### Closing Date Revolving Commitments

<table>
<thead>
<tr>
<th>Lender Name</th>
<th>Revolving Commitments</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goldman Sachs Bank USA</td>
<td>$16,000,000.00</td>
<td>9.756</td>
</tr>
<tr>
<td>JPMorgan Chase Bank, N.A.</td>
<td>$91,000,000.00</td>
<td>55.488</td>
</tr>
<tr>
<td>Barclays Bank PLC</td>
<td>$57,000,000.00</td>
<td>34.756</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$164,000,000.00</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

### L/C Commitment

<table>
<thead>
<tr>
<th>Lender Name</th>
<th>L/C Commitments</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morgan Stanley Senior Funding, Inc.</td>
<td>$14,043,000.00</td>
<td>28.086</td>
</tr>
<tr>
<td>JPMorgan Chase Bank, N.A.</td>
<td>$14,043,000.00</td>
<td>28.086</td>
</tr>
<tr>
<td>Bank of America, N.A.</td>
<td>$10,957,000.00</td>
<td>21.914</td>
</tr>
<tr>
<td>Citibank, N.A.</td>
<td>$10,957,000.00</td>
<td>21.914</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$50,000,000.00</strong></td>
<td><strong>35.957</strong></td>
</tr>
</tbody>
</table>


Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption “Experts” and to the use of our report dated July 14, 2017, in Amendment No. 2 to the Registration Statement (Form S-1) and related Prospectus of McAfee Corp. for the registration of shares of its common stock.

/s/ Ernst & Young LLP
San Jose, California
October 13, 2020
EXHIBIT 23.2

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Amendment No. 2 to the Registration Statement on Form S-1 of McAfee Corp. of our report dated March 5, 2020, except for the effects of disclosing earnings per unit information discussed in Note 18 to the consolidated financial statements, as to which the date is August 17, 2020, and except for the effects of the unit split discussed in Note 20 to the consolidated financial statements, as to which the date is October 13, 2020, relating to the financial statements of Foundation Technology Worldwide LLC, which appears in this Registration Statement. We also consent to the reference to us under the heading “Experts” in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

San Jose, California
October 13, 2020
CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Amendment No. 2 to the Registration Statement on Form S-1 of McAfee Corp. of our report dated October 13, 2020 relating to the financial statement of McAfee Corp., which appears in this Registration Statement. We also consent to the reference to us under the heading “Experts” in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

San Jose, California
October 13, 2020