UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2020

or

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

For the transition period from _____ to _____

Commission file number 001-37893

FLUENT, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**77-0688094**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**

300 Vesey Street, 9th Floor
New York, New York 10282
(Address of Principal Executive Offices) (Zip Code)

(646) 669-7272
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0005 par value per share	FLNT	The NASDAQ Stock Market, LLC

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

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

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

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

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

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

As of August 5, 2020, the registrant had 76,313,556 shares of common stock outstanding.

FLUENT, INC.

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PART I - FINANCIAL INFORMATION

Unless otherwise indicated or required by the context, all references in this Quarterly Report on Form 10-Q to "we," "us," "our," "Fluent," or the "Company," refer to Fluent, Inc. and its consolidated subsidiaries.

ITEM 1. FINANCIAL STATEMENTS.

FLUENT, INC.
CONSOLIDATED BALANCE SHEETS
(Amounts in thousands, except share and per share data)
(unaudited)

	June 30, 2020	December 31, 2019
ASSETS:		
Cash and cash equivalents	$ 20,218	$ 18,679
Accounts receivable, net of allowance for doubtful accounts of $309 and $1,967, respectively	55,304	60,915
Prepaid expenses and other current assets	1,996	1,921
Total current assets	77,518	81,515
Restricted cash	1,480	1,480
Property and equipment, net	2,566	2,863
Operating lease right-of-use assets	9,063	9,865
Intangible assets, net	51,094	55,603
Goodwill	165,088	164,774
Other non-current assets	1,592	993
Total assets	$ 308,401	$ 317,093
LIABILITIES AND SHAREHOLDERS' EQUITY:		
Accounts payable	$ 11,601	$ 21,574
Accrued expenses and other current liabilities	21,027	20,358
Deferred revenue	2,468	1,140
Current portion of long-term debt	9,677	6,873
Current portion of operating lease liability	2,279	2,282
Total current liabilities	47,052	52,227
Long-term debt, net	38,115	44,098
Operating lease liability	8,176	9,056
Other non-current liabilities	1,243	775
Total liabilities	94,586	106,156
Contingencies (Note 10)		

Shareholders' equity:		
Preferred stock — $0.0001 par value, 10,000,000 Shares authorized; Shares outstanding — 0 shares for both periods	—	—
Common stock — $0.0005 par value, 200,000,000 Shares authorized; Shares issued — 79,908,985 and 78,642,078, respectively; and Shares outstanding — 76,292,587 and 75,873,679, respectively	40	39
Treasury stock, at cost — 3,616,398 and 2,768,399 shares, respectively	(9,930)	(8,184)
Additional paid-in capital	409,961	406,198
Accumulated deficit	(186,256)	(187,116)
Total shareholders' equity	213,815	210,937
Total liabilities and shareholders' equity	$ 308,401	$ 317,093

See notes to consolidated financial statements

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FLUENT, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(Amounts in thousands, except share and per share data)
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	**2019**	**2020**	**2019**
Revenue	$ 71,509	$ 70,560	$ 150,443	$ 137,121
Costs and expenses:				
Cost of revenue (exclusive of depreciation and amortization)	49,007	49,133	105,631	93,962
Sales and marketing	2,888	3,058	5,718	6,492
Product development	3,115	2,287	5,846	4,445
General and administrative	10,044	10,294	21,120	20,329
Depreciation and amortization	3,853	3,306	7,586	6,623
Goodwill impairment	817	—	817	—
Total costs and expenses	69,724	68,078	146,718	131,851
Income from operations	1,785	2,482	3,725	5,270
Interest expense, net	(1,333)	(1,767)	(2,865)	(3,545)
Income before income taxes	452	715	860	1,725
Income tax benefit	—	—	—	35
Net income	452	715	860	1,760
Basic and diluted income per share:				
Basic	$ 0.01	$ 0.01	$ 0.01	$ 0.02
Diluted	$ 0.01	$ 0.01	$ 0.01	$ 0.02
Weighted average number of shares outstanding:				
Basic	78,510,383	79,388,383	78,557,331	79,297,599
Diluted	78,666,776	81,132,304	78,905,792	80,443,530

See notes to consolidated financial statements

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FLUENT, INC.
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
(Amounts in thousands, except share data)
(unaudited)

	Common stock		Treasury stock		Additional paid-in capital	Accumulated deficit	Total shareholders' equity
	Shares	**Amount**	**Shares**	**Amount**			
Balance at March 31, 2020	79,809,417	$ 40	3,601,804	$ (9,900)	$ 408,633	$ (186,708)	$ 212,065
Vesting of restricted stock units and issuance of restricted stock	99,568	—	—	—	—	—	—
Increase in treasury stock resulting from shares withheld to cover statutory taxes	—	—	14,594	(30)	—	—	(30)
Share-based compensation	—	—	—	—	1,328	—	1,328
Net income	—	—	—	—	—	452	452
Balance at June 30, 2020	79,908,985	$ 40	3,616,398	$ (9,930)	$ 409,961	$ (186,256)	$ 213,815
Balance at December 31, 2019	78,642,078	$ 39	2,768,399	$ (8,184)	$ 406,198	$ (187,116)	$ 210,937
Vesting of restricted stock units and issuance of restricted stock	1,566,907	1	—	—	(1)	—	—
Increase in treasury stock resulting from shares withheld to cover statutory taxes	—	—	190,326	(446)	—	—	(446)
Repurchase of shares into treasury stock	—	—	657,673	(1,300)	—	—	(1,300)
Exercise of warrants by certain warrant holders (see note 7)	(300,000)	—	—	—	—	—	—

Share-based compensation	—	—	—	—	3,764	—	3,764
Net income	—	—	—	—	—	860	860
Balance at June 30, 2020	79,908,985	$ 40	3,616,398	$ (9,930)	$ 409,961	$ (186,256)	$ 213,815

	Common stock		Treasury stock		Additional paid-in capital	Accumulated deficit	Total shareholders' equity
	Shares	Amount	Shares	Amount			
Balance at March 31, 2019	77,603,189	$ 39	1,554,829	$ (4,882)	$ 399,208	$ (184,324)	$ 210,041
Vesting of restricted stock units and issuance of restricted stock	931,585						—
Increase in treasury stock resulting from shares withheld to cover statutory taxes			230,660	(1,469)			(1,469)
Share-based compensation expense					2,984		2,984
Net income						715	715
Balance at June 30, 2019	78,534,774	$ 39	1,785,489	$ (6,351)	$ 402,192	$ (183,609)	$ 212,271
Balance at December 31, 2018	76,525,581	$ 38	1,233,198	$ (3,272)	$ 395,769	$ (185,369)	$ 207,166
Vesting of restricted stock units and issuance of restricted stock	2,009,193	1			(1)		—
Increase in treasury stock resulting from shares withheld to cover statutory taxes			552,291	(3,079)			(3,079)
Reclassification of exercisable warrants from liability to equity					1,150		1,150
Share-based compensation expense					5,274		5,274
Net income						1,760	1,760
Balance at June 30, 2019	78,534,774	$ 39	1,785,489	$ (6,351)	$ 402,192	$ (183,609)	$ 212,271

See notes to consolidated financial statements

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FLUENT, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Amounts in thousands)
(unaudited)

	Six Months Ended June 30,	
	2020	2019
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	$ 860	$ 1,760
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	7,586	6,623
Non-cash interest expense	694	648
Share-based compensation expense	3,678	5,229
Goodwill impairment	817	—
Non-cash accrued compensation expenses for Put/Call Consideration	530	—
Provision for bad debt	131	189
Changes in assets and liabilities, net of business acquisition:		
Accounts receivable	5,513	2,758
Prepaid expenses and other current assets	(75)	(522)
Other non-current assets	(599)	(21)
Operating lease assets and liabilities, net	(81)	1,560
Accounts payable	(9,973)	(1,551)
Accrued expenses and other current liabilities	(515)	(3,762)
Deferred revenue	1,328	202
Other	(62)	—
Net cash provided by operating activities	9,832	13,113
CASH FLOWS FROM INVESTING ACTIVITIES:		
Business acquisition, net of cash acquired	(1,426)	—
Acquisition of property and equipment	(37)	(1,894)
Capitalized costs included in intangible assets	(1,211)	(978)
Net cash used in investing activities	(2,674)	(2,872)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Repayments of long-term debt	(3,873)	(3,095)
Taxes paid related to net share settlement of vesting of restricted stock units	(446)	(3,079)
Repurchase of treasury stock	(1,300)	—
Net cash used in financing activities	(5,619)	(6,174)
Net increase in cash, cash equivalents and restricted cash	1,539	4,067
Cash, cash equivalents and restricted cash at beginning of period	20,159	19,249
Cash, cash equivalents and restricted cash at end of period	$ 21,698	$ 23,316
SUPPLEMENTAL DISCLOSURE INFORMATION		
Cash paid for interest	$ 2,100	$ 2,810
Cash paid for income taxes	$ —	$ —
Share-based compensation capitalized in intangible assets	$ 86	$ 45
Non-cash additions to property and equipment	$ —	$ 122
Reclassification of exercisable warrants from liability to equity	$ —	$ 1,150

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Amounts in thousands, except share data)
(unaudited)

1. Summary of significant accounting policies

(a) Basis of preparation

The accompanying unaudited consolidated financial statements have been prepared by Fluent, Inc., a Delaware corporation (the "Company" or "Fluent"), in accordance with accounting principles generally accepted in the United States ("US GAAP") and applicable rules and regulations of the Securities and Exchange Commission (the "SEC") regarding interim financial reporting. Certain information and note disclosures normally included in annual financial statements prepared in accordance with US GAAP have been condensed or omitted pursuant to those rules and regulations.

The accompanying unaudited consolidated financial statements reflect all normal recurring adjustments necessary to present fairly the financial position, results of operations, and cash flows for the interim periods, but are not necessarily indicative of the results of operations to be anticipated for any future interim periods or for the full year ending December 31, 2020.

From time to time, the Company may enter into relationships or investments with other entities, and, in certain instances, the entity in which the Company has a relationship or investment may qualify as a *variable interest entity* (“VIE”). The Company consolidates a VIE in its financial statements if the Company is deemed to be the primary beneficiary of the VIE. The primary beneficiary is the party that has the power to direct activities that most significantly impact the operations of the VIE and has the obligation to absorb losses or the right to benefits from the VIE that could potentially be significant to the VIE. As of April 1, 2020, the Company has included Winopoly, LLC in its consolidated financial statements as a VIE (as further discussed in Note 11, *Business acquisitions* and Note 12, *Variable interest entity*).

The information included in this quarterly report on Form 10-Q should be read in conjunction with the consolidated financial statements and accompanying notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2019 ("2019 Form 10-K") filed with the SEC on March 13, 2020. The consolidated balance sheet as of December 31, 2019 included herein was derived from the audited financial statements as of that date included in the 2019 Form 10-K.

Principles of consolidation

The consolidated financial statements include the financial statements of the Company and its subsidiaries. All significant transactions among the Company and its subsidiaries have been eliminated upon consolidation.

(b) Recently issued and adopted accounting standards

In January 2016, FASB issued ASU No. 2016-13, *Financial Instruments—Credit Losses*, and additional changes, modifications, clarifications or interpretations thereafter, which require a reporting entity to estimate credit losses on certain types of financial instruments, and present assets held at amortized cost and available-for-sale debt securities at the amount expected to be collected. The new guidance is effective for annual and interim periods beginning after December 15, 2022, and early adoption is permitted. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

(c) Revenue recognition

Revenue is recognized when control of goods or services is transferred to customers, in amounts that reflect the consideration the Company expects to be entitled to in exchange for those goods or services. The Company's performance obligation is typically to (a) deliver data records, based on predefined qualifying characteristics specified by the customer or (b) generate conversions, based on predefined user actions (for example, a click, a registration or the installation of an app) and subject to certain qualifying characteristics specified by the customer.

If a customer pays consideration before the Company's performance obligations are satisfied, such amounts are classified as deferred revenue on the consolidated balance sheets. As of June 30, 2020 and December 31, 2019, the balance of deferred revenue was $2,468 and $1,140, respectively. The majority of the deferred revenue balance as of December 31, 2019 was recognized into revenue during the first quarter of 2020.

When there is a delay between the period in which revenue is recognized and when a customer invoice is issued, revenue is recognized and the related amounts are recorded as unbilled revenue within accounts receivable on the consolidated balance sheets. As of June 30, 2020 and December 31, 2019, unbilled revenue included in accounts receivable was $23,142 and $29,061, respectively. In line with industry practice, the unbilled revenue balance is recorded based on the Company's internally tracked conversions, net of estimated variances between this amount and the amount tracked and subsequently confirmed by customers. Substantially all amounts included within the unbilled revenue balance are invoiced to customers within the month directly following the period of service. Historical estimates related to unbilled revenue have not been materially different from actual revenue bille
d.

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
(unaudited)

(d) Use of estimates

The preparation of consolidated financial statements in accordance with US GAAP requires the Company's management to make estimates and assumptions relating to the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the reporting periods. Significant items subject to such estimates and assumptions include the allowance for doubtful accounts, useful lives of intangible assets, recoverability of the carrying amounts of goodwill and intangible assets, the portion of revenue subject to estimates for variances between internally-tracked conversions and those confirmed by the customer, purchase accounting, put/call considerations, consolidation of variable interest entity and income tax provision. These estimates are often based on complex judgments and assumptions that management believes to be reasonable, but are inherently uncertain and unpredictable. Actual results could differ from these estimates.

Except for the impairment of goodwill related to the Company's All Other reporting unit as discussed in Note 4, *Goodwill*, results of operations for the three and six months ended June 30, 2020 did not include any adjustments to assets or liabilities due to the impact of COVID-19. While the Company has not incurred significant disruptions to its business thus far from the COVID-19 pandemic, management is unable to accurately predict the impact COVID-19 will have on its operations due to numerous uncertainties, including the severity of the disease, the duration of the outbreak, actions that may be taken by governmental authorities, the impact to customers' and suppliers' businesses and numerous other factors. Management will continue to evaluate the nature and extent that COVID-19 will impact its business, results of operations and financial condition.

2. Income per share

Basic income per share is computed by dividing net income by the weighted average number of common shares outstanding during the period, in addition to restricted stock units ("RSUs") and restricted common stock that are vested but not delivered. Diluted income per share reflects the potential dilution that could occur if securities or other contracts to issue common stock are exercised or converted into common stock and is calculated using the treasury stock method for stock options, restricted stock units, restricted stock, warrants and deferred common stock. Common equivalent shares are excluded from the calculation in loss periods, as their effects would be anti-dilutive.

For the three and six months ended June 30, 2020 and 2019, basic and diluted income per share was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Numerator:				
Net income	$ 452	$ 715	$ 860	$ 1,760
Denominator:				
Weighted average shares outstanding	76,244,975	76,487,160	76,007,997	76,056,652
Weighted average restricted shares vested not delivered	2,265,408	2,901,223	2,549,334	3,240,947
Total basic weighted average shares outstanding	78,510,383	79,388,383	78,557,331	79,297,599
Dilutive effect of assumed conversion of restricted stock units	156,393	1,408,277	348,461	882,263
Dilutive effect of assumed conversion of warrants	—	329,808	—	262,567
Dilutive effect of assumed conversion of stock options	—	5,836	—	1,101
Total diluted weighted average shares outstanding	78,666,776	81,132,304	78,905,792	80,443,530
Basic and diluted income per share:				
Basic	$ 0.01	$ 0.01	$ 0.01	$ 0.02
Diluted	$ 0.01	$ 0.01	$ 0.01	$ 0.02

The following potentially dilutive securities were excluded from the calculation of diluted income per share, as their effects would have been anti-dilutive for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Restricted stock units	3,412,390	110,000	2,288,573	1,740,502
Stock options	2,568,000	2,060,000	2,568,000	2,060,000
Warrants	2,183,333	1,350,000	2,183,333	1,350,000
Total anti-dilutive securities	8,163,723	3,520,000	7,039,906	5,150,502

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
(unaudited)

3. Intangible assets, net

Intangible assets, net, other than goodwill, consist of the following:

	Amortization period (in years)	June 30, 2020	December 31, 2019
Gross amount:			
Software developed for internal use	3	$ 5,987	$ 4,866
Acquired proprietary technology	3-5	14,638	13,661
Customer relationships	5-10	37,886	37,286
Trade names	4-20	16,657	16,657
Domain names	20	191	191
Databases	5-10	31,292	31,292
Non-competition agreements	2-5	1,768	1,768
Total gross amount		108,419	105,721
Accumulated amortization:			
Software developed for internal use		(2,752)	(1,995)
Acquired proprietary technology		(11,021)	(9,516)
Customer relationships		(22,011)	(19,396)
Trade names		(3,806)	(3,359)
Domain names		(44)	(39)
Databases		(15,987)	(14,182)
Non-competition agreements		(1,704)	(1,631)
Total accumulated amortization		(57,325)	(50,118)
Net intangible assets:			
Software developed for internal use		3,235	2,871
Acquired proprietary technology		3,617	4,145
Customer relationships		15,875	17,890
Trade names		12,851	13,298
Domain names		147	152
Databases		15,305	17,110
Non-competition agreements		64	137
Total intangible assets, net		$ 51,094	$ 55,603

The amounts relating to acquired proprietary technology, customer relationships, trade names, domain names, databases and non-competition agreements primarily represent the fair values of intangible assets acquired as a result of the acquisition of Fluent, LLC, effective December 8, 2015 (the "Fluent LLC Acquisition"), the acquisition of Q Interactive, LLC, effective June 8, 2016 (the "Q Interactive Acquisition"), the acquisition of substantially all the assets of AdParlor Holdings, Inc. and certain of its affiliates, effective July 1, 2019 (the "AdParlor Acquisition"), and the acquisition of a 50% interest in Winopoly, LLC (the "Winopoly Acquisition"), effective April 1, 2020 (see Note 11, *Business acquisitions*).

During the three months ended June 30, 2020, the Company determined that the effects of the macroeconomic conditions arising from the global COVID-19 pandemic and the social unrest throughout the United States during June 2020, which changed the media-buying patterns of certain customers directly impacting the All Other reporting unit, constituted an impairment triggering event. As such, the Company conducted an interim test of the recoverability of its long-lived assets. Based on the results of this recoverability test, which measured the Company's projected undiscounted cash flows as compared to the carrying value of the asset group, the Company determined that, as of June 30, 2020, its long-lived assets were not impaired. Management believes that the assumptions utilized in this interim impairment testing, including the determination of estimated future cash flows, are reasonable. Future tests may indicate impairment if actual future cash flows or other factors differ from the assumptions used in the Company's interim impairment test at June 30, 2020.

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
(unaudited)

Amortization expense of $3,659 and $3,127 for the three months ended June 30, 2020 and 2019, respectively, and $7,206 and $6,252, for the six months ended June 30, 2020 and 2019, respectively, is included in depreciation and amortization expenses in the consolidated statements of operations. As of June 30, 2020, intangible assets with a carrying amount of $633, included in the gross amount of software developed for internal use, have not commenced amortization, as they are not ready for their intended use.

As of June 30, 2020, estimated amortization expense related to the Company's intangible assets for the remainder of 2020 and through 2025 and thereafter are as follows:

Year	June 30, 2020
Remainder of 2020	$ 7,266
2021	11,674
2022	10,341
2023	4,912
2024	4,470
2025 and thereafter	12,431
Total	$ 51,094

4. Goodwill

Goodwill represents the cost in excess of fair value of net assets acquired in a business combination. As of June 30, 2020, the total balance of goodwill was $165,088, and relates to the acquisition of Interactive Data, LLC, the Fluent LLC Acquisition, the Q Interactive Acquisition, the AdParlor Acquisition, and the Winopoly Acquisition (see Note 11, *Business acquisitions*).

In accordance with ASC 350, *Intangibles - Goodwill and Other,* goodwill is tested at least annually for impairment, or when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable, by assessing qualitative factors or performing a quantitative analysis in determining whether it is more likely than not that its fair value exceeds the carrying value. The measurement date of the Company's annual goodwill impairment test is October 1.

During the three months ended June 30, 2020, the Company determined that the effects of the macroeconomic conditions arising from the global COVID-19 pandemic and the social unrest throughout the United States during June 2020, which changed the media-buying patterns of certain customers directly impacting the All Other reporting unit, constituted an impairment triggering event. As such, the Company conducted an interim test of the fair value of its goodwill for potential impairment as of June 30, 2020. The results of this interim impairment test, which used a combination of income and market approaches to determine the fair value of the All Other reporting unit, indicated that its carrying value exceeded its estimated fair value by 8.9%, the Company concluded that All Other's goodwill of $4,983 was impaired by $817. The Company believes that the assumptions utilized in its interim impairment testing, including the determination of an appropriate discount rate of 16%, long-term profitability growth projections, and estimated future cash flows, are reasonable. The interim goodwill impairment test reflected management's best estimate of the economic impact to its business, end-market conditions and recovery timelines. While no further triggering events were identified by management as of June 30, 2020, if the ongoing economic uncertainty proves to be more severe than estimated, or if the economic recovery takes longer to materialize or does not materialize as strongly as anticipated, this could result in future impairment charges.

As of June 30, 2020 and December 31, 2019, the change in the carrying value of goodwill for the Company's operating segments are listed below:

	Fluent	All Other	Total
Balance as of December 31, 2019	$ 159,791	$ 4,983	$ 164,774
Winopoly Acquisition	1,131	—	1,131
Goodwill impairment	—	(817)	(817)
Balance as of June 30, 2020	$ 160,922	$ 4,166	$ 165,088

5. Long-term debt, net

Long-term debt, net, related to the Refinanced Term Loan and Note Payable (as defined below) consisted of the following:

	June 30, 2020	December 31, 2019
Refinanced Term Loan due 2023 (less unamortized discount of $3,072 and $3,715, respectively)	$ 45,341	$ 48,571
Note Payable due 2021 (less unamortized discount of $49 and $100, respectively)	2,451	2,400
Long-term debt, net	47,792	50,971
Less: Current portion of long-term debt	(9,677)	(6,873)
Long-term debt, net (non-current)	$ 38,115	$ 44,098

Refinanced Term Loan

On March 26, 2018, Fluent, LLC refinanced and fully repaid its existing term loans and certain promissory notes, which had been entered into on December 8, 2015, with a new term loan in the amount of $70.0 million ("Refinanced Term Loan"), pursuant to a Limited Consent and Amendment No. 6 ("Amendment No. 6") to its Credit Agreement (the "Credit Agreement"). The Refinanced Term Loan is guaranteed by the Company and its direct and indirect subsidiaries, and is secured by substantially all of the assets of the Company and its direct and indirect subsidiaries, including Fluent, LLC, in each case, on an equal and ratable basis. The Refinanced Term Loan accrues interest at the rate of either, at Fluent's option, (a) LIBOR (subject to a floor of 0.50%) plus 7.00% per annum, or (b) the base rate (generally equivalent to the U.S. prime rate) plus 6.0% per annum, payable in cash.

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
(unaudited)

The Refinanced Term Loan matures on March 26, 2023 and interest is payable monthly. Scheduled principal amortization of the Refinanced Term Loan is $875 per quarter, which commenced with the fiscal quarter ended June 30, 2018. The Credit Agreement, as amended, requires the Company to maintain and comply with certain financial and other covenants and includes certain prepayment provisions, including mandatory quarterly principal prepayments with a portion of the Company's excess cash flow. For the three months ended June 30, 2020, the quarterly prepayment resulting from excess cash flow was $4,927. At June 30, 2020, the Company was in compliance with all of the financial and other covenants under the Credit Agreement.

Note Payable

On July 1, 2019, in connection with the AdParlor Acquisition (as defined in Note 11, *Business acquisitions)*, the Company issued a promissory note (the "Note Payable") in the principal amount of $2,350, net of discount of $150 from imputing interest on the non-interest bearing note using a 4.28% rate. The promissory note is guaranteed by the Company's subsidiary, Fluent, LLC, will not accrue interest except in the case of default, is payable in two equal installments on the first and second anniversaries of the date of closing of the acquisition and is subject to setoff in respect of certain indemnity and other matters.

Maturities

As of June 30, 2020, scheduled future maturities of the Refinanced Term Loan and Note Payable are as follows:

Year	June 30, 2020
Remainder of 2020	$ 7,927
2021	4,750
2022	3,500
2023	34,736
2024	—
Total maturities	$ 50,913

Fair value

As of June 30, 2020, the fair value of long-term debt is considered to approximate its carrying value. The fair value assessment represents a Level 2 measurement.

6. Income taxes

The Company is subject to federal and state income taxes in the United States. The tax provision for interim periods is determined using an estimate of the Company's annual effective tax rate. The Company updates its estimated annual effective tax rate on a quarterly basis and, if the estimate changes, makes a cumulative adjustment.

As of June 30, 2020 and December 31, 2019, the Company has recorded a full valuation allowance against net deferred tax assets, and intends to continue maintaining a full valuation allowance on these net deferred tax assets until there is sufficient evidence to support the release of all or some portion of these allowances. Based on current income and anticipated future earnings, the Company believes there is a reasonable possibility that within the next twelve months sufficient positive evidence may become available to allow a conclusion to be reached that a significant portion, if not all, of the valuation allowance will be released. Release of some or all of the valuation allowance would result in the recognition of certain deferred tax assets and an increase in deferred tax benefit for any period in which such a release may be recorded, however, the exact timing and amount of any valuation allowance release are subject to change, depending upon the level of profitability that the Company is able to achieve and the net deferred tax assets available.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
(unaudited)

For the six months ended June 30, 2020 and 2019, the Company's effective income tax rate of 0% and 2%, respectively, differed from the statutory federal income tax rate of 21%, with such differences resulting primarily from the application of the full valuation allowance against the Company's deferred tax assets.

The Company assesses its income tax positions and records tax benefits for all years subject to examination based upon its evaluation of the facts, circumstances and information available as of the reporting dates. For those tax positions where it is more-likely-than-not that a tax benefit will be sustained, the Company has recorded the largest amount of tax benefit with a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where it is not more-likely-than-not that a tax benefit will be sustained, no tax benefit has been recognized in the Company's financial statements.

As of June 30, 2020 and December 31, 2019, the balance of unrecognized tax benefits was $1,480. The unrecognized tax benefits, if recognized, would result in an increase to net operating losses that would be subject to a valuation allowance and, accordingly, result in no impact to the Company's annual effective tax rate. As of June 30, 2020, the Company has not accrued any interest or penalties with respect to its uncertain tax positions.

The Company does not anticipate a significant increase or reduction in unrecognized tax benefits within the next twelve months.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") was enacted and signed into law. The CARES Act includes several provisions for corporations, including increasing the amount of deductible interest, allowing companies to carryback certain Net Operating Losses ("NOLs") and increasing the amount of NOLs that corporations can use to offset income. Management is currently assessing the future implications of these provisions within the CARES Act but does not anticipate the impact to be material to the Company's consolidated financial statements.

7. Common stock, treasury stock and warrants

Common stock

As of June 30, 2020 and December 31, 2019, the number of issued shares of common stock was 79,908,985 and 78,642,078, respectively, which included shares of treasury stock of 3,616,398 and 2,768,399, respectively.

For the six months ended June 30, 2020, the change in the number of issued shares of common stock was a result of an aggregate 1,566,907 shares of common stock issued upon vesting of RSUs, including 190,326 shares of common stock withheld to cover statutory taxes upon such vesting, which are reflected in treasury stock, discussed below. Additionally, as discussed and defined below, the holders of the Amended Whitehorse Warrants exercised the Put Right to require the Company to purchase from the warrant holders the 300,000 Warrant Shares for an aggregate of $1,150. The Company funded such purchase with cash on hand.

Treasury stock

As of June 30, 2020 and December 31, 2019, the Company held shares of treasury stock of 3,616,398 and 2,768,399, with a cost of $9,930 and $8,184, respectively.

The Company's share-based incentive plans allow employees the option to either make cash payment or forfeit shares of common stock upon vesting to satisfy federal and state statutory tax withholding obligations associated with equity awards. The forfeited shares of common stock may be taken into treasury stock by the Company or sold on the open market. For the six months ended June 30, 2020, 190,326 shares of common stock were withheld to cover statutory taxes owed by certain employees for this purpose, all of which were taken into treasury stock. See Note 8, *Share-based compensation.* During the six months ended June 30, 2020, the Company repurchased 657,673 of its own shares as part of a stock repurchase program authorized by the Company's Board of Directors on November 19, 2019.

Warrants

As of June 30, 2020 and December 31, 2019, warrants to purchase an aggregate of 2,183,333 and 2,398,776 shares, respectively, of common stock were outstanding, respectively, with exercise prices ranging from $3.75 to $6.00 per share.

On July 9, 2018 the Company entered into First Amendments (the "First Amendments") to the Amendments to Warrants and Agreements to Exercise ("Amended Whitehorse Warrants") with (i) H.I.G. Whitehorse SMA ABF, L.P. regarding 46,667 warrants to purchase common stock of the Company, par value $0.0005 per share, at an exercise price of $3.00 per share; (ii) H.I.G. Whitehorse SMA Holdings I, LLC regarding 66,666 warrants to purchase common stock of the Company at an exercise price of $3.00 per share; and (iii) Whitehorse Finance, Inc. regarding 186,667 warrants to purchase common stock of the Company at an exercise price of $3.00 per share. In November 2017, the Amended Whitehorse Warrants were exercised and the Company issued an aggregate of 300,000 shares of common stock of the Company (the "Warrant Shares") to the warrant holders. Pursuant to the First Amendments, the warrant holders had the right, but not the obligation, to require the Company to purchase from these warrant holders the 300,000 Warrant Shares at $3.8334 per share (the "Put Right"), which could be exercised during the period commencing January 1, 2019 and ending December 15, 2019. On December 6, 2019, the Company entered into the Second Amendments to the Amended Whitehorse Warrants, pursuant to which the expiration of the Put Right was extended from December 15, 2019 to January 31, 2020. On January 31, 2020, the holders of the Amended Whitehorse Warrants exercised the Put Right to require the Company to purchase from the warrant holders the 300,000 Warrant Shares for an aggregate of $1,150. The Company funded such purchase with cash on hand.

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(Amounts in thousands, except share data)
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8. Share-based compensation

As of June 30, 2020, the Company maintains two share-based incentive plans: the Cogint, Inc. 2015 Stock Incentive Plan (the "2015 Plan") and the Fluent, Inc. 2018 Stock Incentive Plan (the "2018 Plan") which, combined, authorize the issuance of 21,129,259 shares of common stock. As of June 30, 2020, there were 1,755,868 shares of common stock reserved for issuance under the 2018 Plan. The primary purpose of the plans is to attract, retain, reward and motivate certain individuals by providing them with opportunities to acquire or increase their ownership interests in the Company.

Stock options

The Compensation Committee of the Company's Board of Directors approved the grant of stock options to certain Company officers, which were issued on February 1, 2019, December 20, 2019 and March 1, 2020, respectively, under the 2018 Plan. Subject to continuing service, 50% of the shares subject to these stock options will vest if the Company's stock price remains above 125.00%, 133.33% and 133.33%, respectively, of the exercise price for twenty consecutive trading days, and the remaining 50% of the shares subject to these stock options will vest if the Company's stock price remains above 156.25%, 177.78% and 177.78%, respectively, of the exercise price for twenty consecutive trading days; provided, that no shares will vest prior to the first anniversary of the grant date. As of June 30, 2020, the first condition for the stock options issued on February 1, 2019 has been met; therefore, 50% of the shares subject to these stock options vested on February 1, 2020. Any shares that remain unvested as of the fifth anniversary of the grant date will vest in full on such date. The fair value of the stock options granted was estimated at the trading day before the date of grant using a Monte Carlo simulation model. The key assumptions utilized to calculate the grant-date fair values for these awards are summarized below:

Issuance Date	February 1, 2019	December 20, 2019	March 1, 2020
Fair value lower range	$ 2.81	$ 1.58	$ 1.46
Fair value higher range	$ 2.86	$ 1.61	$ 1.49
Exercise price	$ 4.72	$ 2.56	$ 2.33
Expected term (in years)	1.0 - 1.3	1.0 - 1.6	1.0 - 1.5
Expected volatility	65%	70%	70%
Dividend yield	—%	—%	—%
Risk-free rate	2.61%	1.85%	1.05%

For the six months ended June 30, 2020, details of stock option activity were as follows:

	Number of options	Weighted average exercise price per share	Weighted average remaining contractual term (in years)	Aggregate intrinsic value
Outstanding as of December 31, 2019	2,120,000	$ 5.21	8.7	$ —
Granted	478,000	$ 2.48	9.5	
Expired	(30,000)	$ 7.14	—	
Outstanding as of June 30, 2020	2,568,000	$ 4.34	8.6	$ —
Options exercisable as of June 30, 2020	1,086,000	$ 4.82	8.1	$ —

The aggregate intrinsic value amounts in the table above represent the difference between the closing price of the Company's common stock at the end of the reporting period and the corresponding exercise prices, multiplied by the number of in-the-money stock options as of the same date.

For the six months ended June 30, 2020, the unvested balance of options was as follows:

	Number of options	Weighted average exercise price per share	Weighted average remaining contractual term (in years)
Unvested as of December 31, 2019	2,008,000	$ 4.72	9.1
Granted	478,000	$ 2.48	9.5
Vested	(1,004,000)	$ 4.72	8.6
Unvested as of June 30, 2020	1,482,000	$ 4.00	8.9

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
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Compensation expense recognized for stock options of $152 and $1,252 for the three months ended June 30, 2020 and 2019, respectively, and $1,351 and $2,103 for the six months ended June 30, 2020 and 2019, respectively, was recorded in sales and marketing, product development and general and administrative expenses in the consolidated statements of operations. As of June 30, 2020, there was $473 of unrecognized share-based compensation with respect to outstanding stock options.

Restricted stock units and restricted stock

For the six months ended June 30, 2020, details of unvested RSU and restricted stock activity were as follows:

	Number of units	Weighted average grant-date fair value
Unvested as of December 31, 2019	3,394,370	$ 8.03
Granted	1,545,032	$ 2.03
Vested and delivered	(1,376,581)	$ 3.58
Withheld as treasury stock (1)	(190,326)	$ 4.04
Vested not delivered (2)	525,334	$ 2.84
Forfeited	(161,506)	$ 2.77
Unvested as of June 30, 2020	3,736,323	$ 6.83

(1) As discussed in Note 7, *Common stock, treasury stock and warrants*, the increase in treasury stock was due to shares withheld to cover statutory withholding taxes upon the delivery of shares following vesting of RSUs. As of June 30, 2020, there were 3,616,398 outstanding shares of treasury stock.
(2) Vested not delivered represents vested RSUs with delivery deferred to a future time. For the six months ended June 30, 2020, there was a net decrease of 525,334 shares included in the vested not delivered balance as a result of the delivery of 655,333 shares, partially offset by the vesting of 129,999 shares with deferred delivery election. As of June 30, 2020, 2,262,001 outstanding RSUs were vested not delivered.

Compensation expense recognized for RSUs and restricted stock of $1,176 and $1,732 for the three months ended June 30, 2020 and 2019, respectively, and $2,413 and $3,171 for the six months ended June 30, 2020 and 2019, respectively, was recorded in sales and marketing, product development and general and administrative in the consolidated statements of operations, and intangible assets in the consolidated balance sheets. The fair value of the RSUs and restricted stock was estimated using the closing prices of the Company's common stock on the dates of grant.

As of June 30, 2020, unrecognized share-based compensation expense associated with the granted RSUs and stock options amounted to $10,434, which is expected to be recognized over a weighted average period of 2.6 years.

For the three and six months ended June 30, 2020 and 2019, share-based compensation for the Company's stock option, RSU, common stock and restricted stock awards were allocated to the following accounts in the consolidated financial statements:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Sales and marketing	$ 269	$ 160	$ 487	$ 529
Product development	286	277	523	522
General and administrative	726	2,517	2,668	4,178
Share-based compensation expense	1,281	2,954	3,678	5,229
Capitalized in intangible assets	47	30	86	45
Total share-based compensation	$ 1,328	$ 2,984	$ 3,764	$ 5,274

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
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9. Segment information

The Company identifies operating segments as components of an entity for which discrete financial information is available and is regularly reviewed by the chief operating decision maker ("CODM") in making decisions regarding resource allocation and performance assessment. The profitability measure employed by CODM is segment income (loss) from operations. As of June 30, 2020, the Company has two operating segments and two corresponding reporting units, "Fluent" and "All Other," and one reportable segment. "All Other" represents the operating results for the three and six months ended June 30, 2020 of AdParlor, LLC (see Note 11, *Business acquisitions*), and is included for purposes of reconciliation of the respective balances below to the consolidated financial statements. "Fluent," for the purposes of segment reporting, represents the consolidated operating results of the Company excluding "All Other."

Summarized financial information concerning the Company's segments is shown in the following tables below:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Fluent segment revenue:				
United States	$ 57,462	$ 62,644	$ 125,613	$ 122,121
International	12,935	7,916	22,346	15,000
Fluent segment revenue	$ 70,397	$ 70,560	$ 147,959	$ 137,121
All Other segment revenue:				
United States	$ 1,012	$ —	$ 2,197	$ —
International	100	—	287	—
All Other segment revenue	$ 1,112	$ —	$ 2,484	$ —
Segment income (loss) from operations:				
Fluent	$ 2,420	$ 2,482	$ 4,848	$ 5,270
All Other	(635)	—	(1,123)	—
Total income from operations	1,785	2,482	3,725	5,270
Interest expense, net	(1,333)	(1,767)	(2,865)	(3,545)
Income before income taxes	$ 452	$ 715	$ 860	$ 1,725

	June 30 2020	December 31 2019
Total assets:		
Fluent	$ 293,917	$ 296,714
All Other	14,484	20,379
Total assets	$ 308,401	$ 317,093

FLUENT, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONTINUED)
(Amounts in thousands, except share data)
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10. Contingencies

In the ordinary course of business, the Company is subject to loss contingencies that cover a range of matters. An estimated loss from a loss contingency, such as a legal proceeding or claim, is accrued if it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In determining whether a loss should be accrued, the Company evaluates, among other factors, the degree of probability and the ability to reasonably estimate the amount of any such loss.

On October 26, 2018, the Company received a subpoena from the New York Attorney General's Office ("NY AG") regarding compliance with New York Executive Law § 63(12) and New York General Business Law § 349, as they relate to the collection, use, or disclosure of information from or about consumers or individuals, as such information was submitted to the Federal Communication Commission ("FCC") in connection with the FCC's rulemaking proceeding captioned "Restoring Internet Freedom," WC Docket No. 17-108. On December 13, 2018, the Company received a subpoena from the United States Department of Justice ("DOJ") regarding the same issue. On March 12, 2020, the Company received a subpoena from the Office of the Attorney General of the District of Columbia ("DC AG") regarding the same issue. The Company has been fully cooperating with the NY AG, the DOJ, and the DC AG. Based on recent communications with the NY AG, the Company believes that a loss from these matters is probable, but it is not yet possible to reasonably estimate the magnitude of such loss. However, an unfavorable outcome could have a material adverse effect on the Company's business, results of operations or financial position.

On June 27, 2019, as a part of two sales and use tax audits covering the period from December 1, 2010 to November 30, 2019, the New York State Department of Taxation and Finance (the "Tax Department") issued a letter stating its position that revenue derived from certain of the Company's customer acquisition and list management services are subject to sales tax, as a result of being deemed information services. The Company disputed the Tax Department's position on several grounds, but on January 14 and 15, 2020, the Tax Department issued Statements of Proposed Audit Adjustment totaling $8.2 million, including $2.0 million of interest. The Company formally disagreed with the amount of the Proposed Audit Adjustments and met with the Tax Department on March 4, 2020. During that meeting, the Company informed the Tax Department that a majority of the Proposed Audit Adjustments was attributable to revenue derived from transfers which were either excluded resales or sourced outside of New York and renewed its challenge as to the taxability of its customer acquisition revenue. On July 22 and 31, 2020, the Company received notices of determination from the Tax Department totaling $3.0 million, including $0.7 million of interest. Based on the foregoing, the Company believes that it is probable that a sales tax liability may result from this matter, and has estimated the range of any such liability to be between $0.7 million and $3.0 million. The Company has accrued a liability associated with these sales and use tax audits at the low end of this range.

On January 28, 2020, the Company received a Civil Investigative Demand ("CID") from the Federal Trade Commission ("FTC") regarding compliance with the Federal Trade Commission Act, 15 U.S.C. §45 or the Telemarketing Sales Rule, 16 C.F.R. Part 310, as they relate to the advertising, marketing, promotion, offering for sale, or sale of rewards and other products, the transmission of commercial text messages, and/or consumer privacy or data security. The Company has been fully cooperating with the FTC and is responding to the CID. At this time, it is not possible to predict the ultimate outcome of this matter or the significance, if any, to the Company's business, results of operations or financial position.

11. Business acquisitions

Winopoly acquisition

On April 1, 2020, the Company acquired, through a wholly owned subsidiary, a 50% membership interest in Winopoly, LLC (the "Winopoly Acquisition") for a deemed purchase price of $2,553, which consisted of $1,553 in cash and contingent consideration with a fair value of $1,000 payable based upon the achievement of specified revenue targets over the eighteen-month period following the completion of the acquisition. Winopoly, LLC is a contact center operation, which serves as a marketplace that matches consumers sourced by Fluent with advertiser clients. In accordance with ASC 805, the Company determined that the Winopoly Acquisition constituted the purchase of a business. For the six months ended June 30, 2020, the Company incurred transaction-related expenses of $60 in connection with the acquisition, which are recorded in general and administrative expenses in the consolidated statements of operations. Assets and revenues of Winopoly, LLC totaled 0.9% and 0.7%, respectively, of the Company's consolidated financial statements at and for the six months ended June 30, 2020, and are included in the Fluent operating segment.

The preliminary fair value of the acquired customer relationships of $600, to be amortized over a period of five years, was determined using the excess earnings method, a variation of the income approach, while the preliminary fair value of the acquired developed technology of $800, to be amortized over a period of three years, was determined using the cost approach. The amount of the purchase price in excess of the fair value of the net assets acquired was recorded as goodwill in the amount of $1,131 and primarily relates to intangible assets that do not qualify for separate recognition, including assembled workforce and synergies. The purchase accounting process has not yet been completed, primarily because the valuation of acquired assets and liabilities assumed has not been finalized. The Company expects to complete the purchase accounting as soon as practicable but no later than one year from the acquisition date. The Company does not believe there will be material adjustments.

At any time between the fourth and sixth anniversary of the Winopoly Acquisition, the sellers may exercise a put option whereby the Company is required to acquire the remaining 50% membership interests in Winopoly, LLC. During this period, the Company also has the ability to exercise a call option whereby the sellers must sell the remaining 50% membership interests in Winopoly, LLC to the Company. The purchase price paid for the remaining 50% membership interests would be calculated based on a multiple of 4.0 x EBITDA (as such term is defined in the agreement between the parties), applied to a twelve-month period spanning the five months prior to month of put/call closing extending through six months following the month of put/call closing. In connection with the exercise of the put/call option, certain of the seller parties must enter into employment agreements with the Company in order to receive their share of the consideration for the remaining 50% of the membership interests (the "Put/Call Consideration").

Although the sellers maintain an equity interest in Winopoly, LLC, we have deemed this equity interest to be non-substantive in nature, as the sellers will primarily benefit from the Winopoly Acquisition based on periodic distributions of the earnings of Winopoly, LLC and the Put/Call Consideration, both of which are dependent on their continued service. Without providing service, the sellers could benefit from their pro rata share of the proceeds upon a third-party sale or liquidation of Winopoly, LLC; however, such a liquidity event is considered unlikely. Therefore, no non-controlling interest has been recognized. Periodic distributions for services rendered will be recorded as compensation expense. In addition, we will estimate the amount of the Put/Call Consideration, which will be accreted over the six year estimated service period, consisting of the estimated four years until the put/call can be exercised and the additional two-year service requirement. For the three and six months ended June 30, 2020, compensation expense of $530 related to the Put/Call Consideration was recorded in general and administrative on the consolidated statement of operations, with a corresponding liability in other non-current liabilities on the consolidated balance sheet.

AdParlor acquisition

On July 1, 2019, two wholly owned subsidiaries of the Company, AdParlor, LLC (formerly known as AdParlor Acquisition, LLC), a Delaware limited liability company, and Fluent Media Canada, Inc., a British Columbia company (together with AdParlor, LLC, each a "Buyer" and collectively "Buyers"), completed the acquisition of

substantially all of the assets of AdParlor Holdings, Inc., a Delaware corporation ("AdParlor Holdings"), AdParlor International, Inc., a Delaware corporation ("AdParlor International"), AdParlor Media, Inc., a Delaware corporation ("AdParlor Media US"), and AdParlor Media ULC, a British Columbia unlimited liability company (together with AdParlor Holdings, AdParlor International and AdParlor Media US, each a "Seller" and collectively "Sellers") pursuant to an Asset Purchase Agreement (the "Purchase Agreement") dated June 17, 2019, by and among Buyers, Sellers and the parent of the Sellers, v2 Ventures Group LLC, a Delaware limited liability company (the "AdParlor Acquisition"). The purpose of the acquisition was to expand the Company's performance-based marketing capabilities. In accordance with ASC 805, the Company determined that the AdParlor Acquisition constituted the purchase of a business.

At closing, the Buyers paid to Sellers cash consideration of $7,302, net of adjustments for working capital and indebtedness, and issued a promissory note to Sellers with a present value of $2,350 in exchange for substantially all of the assets of Sellers. This promissory note is guaranteed by Fluent, LLC, and will not accrue interest except in the case of default, is payable in two equal installments on the first and second anniversaries of the date of closing and is subject to setoff in respect of certain indemnity and other matters. See Note 5, *Long-term debt, net* for further detail. For the year ended December 31, 2019, the Company incurred transaction-related expenses of $483 in connection with the AdParlor Acquisition, which it recorded in general and administrative expenses in the consolidated statements of operations.

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(Amounts in thousands, except share data)
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The following table summarizes the fair values of the assets acquired and the liabilities assumed at the closing date:

	July 1, 2019
Cash and cash equivalents	$ 56
Accounts receivable	7,835
Prepaid expenses and other current assets	54
Property and equipment	138
Intangible assets	4,700
Goodwill	4,983
Other non-current assets	28
Accounts payable	(7,691)
Accrued expenses and other current liabilities	(418)
Deferred revenue	(33)
Total net assets acquired	$ 9,652

The fair values of the identifiable intangible assets and goodwill acquired at the closing date are as follows:

	Fair Value	Weighted Average Amortization Period (Years)
Trade name & trademarks	$ 300	4
Developed technology	2,100	4
Customer relationships	2,300	6
Goodwill	4,983	
Total intangible assets, net	$ 9,683	

With the assistance of a third-party valuation firm, the fair value of the acquired customer relationships was determined using the excess earnings method, a variation of the income approach, while the fair value of the acquired developed technology, trade names and trademarks were determined using the relief from royalty method of the income approach. The amount of the purchase price in excess of the fair value of the net assets acquired was recorded as goodwill and primarily relates to intangible assets that do not qualify for separate recognition, including assembled workforce and synergies. For tax purposes, the goodwill is deductible over fifteen years.

12. Variable Interest Entity

The Company has determined that Winopoly, LLC (as discussed in Note 11, *Business acquisitions*) qualifies as a VIE, for which the Company is the primary beneficiary. A VIE is an entity that either (i) has insufficient equity to permit the entity to finance its activities without additional subordinated financial support, or (ii) has equity investors who lack the characteristics of a controlling financial interest. The primary beneficiary is the party that has the power to direct activities that most significantly impact the operations of the VIE and has the obligation to absorb losses or the right to benefits from the VIE that could potentially be significant to the VIE. We assess whether we are the primary beneficiary of a VIE at the inception of the arrangement and at each reporting date.

Winopoly is a VIE, and the Company is its primary beneficiary, as contractual arrangements provides the Company with the control over certain activities that most significantly impact its economic performance. These significant activities include the compliance practices of Winopoly, LLC and the Company's provisions of leads that Winopoly, LLC uses to generate its revenue, which ultimately give the Company controlling interest. The Company therefore consolidates Winopoly, LLC in its consolidated financial statements, inclusive of deemed compensation expense to the sellers for services rendered.

13. Related party transactions

The Company earns revenue and incurs expenses from a client in which the Company's Chief Executive Officer holds a significant ownership interest. For the three and six months ended June 30, 2020, the Company recognized revenue from this client of $95 and $145, respectively. For both the three and six months ended June 30, 2020, the Company incurred expenses from this client of $1.

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

You should read the following discussion in conjunction with our consolidated financial statements and related notes included in this Quarterly Report on Form 10-Q. This Quarterly Report on Form 10-Q contains certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"), about our expectations, beliefs, or intentions regarding our business, financial condition, results of operations, strategies, the outcome of litigation, or prospects. You can identify forward-looking statements by the fact that these statements do not relate strictly to historical or current matters. Rather, forward-looking statements relate to anticipated or expected events, activities, trends, or results as of the date they are made. Because forward-looking statements relate to matters that have not yet occurred, these statements are inherently subject to risks and uncertainties that could cause our actual results to differ materially from any future results expressed or implied by the forward-looking statements. Many factors could cause our actual activities or results to differ materially from the activities and results anticipated in forward-looking statements. These factors include those contained in this Quarterly Report on Form 10-Q, as well as the disclosures made in the Company's Annual Report on Form 10-K for the year ended December 31, 2019 filed on March 13, 2020 ("2019 Form 10-K"), and other filings we make with the Securities and Exchange Commission (the "SEC"). We do not undertake any obligation to update forward-looking statements, except as required by law. We intend that all forward-looking statements be subject to the safe harbor provisions of PSLRA. These forward-looking statements are only predictions and reflect our views as of the date they are made with respect to future events and financial performance.

Overview

Fluent, Inc. ("we," "us," "our," "Fluent," or the "Company"), is an industry leader in data-driven digital marketing services. We primarily perform customer acquisition services by operating highly scalable digital marketing campaigns, through which we connect our advertiser clients with consumers they are seeking to reach. We deliver data and performance-based marketing executions to our clients, which in 2019 included over 500 consumer brands, direct marketers and agencies across a wide range of industries, including Financial Products & Services, Retail & Consumer, Media & Entertainment, Staffing & Recruitment and Marketing Services.

We attract consumers at scale to our owned digital media properties primarily through promotional offerings and employment opportunities. On average, our websites receive over 900,000 first-party user registrations daily, which include users' names, contact information and opt-in permission to present them with offers on behalf of our clients. According to comScore, we reach 13% of the U.S. digital population on a monthly basis through our owned media properties. Nearly 90% of these users engage with our media on their mobile devices or tablets. Our always-on, real-time capabilities enable users to access our media whenever and wherever they choose.

Once users have registered with our sites, we integrate proprietary direct marketing technologies to engage them with surveys, polls and other experiences, through which we learn about their lifestyles, preferences and purchasing histories. Based on these insights, we serve targeted, relevant offers to them on behalf of our clients. As new users register and engage with our sites and existing registrants re-engage, we believe the enrichment of our database expands our addressable client base and improves the effectiveness of our performance-based campaigns.

Since our inception, we have amassed a large, proprietary database of first-party, self-declared user information and preferences. We have permission to contact the majority of users in our database through multiple channels, such as email, home address, telephone, push notifications and SMS text messaging. We leverage our data primarily to serve advertisements that we believe will be relevant to users based on the information they have provided. We have also begun to leverage our existing database into new revenue streams, including utilization-based models, such as programmatic advertising, as well as services-based models, such as marketing research and insights.

Second Quarter Financial Summary

Three months ended June 30, 2020 compared to three months ended June 30, 2019:

- Revenue increased 1% to $71.5 million, from $70.6 million.
- Net income was $0.5 million, or $0.01 per share, compared to $0.7 million or $0.01 per share.
- Media margin increased 8% to $24.8 million, from $22.9 million, representing 34.7% of revenue.
- Adjusted EBITDA decreased 3% to $9.4 million, based on net income of $0.5 million, from $9.7 million, based on a net income of $0.7 million.
- Adjusted net income was $4.2 million, or $0.05 per share, compared to $4.6 million, or $0.06 per share.

Six months ended June 30, 2020 compared to six months ended June 30, 2019:

- Revenue increased 10% to $150.4 million, from $137.1 million.
- Net income was $0.9 million, or $0.01 per share, compared to $1.8 million or $0.02 per share.
- Media margin increased 6% to $48.7 million, from $46.0 million, representing 32.4% of revenue.
- Adjusted EBITDA decreased $0.4 to $18.4 million, based on net income of $0.9 million, from $18.8 million, based on a net income of $1.8 million.
- Adjusted net income was $8.0 million, or $0.10 per share, compared to $8.7 million, or $0.11 per share.

Media margin, adjusted EBITDA and adjusted net income are non-GAAP financial measures.

COVID-19 Update

On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic. At this time, our operations have not been significantly impacted by the global economic impact of COVID-19, and we have taken appropriate measures to ensure that we are able to conduct our business remotely without significant disruptions. The economic uncertainty caused by COVID-19 has had an impact on certain of our advertiser clients in certain industry verticals, such as staffing and recruitment and financial products and services, who have reduced their pricing and/or demand during the quarter. We took steps to reduce our costs of acquiring traffic and to match available consumers with other advertiser clients in the various industries we serve, thereby enabling us to more effectively manage our margins during the quarter. We anticipate additional shifts in pricing and/or demand among affected clients, as the trajectory of the pandemic and future economic outlook remain uncertain.

We implemented company-wide work-from-home beginning on March 13, 2020. While we believe we are well-positioned to adapt to a work-from-home environment, COVID-19 increases the likelihood of certain risks of disruption to our business, such as the incapacity of certain employees or system interruptions, which could lead to diminishment of our regular business operations, technological capacity and cybersecurity capabilities, as well as operational inefficiencies and reputational harm.

Please see "*Results of Operations*" and Item 1A. *Risk Factors* for further discussion of the possible impact of the COVID-19 pandemic on our business.

Definitions, Reconciliations and Uses of Non-GAAP Financial Measures

We report the following non-GAAP measures:

Media margin is defined as revenue minus cost of revenue (exclusive of depreciation and amortization) attributable to variable costs paid for media and related expenses. Media margin is also presented as percentage of revenue.

Adjusted EBITDA is defined as net income excluding (1) income taxes, (2) interest expense, net, (3) depreciation and amortization, (4) goodwill impairment, (5) accrued compensation expense for Put/Call Consideration, (6) share-based compensation expense, (7) acquisition-related costs, (8) restructuring and certain severance costs, (9) certain litigation and other related costs, and (10) one-time items.

Adjusted net income is defined as net income excluding (1) goodwill impairment, (2) accrued compensation expense for Put/Call Consideration, (3) share-based compensation expense, (4) acquisition-related costs, (5) restructuring and certain severance costs, (6) certain litigation and other related costs, and (7) one-time items. Adjusted net income is also presented on a per share (basic and diluted) basis.

Below is a reconciliation of media margin from net income, which we believe is the most directly comparable GAAP measure.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Net income	$ 452	$ 715	$ 860	$ 1,760
Income tax benefit	—	—	—	(35)
Interest expense, net	1,333	1,767	2,865	3,545
Goodwill impairment	817	—	817	—
Depreciation and amortization	3,853	3,306	7,586	6,623
General and administrative	10,044	10,294	21,120	20,329
Product development	3,115	2,287	5,846	4,445
Sales and marketing	2,888	3,058	5,718	6,492
Non-media cost of revenue (1)	2,312	1,475	3,915	2,836
Media margin	$ 24,814	$ 22,902	$ 48,727	$ 45,995
Revenue	$ 71,509	$ 70,560	$ 150,443	$ 137,121
Media margin % of revenue	34.7%	32.5%	32.4%	33.5%

(1) Represents the portion of cost of revenue (exclusive of depreciation and amortization) not attributable to variable costs paid for media and related expenses.

Below is a reconciliation of adjusted EBITDA from net income, which we believe is the most directly comparable GAAP measure:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Net income	$ 452	$ 715	$ 860	$ 1,760
Income tax benefit	—	—	—	(35)
Interest expense, net	1,333	1,767	2,865	3,545
Depreciation and amortization	3,853	3,306	7,586	6,623
Goodwill impairment	817	—	817	—
Accrued compensation expense for Put/Call Consideration	530	—	530	—
Share-based compensation expense	1,281	2,954	3,678	5,229
Acquisition-related costs	15	448	62	448
Restructuring and certain severance costs	—	250	—	360
Certain litigation and other related costs	1,115	227	2,022	716
One-time items	—	—	—	168
Adjusted EBITDA	$ 9,396	$ 9,667	$ 18,420	$ 18,814

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Below is a reconciliation of adjusted net income and adjusted net income per share from net income, which we believe is the most directly comparable GAAP measure.

	Three Months Ended June 30,		Six Months Ended June 30,	
(In thousands, except share data)	2020	2019	2020	2019
Net income	$ 452	$ 715	$ 860	$ 1,760
Goodwill impairment	817	—	817	—
Accrued compensation expense for Put/Call Consideration	530	—	530	—
Share-based compensation expense	1,281	2,954	3,678	5,229
Acquisition-related costs	15	448	62	448
Restructuring and certain severance costs	—	250	—	360
Certain litigation and other related costs	1,115	227	2,022	716
One-time items	—	—	—	168
Adjusted net income	$ 4,210	$ 4,594	$ 7,969	$ 8,681
Adjusted net income per share:				
Basic	$ 0.05	$ 0.06	$ 0.10	$ 0.11
Diluted	$ 0.05	$ 0.06	$ 0.10	$ 0.11
Weighted average number of shares outstanding:				
Basic	78,510,383	79,388,383	78,557,331	79,297,599
Diluted	78,666,776	81,132,304	78,905,792	80,443,530

We present media margin, adjusted EBITDA, adjusted net income and adjusted net income per share as supplemental measures of our financial and operating performance because we believe they provide useful information to investors. More specifically:

Media margin, as defined above, is a measure of the efficiency of the Company's operating model. We use media margin and the related measure of media margin as a percentage of revenue as primary metrics to measure the financial return on our media and related costs, specifically to measure the degree by which the revenue generated from our digital marketing services exceeds the cost to attract the consumers to whom offers are made through our services. Media margin is used extensively

by our management to manage our operating performance, including evaluating operational performance against budgeted media margin and understanding the efficiency of our media and related expenditures. We also use media margin for performance evaluations and compensation decisions regarding certain personnel.

Adjusted EBITDA, as defined above, is another primary metric by which we evaluate the operating performance of our business, on which certain operating expenditures and internal budgets are based and by which, in addition to media margin and other factors, our senior management is compensated. The first three adjustments represent the conventional definition of EBITDA, and the remaining adjustments are items recognized and recorded under GAAP in particular periods but might be viewed as not necessarily coinciding with the underlying business operations for the periods in which they are so recognized and recorded. These adjustments include certain severance costs associated with department-specific reorganizations and certain litigation and other related costs associated with legal matters outside the ordinary course of business. Items are considered one-time in nature if they are non-recurring, infrequent or unusual and have not occurred in the past two years or are not expected to recur in the next two years, in accordance with SEC rules. Adjusted EBITDA for the six months ended June 30, 2019 excluded as one-time items $0.2 million of costs associated with the move of our corporate headquarters. There were no other adjustments for one-time items in the current period presented.

Adjusted net income, as defined above, and the related measure of adjusted net income per share exclude certain items that are recognized and recorded under GAAP in particular periods but might be viewed as not necessarily coinciding with the underlying business operations for the periods in which they are so recognized and recorded. Adjusted net income for the six months ended June 30, 2019 excluded as one-time items $0.2 million of costs associated with the move of our corporate headquarters. There were no other adjustments for one-time items in the current period presented. We believe adjusted net income affords investors a different view of the overall financial performance of the Company than adjusted EBITDA and the GAAP measure of net income.

Media margin, adjusted EBITDA, adjusted net income and adjusted net income per share are not intended to be performance measures that should be regarded as an alternative to, or more meaningful than, net income as indicators of operating performance. None of these metrics are presented as measures of liquidity. The way we measure media margin, adjusted EBITDA and adjusted net income may not be comparable to similarly titled measures presented by other companies and may not be identical to corresponding measures used in our various agreements.

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Results of Operations

Three months ended June 30, 2020 compared to three months ended June 30, 2019

Revenue. Revenue increased $0.9 million, or 1%, to $71.5 million for the three months ended June 30, 2020, from $70.6 million for the three months ended June 30, 2019. The increase was primarily attributable to greater availability of consumer traffic to our websites, along with corresponding demand for our performance-based marketing services. We believe that the effect of consumers spending more time on their mobile devices during the period of social isolation brought on by the COVID-19 pandemic yielded a greater supply of consumer traffic, although this effect dissipated and reversed later in the quarter. As the trajectory of the pandemic and governmental, business and individual responses to the same remain dynamic and unpredictable, we are unable to assess the availability of consumer traffic to our websites in future quarters. After the initial onset of the COVID-19 pandemic, certain advertisers in industry verticals such as staffing and recruitment and financial products and services began to reduce their spend with us, while certain advertisers in other verticals such as streaming services and mobile gaming have increased their demand. While the combination of these trends did not result in a significant disruption to our business in the quarter ended June 30, 2020, the trajectory of these trends is uncertain.

Cost of revenue (exclusive of depreciation and amortization). Cost of revenue was relatively flat at $49.0 million for the three months ended June 30, 2020, as compared with $49.1 million for the three months ended June 30, 2019. Our cost of revenue primarily consists of media and related costs associated with acquiring traffic from third-party publishers and digital media platforms for our owned and operated websites and, historically, on behalf of third-party advertisers, as well as the costs of fulfilling rewards earned by consumers who complete the requisite number of advertiser offers.

The total cost of revenue as a percentage of revenue decreased to 69% for the three months ended June 30, 2020, compared to 70% in the corresponding period in 2019, as a reduction in our cost of media was partly offset by increased reward fulfillment expense, as we tested certain changes to the consumer flows and experience during the quarter.

Sales and marketing. Sales and marketing expenses decreased $0.2 million, or 6%, to $2.9 million for the three months ended June 30, 2020, from $3.1 million for the three months ended June 30, 2019. For the three months ended June 30, 2020 and 2019, the amounts consisted mainly of employee salaries and benefits of $2.4 million and $2.3 million, non-cash share-based compensation expense of $0.3 million and $0.2 million, and advertising costs of $0.2 million and $0.4 million, respectively. We are actively managing our sales and marketing expenditures to reflect the rapidly shifting market dynamics associated with the impact of COVID-19 on our advertiser clients' industries. As a result, past levels of sales and marketing expenditures may not be indicative of future expenditures, which may increase or decrease as these uncertainties in our business play out.

Product development. Product development increased $0.8, or 36%, to $3.1 million for the three months ended June 30, 2020, from $2.3 million for the three months ended June 30, 2019. For the three months ended June 30, 2020 and 2019, the amounts consisted mainly of salaries and benefits of $2.2 million and $2.0 million and software license and maintenance costs of $0.3 million and $0.0 million, respectively. We have not implemented any material changes to our product development strategy as a result of the COVID-19 pandemic.

General and administrative. General and administrative expenses decreased $0.3 million, or 2%, to $10.0 million for the three months ended June 30, 2020, from $10.3 million for the June 30, 2019. For the three months ended June 30, 2020 and 2019, the amounts consisted mainly of employee salaries and benefits of $4.3 million and $3.9 million, professional fees of $1.2 million and $1.2 million, office overhead of $1.2 million and $0.8 million, certain litigation and related costs of $1.1 million and $0.2 million, non-cash share-based compensation expense of $0.7 million and $2.5 million, and accrued compensation expense for Put/Call Consideration from the Winopoly Acquisition of $0.5 million and $0.0 million (see Note 11, *Business acquisitions*, in the Notes to Consolidated Financial Statements), respectively. The decrease was mainly the result of reduced non-cash share-based compensation expense, partially offset by an increase in certain litigation and related costs year over year as well as accrued compensation expense for the Put/Call Consideration. At this time, we do not anticipate material changes to our general and administrative expenditures due to the COVID-19 pandemic. See "Item 1A *Risk Factors*" below.

Depreciation and amortization. Depreciation and amortization expenses increased $0.5 million, or 17%, to $3.9 million for the three months ended June 30, 2020, from $3.3 million for the three months ended June 30, 2019, as the results of the AdParlor Acquisition are included in the current period but were not present in the prior period.

Goodwill impairment. During the second quarter of 2020, we recognized $0.8 million of goodwill impairment related to the All Other reporting unit, with no corresponding impairment charge in the prior period.

Interest expense, net. Interest expense, net, decreased $0.4 million, or 25%, to $1.3 million for the three months ended June 30, 2020, from $1.8 million for the three months ended June 30, 2019. The decrease was attributable to a lower interest rate environment, as well as lower average debt balance outstanding on the Refinanced Term Loan described below under "Liquidity and Capital Resources".

Income before income taxes. For the three months ended June 30, 2020, income before income taxes decreased $0.3 million to $0.5 million, compared to $0.7 million for the three months ended June 30, 2019. The change was primarily due to an increase in product development of $0.8 million, goodwill impairment of $0.8 million and depreciation and amortization expense of $0.5 million, partially offset by an increase in revenue of $0.9 million, decrease in interest expense of $0.4 million, decrease in general and administrative expense of $0.3 million, decrease in sales and marketing of $0.2 million and decrease in cost of revenue of $0.1, discussed above.

Income taxes. There was no income tax recorded for the three months ended June 30, 2020 and 2019, respectively.

As of June 30, 2020 and 2019, we recorded a full valuation allowance against our net deferred tax assets. We intend to maintain a full valuation allowance against the net deferred tax assets until there is sufficient evidence to support the release of all or some portion of this allowance. Based on the our history of losses, current income, estimated future taxable income, exclusive of reversing temporary differences and carryforwards, future reversals of existing taxable temporary differences and consideration of available tax planning strategies, we believe there is a reasonable possibility that, within the next twelve months, sufficient positive evidence may become available to allow us to reach a conclusion that a significant portion of the valuation allowance may be released. Release of some or all of the valuation allowance would result in the recognition of certain deferred tax assets and an increase in deferred tax benefit for any period in which such a release may be recorded, however, the exact timing and amount of any valuation allowance release are subject to change, depending on the profitability that we are able to achieve and the net deferred tax assets available.

Net income. Net income of $0.5 million and $0.7 million was recognized for the three months ended June 30, 2020 and 2019, respectively, as a result of the foregoing.

Six months ended June 30, 2020 compared to six months ended June 30, 2019

Revenue. Revenue increased $13.3 million, or 10%, to $150.4 million for the six months ended June 30, 2020, from $137.1 million for the six months ended June 30, 2019. The increase was primarily attributable to greater availability of consumer traffic to our websites, along with corresponding demand for our performance-based marketing services. We believe that a combination of reduced competition for media early in the year, followed by consumers spending more time on their mobile devices during the period of social isolation brought on by the COVID-19 pandemic, yielded a greater supply of consumer traffic, although this effect dissipated and reversed later in the second quarter. After the initial onset of the COVID-19 pandemic, certain advertisers in industry verticals such as staffing and recruitment and financial products and services began to reduce their spend with us, while certain advertisers in other verticals such as streaming services and mobile gaming increased their demand. The combination of these trends did not result in a significant disruption to our business in the six months ended June 30, 2020.

Cost of revenue (exclusive of depreciation and amortization). Cost of revenue increased $11.7 million, or 12%, to $105.6 million for the six months ended June 30, 2020, from $94.0 million for the six months ended June 30, 2019.

The total cost of revenue as a percentage of revenue increased to 70% for the six months ended June 30, 2020, compared to 69% in the corresponding period in 2019, as we sourced increased media at slightly lower margins, and incurred increased reward fulfillment expense, as we tested certain changes to the consumer flows and experience during the second quarter.

Sales and marketing. Sales and marketing expenses decreased $0.8 million, or 12%, to $5.7 million for the six months ended June 30, 2020, from $6.5 million for the six months ended June 30, 2019. For the six months ended June 30, 2020 and 2019, the amounts consisted mainly of employee salaries and benefits of $4.6 million and $4.6 million, non-cash share-based compensation expense of $0.5 million and $0.5 million, and advertising costs of $0.4 million and $0.9 million, respectively. The reduction in sales and marketing expenses derived primarily from reduced advertising costs.

Product development. Product development increased $1.4, or 32%, to $5.8 million for the six months ended June 30, 2020, from $4.4 million for the six months ended June 30, 2019, partly owing to the development of new media properties. For the six months ended June 30, 2020 and 2019, the amounts consisted mainly of salaries and benefits of $4.4 million and $3.8 million, non-cash share-based compensation expense of $0.5 million and $0.5 million, and software license and maintenance costs of $0.4 million and $0.0 million, respectively.

General and administrative. General and administrative expenses increased $0.8 million, or 4%, to $21.1 million for the six months ended June 30, 2020, from $20.3 million for the June 30, 2019. For the six months ended June 30, 2020 and 2019, the amounts consisted mainly of employee salaries and benefits of $8.8 million and $8.0 million, non-cash share-based compensation expense of $2.7 million and $4.2 million, professional fees of $2.5 million and $3.0 million, office overhead of $2.0 million and $1.8 million, certain litigation and related costs of $2.0 million and $0.7 million, and accrued compensation expense for Put/Call Consideration from the Winopoly Acquisition of $0.5 million and $0.0 million, respectively. The increase was mainly the result of increased employee-related costs resulting from the expansion of our workforce to support growth, increase in certain litigation and related costs year over year and accrued compensation expense for Put/Call Consideration, partially offset by a decrease in non-cash share-based compensation expense and professional fees.

Depreciation and amortization. Depreciation and amortization expenses increased $1.0 million, or 15%, to $7.6 million for the six months ended June 30, 2020, from $6.6 million for the six months ended June 30, 2019, as the results of the AdParlor Acquisition are included in the current period but were not present in the prior period.

Goodwill impairment. During the second quarter of 2020, we recognized $0.8 million of goodwill impairment related to the All Other reporting unit, with no corresponding impairment charge in the prior period.

Interest expense, net. Interest expense, net, decreased $0.7 million, or 19%, to $2.9 million for the six months ended June 30, 2020, from $3.5 million for the six months ended June 30, 2019. The decrease was attributable to a lower interest rate environment and a lower average debt balance outstanding on the Refinanced Term Loan described below under "Liquidity and Capital Resources".

Income before income taxes. For the six months ended June 30, 2020, income before income taxes decreased $0.9 million, or 50%, to $0.9 million for the six months ended June 30, 2020, from $1.7 million for the six months ended June 30, 2019. The change was primarily due to an increase in cost of revenue of $11.7 million, product development of $1.4 million, goodwill impairment charge of $0.8 million, depreciation and amortization expense of $1.0 million, and general and administrative expense of $0.8 million, partially offset by an increase in revenue of $13.3 million, decrease in sales and marketing of $0.8 and decrease in interest expense of $0.7 million, discussed above.

Income taxes. Income tax benefit was $0.0 thousand and $35.0 thousand for the six months ended June 30, 2020 and 2019, respectively.

Net income. Net income of $0.9 million and $1.8 million was recognized for the six months ended June 30, 2020 and 2019, respectively, as a result of the foregoing.

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Effect of Inflation

The rates of inflation experienced in recent years have had no material impact on our financial statements. We attempt to recover increased costs by increasing prices for our services, to the extent permitted by contracts and the competitive environment within our industry.

Liquidity and Capital Resources

Cash flows provided by operating activities. For the six months ended June 30, 2020 and 2019, net cash provided by operating activities was $9.8 million and $13.1 million, respectively. The decline of $3.3 million resulted primarily from a $3.2 million reduction in changes in assets and liabilities.

Cash flows used in investing activities. For the six months ended June 30, 2020 and 2019, net cash used in investing activities was $2.7 million and $2.9 million, respectively. The decrease in cash used was mainly due to $1.9 million reduced capital expenditures year over year, partially offset by cash paid for the Winopoly Acquisition in the amount of $1.4 million in the current year.

Cash flows used in financing activities. Net cash used in financing activities for the six months ended June 30, 2020 and 2019 was $5.6 million and $6.2 million, respectively. The decrease in cash used for the six months ended June 30, 2020 was mainly due to a $2.7 million decrease in statutory taxes paid related to the net share settlement of vested restricted stock units, partially offset by an increase of $0.8 million in repayment of the Refinanced Term Loan and the repurchase of treasury stock as part of a stock repurchase program of $1.3 million in 2020, which was not in effect in the prior period.

As of June 30, 2020, we had noncancelable operating lease commitments of $11.9 million and long-term debt which had $50.9 million principal balance. For the six months ended June 30, 2020, we funded our operations using available cash.

As of June 30, 2020, we had cash, cash equivalents and restricted cash of approximately $21.7 million, an increase of $1.5 million from $20.2 million as of December 31, 2019. We believe that we will have sufficient cash resources to finance our operations and expected capital expenditures for the next twelve months and beyond.

We may explore the possible acquisition of businesses, products and/or technologies that are complementary to our existing business. We are continuing to identify and prioritize additional technologies, which we may wish to develop internally or through licensing or acquisition from third parties. While we may engage from time to time in discussions with respect to potential acquisitions, there can be no assurances that any such acquisitions will be made or that we will be able to successfully integrate any acquired business. In order to finance such acquisitions and working capital, it may be necessary for us to raise additional funds through public or private financings. Any equity or debt financings, if available at all, may be on terms which are not favorable to us and, in the case of equity financings, may result in dilution to shareholders. On July 1, 2019, we acquired substantially all of the assets of AdParlor Holdings, Inc. and certain affiliates for $7.3 million in cash, using cash on hand, and a $2.4 million promissory note to the sellers. On April 1, 2020, we acquired a 50% membership interest in Winopoly, LLC, for a deemed purchase price of $2.6 million, comprised of $1.6 million in upfront cash paid to the seller parties and contingent consideration with a fair value of $1.0 million, payable based upon the achievement of specified revenue targets over the eighteen-month period following the completion of the acquisition. See Note 11, *Business acquisitions*, in the Notes to Consolidated Financial Statements.

As of June 30, 2020, the Refinanced Term Loan has an outstanding principal balance of $48.4 million and matures on March 26, 2023. The Credit Agreement, along with the related Amendment No. 6 governing the Refinanced Term Loan and subsequent amendments, contain restrictive covenants which impose limitations on the way we conduct our business, including limitations on the amount of additional debt we are able to incur and our ability to make certain investments and other restricted payments. The restrictive covenants and prepayment penalties in the Credit Agreement, as amended, may limit our strategic and financing options and our ability to return capital to our shareholders through dividends or stock buybacks. Furthermore, we may need to incur additional debt to meet future financing needs. The Refinanced Term Loan is guaranteed by us and our direct and indirect subsidiaries and is secured by substantially all of our assets and those of our direct and indirect subsidiaries, including Fluent, LLC, in each case, on an equal and ratable basis. The Refinanced Term Loan accrues interest at the rate of either, at Fluent's option, (a) LIBOR (subject to a floor of 0.50%) plus 7.00% per annum, or (b) base rate (generally equivalent to the U.S. prime rate) plus 6.0% per annum, payable in cash. Principal amortization of the Refinanced Term Loan is $0.9 million per quarter, which commenced with the fiscal quarter ended June 30, 2018.

The Credit Agreement, as amended, requires us to maintain and comply with certain financial and other covenants. While we were in compliance with the financial and other covenants at June 30, 2020, we cannot assure that we will be able to maintain compliance with such financial or other covenants. Our failure to comply with these covenants could result in an event of default which, if not cured or waived, could result in the acceleration of all of our indebtedness, which would materially adversely affect our financial health if we are unable to access sufficient funds to repay all the outstanding amounts. Moreover, if we are unable to meet our debt obligations as they come due, we could be forced to restructure or refinance such obligations, seek additional equity financing or sell assets, which we may not be able to do on satisfactory terms, or at all. In addition, the Credit Agreement includes certain prepayment provisions, including mandatory quarterly prepayments of the Refinanced Term Loan with a portion of our excess cash flow and prepayment penalties if we prepay the Refinanced Term Loan before the fourth anniversary of Amendment No. 6. As long as the Refinanced Term Loan remains outstanding, the restrictive covenants and mandatory quarterly prepayment provisions and prepayment penalties could impair our ability to expand or pursue our business strategies or obtain additional funding.

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Off-Balance Sheet Arrangements

As of June 30, 2020, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K.

Critical Accounting Policies and Estimates

Management's discussion and analysis of financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States ("US GAAP"). The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We periodically evaluate our estimates, including those related to revenue recognition, allowance for doubtful receivables, lease commitments, useful lives of intangible assets, recoverability of the carrying amounts of goodwill and intangible assets, share-based compensation and income taxes. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

During the three months ended March 31, 2020, we determined that the decline in market value of our publicly traded stock and the macroeconomic conditions arising from the global COVID-19 pandemic constituted an impairment triggering event for our two reporting units, Fluent and All Other. As such, we conducted an interim test of the fair value of our goodwill for potential impairment as of March 31, 2020. Based on the results of this interim impairment test, which used a combination of income and market approaches to determine the fair value of our two reporting units, we concluded that Fluent's goodwill of $159,791 and All Other's goodwill of $4,983, were not impaired since the results of the interim test indicated that the estimated fair values exceeded their carrying value by approximately 18% and 4%, respectively. We believe that the assumptions utilized in the interim impairment testing over our two reporting units, including the determination of an appropriate discount rate of 13.0% for Fluent and 16.5% for All Other, long-term profitability growth projections, and estimated future cash flows, are reasonable. The risk of future impairment of goodwill exists if actual results, such as lower than expected revenue, profitability, cash flows, market multiples, discount rates and control premiums, differ from the assumptions used in our interim impairment test. In addition, a sustained decline in the market value of our publicly traded stock could impact the fair value assessment.

During the three months ended June 30, 2020, we determined that the effects of the macroeconomic conditions arising from the global COVID-19 pandemic and the social unrest throughout the United States during June 2020, which changed the media-buying patterns of certain customers directly impacting the All Other reporting unit, constituted an impairment triggering event. As such, we conducted an interim test of the fair value of its goodwill for potential impairment as of June 30, 2020. The results of this interim impairment test, which used a combination of income and market approaches to determine the fair value of the All Other reporting unit, indicated that its carrying value exceeded its estimated fair value by 8.9%, we concluded that All Other's goodwill of $5.0 million was impaired by $0.8 million. We believe that the assumptions utilized in the interim impairment testing, including the determination of an appropriate discount rate of 16%, long-term profitability growth projections, and estimated future cash flows, are reasonable. The interim goodwill impairment test reflected management's best estimate of the economic impact to its business, end market conditions and recovery timelines. While no further triggering events were identified by management as of June 30, 2020, if the ongoing economic uncertainty proves to be more severe than estimated, or if the economic recovery takes longer to materialize or does not materialize as strongly as anticipated, this could result in future impairment charges.

For additional information, please refer to our 2019 Form 10-K. There have been no additional material changes to Critical Accounting Policies and Estimates disclosed in the 2019 Form 10-K.

Recently issued accounting and adopted standards

See Note 1(b), "*Recently issued and adopted accounting standards,"* in the Notes to Consolidated Financial Statements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of June 30, 2020. We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on the evaluation of disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934), the Company's Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were not effective as of June 30, 2020. As described below and as previously reported in our 2019 Form 10-K, in connection with management’s assessment of the effectiveness of our internal control over financial reporting at the end of our last fiscal year, management identified a material weakness in our internal control over financial reporting as of December 31, 2018, which was not remediated as of December 31, 2019 and which is in the process of being remediated as of June 30, 2020.

On July 1, 2019, we acquired substantially all of the assets of AdParlor Holdings, LLC and certain of its affiliates, as described in Note 11, *Business acquisitions*. As permitted by the SEC Staff interpretive guidance for newly acquired businesses, management's assessment of our internal control over financial reporting as of June 30, 2020 did not include an assessment of those disclosure controls and procedures that are subsumed by internal control over financial reporting as it relates to the AdParlor Acquisition. We will continue the process of implementing internal controls over financial reporting for the AdParlor business. As of June 30, 2020, assets and revenue excluded from management's assessment totaled 4.7% and 1.7%, respectively, of total assets and revenue for the six months ended June 30, 2020.

On April 1, 2020, we acquired a 50% membership interest in Winopoly, LLC which is consolidated in our condensed consolidated financial statements as a VIE, as described in Note 11, *Business acquisitions*, in the Notes to Consolidated Financial Statements. As permitted by the SEC Staff interpretive guidance for newly acquired businesses, management's assessment of our internal control over financial reporting as of June 30, 2020 did not include an assessment of those disclosure controls and procedures that are subsumed by internal control over financial reporting as it relates to the Winopoly Acquisition. We will continue the process of implementing internal controls over financial reporting for the Winopoly business. As of June 30, 2020, assets and revenue excluded from management's assessment totaled 0.9% and 0.7%, respectively, of total assets and revenue for the six months ended June 30, 2020.

Notwithstanding the identified material weakness, management believes the consolidated financial statements included in this Quarterly Report on Form 10-Q fairly represent in all material respects our financial condition, results of operations and cash flows at and for the periods presented in accordance with U.S. GAAP.

Remediation Efforts to Address Material Weakness

With the oversight of management and the audit committee of the Company’s board of directors, we are actively taking the appropriate steps towards the remediation of the underlying causes of the material weakness described above. During the third quarter of 2019, we commenced configuration of our new ERP system, NetSuite, with the first phase of our implementation completed on January 1, 2020, at which point we transitioned to NetSuite as our general ledger. While the full integration of our internal revenue tracking platforms with NetSuite remains ongoing, we believe that once NetSuite is fully integrated, its automated processes will include controls that will render unnecessary the manual preventative and detective controls that were deemed inadequate at December 31, 2019. We will continue our implementation of NetSuite, including the design of appropriate automated processes and controls, and continue to monitor, evaluate and update, as necessary, our processes and controls during the post-implementation period for an appropriate period of time before concluding that the material weakness described above has been effectively remediated.

Changes in Internal Control Over Financial Reporting

Except as noted above, there were no changes to our internal control over financial reporting during this quarter ended June 30, 2020 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings.

Other than as disclosed below under "—Certain Legal Matters," the Company is not currently a party to any legal proceeding, investigation or claim which, in the opinion of the management, is likely to have a material adverse effect on the business, financial condition, results of operations or cash flows. Legal fees associated with legal proceedings are expensed as incurred. We review legal proceedings and claims on an ongoing basis and follow appropriate accounting guidance, including ASC 450, when making accrual and disclosure decisions. We establish accruals for those contingencies where the incurrence of a loss is probable and can be reasonably estimated, and we disclose the amount accrued and the amount of a reasonably possible loss in excess of the amount accrued, if such disclosure is necessary for our financial statements to not be misleading. To estimate whether a loss contingency should be accrued by a charge to income, we evaluate, among other factors, the probability of an unfavorable outcome and the ability to make a reasonable estimate of the amount of the loss. We do not record liabilities when the likelihood that the liability has been incurred is probable, but the amount cannot be reasonably estimated.

In addition, we may be involved in litigation from time to time in the ordinary course of business. We do not believe that the ultimate resolution of any such matters will have a material adverse effect on our business, financial condition, results of operations or cash flows. However, the results of such matters cannot be predicted with certainty and we cannot assure you that the ultimate resolution of any legal or administrative proceeding or dispute will not have a material adverse effect on our business, financial condition, results of operations and cash flows.

Certain Legal Matters

On October 26, 2018, the Company received a subpoena from the New York Attorney General's Office ("NY AG") regarding compliance with New York Executive Law § 63(12) and New York General Business Law § 349, as they relate to the collection, use, or disclosure of information from or about consumers or individuals, as such information was submitted to the Federal Communication Commission ("FCC") in connection with the FCC's rulemaking proceeding captioned "Restoring Internet Freedom," WC Docket No. 17-108. On December 13, 2018, the Company received a subpoena from the United States Department of Justice ("DOJ") regarding the same issue. On March 12, 2020, the Company received a subpoena from the Office of the Attorney General of the District of Columbia ("DC AG") regarding the same issue. The Company has been fully cooperating with the NY AG, the DOJ, and the DC AG. Based on recent communications with the NY AG, the Company believes that a loss from these matters is probable, but it is not yet possible to reasonably estimate the magnitude of such loss. However, an unfavorable outcome could have a material adverse effect on our business, results of operations or financial position.

On June 27, 2019, as a part of two sales and use tax audits covering the period from December 1, 2010 to November 30, 2019, the New York State Department of Taxation and Finance (the "Tax Department") issued a letter stating its position that revenue derived from certain of the Company's customer acquisition and list management services are subject to sales tax, as a result of being deemed information services. The Company disputed the Tax Department's position on several grounds, but on January 14 and 15, 2020, the Tax Department issued Statements of Proposed Audit Adjustment totaling $8.2 million, including $2.0 million of interest. The Company formally disagreed with the amount of the Proposed Audit Adjustments and met with the Tax Department on March 4, 2020. During that meeting, the Company informed the Tax Department that a majority of the Proposed Audit Adjustments was attributable to revenue derived from transfers which were either excluded resales or sourced outside of New York and renewed its challenge as to the taxability of its customer acquisition revenue. On July 22 and 31, 2020, the Company received notices of determination from the Tax Department totaling $3.0 million, including $0.7 million of interest. Based on the foregoing, the Company believes that it is probable that a sales tax liability may result from this matter, and has estimated the range of any such liability to be between $0.7 million and $3.0 million. The Company has accrued a liability associated with these sales and use tax audits at the low end of this range.

On January 28, 2020, the Company received a Civil Investigative Demand ("CID") from the FTC regarding compliance with the FTC Act or the TSR, as they relate to the advertising, marketing, promotion, offering for sale, or sale of rewards and other products, the transmission of commercial text messages, and/or consumer privacy or data security. The Company has been fully cooperating with the FTC and is responding to the CID. At this time, it is not possible to predict the ultimate outcome of this matter or the significance, if any, to our business, results of operations or financial position.

Item 1A. Risk Factors.

Our business, financial condition, results of operations, and cash flows may be impacted by a number of factors, many of which are beyond our control, including those set forth in our 2019 Form 10-K, the occurrence of any one of which could have a material adverse effect on our actual results.

There have been no material changes to the Risk Factors previously disclosed in our 2019 Form 10-K, except as noted below.

Unfavorable global economic conditions, including as a result of health and safety concerns around the ongoing COVID-19 pandemic, could adversely affect our business, financial condition and results of operations.

Our results of operations could be adversely affected by general conditions in the global economy, including conditions that are outside of our control, such as the impact of health and safety concerns from the current outbreak of the COVID-19 coronavirus. The most recent global financial crisis caused by COVID-19 has resulted in extreme volatility and disruptions in the capital and credit markets. A severe or prolonged economic downturn presents a variety of risks to our business, including the potential for weakened demand from our advertiser clients or delays in client payments. A weak or declining economy could also strain our media supply channels.

After the initial onset of the COVID-19 pandemic, certain advertisers in industry verticals such as staffing and recruitment and financial products and services began to reduce their spend with us, while certain advertisers in other verticals, such as streaming services and mobile gaming, increased their demand, with many consumers spending more time on their mobile devices during the period of social isolation. We have taken steps to reduce our costs of acquiring traffic and to match available consumers with other advertiser clients in the various industries we serve, thereby enabling us to effectively manage our margins during this period of uncertainty. We anticipate additional shifts in pricing and/or demand among affected clients as the trajectory of the pandemic and future economic outlook remain uncertain. While the combination of these trends did not result in a significant disruption to our business in the six months ended June 30, 2020, the trajectory of these trends is uncertain. These trends, or others that have yet to be identified, could have a material adverse impact on our business, financial condition and results of operations in subsequent periods. The extent of any impact is uncertain and cannot be reasonably estimated at this time.

Additionally, our business relies heavily on people, and adverse events such as health-related concerns about working in our offices, the inability to travel and other matters affecting the general work environment could harm our business. We implemented company-wide work-from-home beginning on March 13, 2020. While we believe we are well-positioned to adapt to a work-from-home environment, COVID-19 increases the likelihood of certain risks of disruption to our business, such as the incapacity of certain employees or system interruptions, which could lead to diminishment of our regular business operations, technological capacity and cybersecurity capabilities, as well as operational inefficiencies and reputational harm.

While we do not anticipate any material impact to our operational capabilities as a result of COVID-19, we cannot predict the impact it may have on our business due to numerous uncertainties, including the severity of the disease, the duration of the outbreak, actions that may be taken by governmental authorities, the impact to our

clients' businesses and other factors.

The expansion of our international operations subjects us to increased challenges and risks.

We have begun expanding our website offerings into additional international markets beyond the United Kingdom and we may expand further into additional countries in Europe or other regions. Our ability to manage our business and conduct our operations internationally requires considerable management attention and resources and is subject to the particular challenges of supporting a rapidly growing business in an environment of multiple languages, cultures, legal and regulatory systems, taxation regimes, and commercial infrastructures. Continued international expansion will require us to invest significant funds and other resources and may subject us to new risks that we have not faced before or increase risks that we currently face, including risks associated with:

- compliance with applicable foreign laws and regulations and adapting to foreign customs and practices as they relate to our business;
- compliance with the General Data Protection Regulation ("GDPR") and other foreign privacy, data protection and information security laws and regulations and the risks and costs of noncompliance;
- cross-border data transfers among us, our subsidiaries, and our customers, vendors, and business partners;
- difficulties and added costs of conducting our business in foreign languages;
- credit risk and higher levels of payment fraud, as well as longer sales or collection cycles in some countries;
- compliance with anti-bribery laws, such as the Foreign Corrupt Practices Act;
- recruiting and retaining employees in foreign countries;
- increased competition from local providers;
- economic and political instability in some countries, including as a result of health concerns, terrorist attacks and civil unrest;
- less protective intellectual property laws;
- compliance with the laws of numerous foreign taxing jurisdictions in which we conduct business, potential double taxation of our international earnings and potentially adverse tax consequences due to changes in applicable U.S. and foreign tax laws; and
- overall higher costs of doing business internationally.

If our revenue from our international operations does not exceed the expense of establishing and maintaining these operations, our business and operating results could suffer and we may decide to make changes to our business in an effort to mitigate losses. If are unable to successfully manage the risks and costs associated with international operations, it could adversely affect our business and/or results of operations.

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

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not Applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

The following exhibits are filed as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

		Incorporated by Reference				Filed
Exhibit No.	**Exhibit Description**	**Form**	**File No.**	**Exhibit**	**Filing Date**	**Herewith**
3.1	Certificate of Incorporation	8-K	001-37893	3.2	3/26/2015	
3.2	Certificate of Amendment to the Certificate of Incorporation.	8-K	001-37893	3.1	4/16/2018	
3.3	Amended and Restated Bylaws.	8-K	001-37893	3.2	2/19/2019	
4.1	Form of Common Stock Certificate.	8-K	001-37893	4.1	4/16/2018	
10.1	Amendment No. 11 to Credit Agreement, dated as of April 1, 2020, by and among Fluent, Inc., Fluent, LLC as borrower, the other borrower parties thereto, WhiteHorse Finance, Inc., as administrative agent, and the other lenders party thereto.					X
10.2	Amendment No. 12 to Credit Agreement, dated as of May 19, 2020, by and among Fluent, Inc., Fluent, LLC as borrower, the other borrower parties thereto, WhiteHorse Finance, Inc., as administrative agent, and the other lenders party thereto.					X
31.1	Certification of Chief Executive Officer filed pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a) of the Securities and Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Chief Financial Officer filed pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a) of the Securities and Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X

32.1*	Certification by Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	X
32.2*	Certification by Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	X
101.INS	Inline XBRL Instance Document (the Instance Document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document)	X
101.SCH	Inline XBRL Taxonomy Extension Schema Document	X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	X
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)	

* This certification is deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, as amended (Exchange Act), or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended or the Exchange Act.

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SIGNATURES

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

Fluent, Inc.

August 10, 2020

By: /s/ Alexander Mandel
Alexander Mandel
Chief Financial Officer
(Principal Financial and Accounting Officer)

LIMITED CONSENT AND AMENDMENT NO. 11 TO CREDIT AGREEMENT

This LIMITED CONSENT AND AMENDMENT NO. 11 TO CREDIT AGREEMENT (this "Amendment") is entered into as of April 1, 2020 by and among FLUENT, INC., a Delaware corporation, as parent (the "Parent"), FLUENT, LLC, a Delaware limited liability company (the "Borrower"), the other borrower parties party hereto (together with the Parent and the Borrower, the "Borrower Parties"), WHITEHORSE FINANCE, INC., as the Administrative Agent (in such capacity, together with its successors and assigns, the "Administrative Agent"), and the lenders party hereto (collectively, the "Lenders"). Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Amended Credit Agreement (as defined below).

RECITALS

A. The Borrower, the Parent, the Administrative Agent and the Lenders, together with the persons party thereto from time to time as Guarantors, are party to that certain Credit Agreement, dated as of December 8, 2015, as amended by that certain Limited Consent and Amendment No. 1 to Credit Agreement, dated as of June 8, 2016, that certain Limited Consent and Amendment No. 2 to Credit Agreement, dated as of September 30, 2016, that certain Amendment No. 3 to Credit Agreement, dated as of January 19, 2017, that certain Amendment No. 4 to Credit Agreement, dated as of August 7, 2017, that certain Amendment No. 5 to Credit Agreement, dated as of November 3, 2017, that certain Limited Consent and Amendment No. 6 to Credit Agreement, dated as of March 26, 2018, that certain Amendment No. 7 to Credit Agreement, dated as of September 10, 2018, that certain Amendment No. 8 to Credit Agreement, dated as of October 12, 2018, that certain Limited Consent and Waiver to Credit Agreement, dated as of June 17, 2019, that certain Amendment No. 9 to Credit Agreement, dated as of November 8, 2019, and that certain Amendment No. 10 to Credit Agreement, dated as of November 19, 2019 (the "Credit Agreement" and, as amended by this Amendment, the "Amended Credit Agreement").

B. The Borrower Parties have requested that the Majority Lenders and the Administrative Agent, and the Majority Lenders and the Administrative Agent have agreed to, (i) consent to (A) the Winopoly Acquisition and (B) the form, terms and provisions of the Winopoly Purchase Documents in effect as of the date hereof and the performance by Inbox Pal of its obligations thereunder and (ii) amend certain provisions of the Credit Agreement, in each case on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the terms, covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Consent. Subject to the conditions set forth below, and in reliance on the representations, warranties, covenants and other agreements contained herein, the Administrative Agent and the Lenders party hereto (together, the "Lender Parties") hereby consent to (i) the Winopoly Acquisition, (ii) the form, terms and provisions of the Winopoly Purchase Documents in effect as of the date hereof, as and when entered into, and the same shall be deemed permitted under the Credit Agreement as and when entered into, and (iii) the performance by Inbox Pal of its obligations under the Winopoly Purchase Documents. The foregoing consent shall be limited precisely as written and shall not, except as otherwise expressly provided herein, be deemed or otherwise construed to constitute a waiver of any other Default or Event of Default or any future breach of the Credit Agreement or any other Loan Document or to prejudice any right, power or remedy which the Lender Parties may have under or in connection with the Credit Agreement or any other Loan Document. The Lender Parties, on behalf of themselves and the other Lenders, hereby reserve their rights under the Loan Documents and applicable law in respect of the Credit Agreement and the other Loan Documents. This consent relates only to the specific matters covered herein, and shall not be considered to create a course of dealing or to otherwise obligate any Lender to execute similar amendments under the same or similar circumstances in the future.

SECTION 2. **Amendments to Credit Agreement**. Subject to the satisfaction of the conditions precedent set forth below, and in reliance on the representations, warranties, covenants and other agreements of the Borrower Parties contained herein, the Credit Agreement is hereby amended as set forth in the marked terms on Annex I attached hereto (the "Amended Credit Agreement"). On Annex I attached hereto, deletions of text in the Amended Credit Agreement are indicated by ~~struck-through text,~~ insertions of text are indicated by **double-underlined text** and movements of text are indicated by *single-underlined text* or ~~*struck-through text*~~, as applicable. As so amended, the Credit Agreement shall continue in full force and effect.

SECTION 3. **[Reserved]**.

SECTION 4. **[Reserved]**.

SECTION 5. **Representations and Warranties of the Borrower Parties**. The Borrower Parties represent and warrant that:

(a) The Borrower Parties have the power and have taken all necessary action, corporate or otherwise, to authorize them to execute, deliver, and perform their respective obligations under this Amendment, the Amended Credit Agreement and all Loan Documents executed in connection herewith (collectively, the "Amendment Documents") in accordance with the terms hereof and thereof and to consummate the transactions contemplated hereby and thereby.

(b) The Amendment Documents have been duly executed and delivered by the Borrower Parties, and each is a legal, valid and binding obligation of the Borrower Parties, enforceable in accordance with its terms except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditor's rights generally or by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(c) All of the representations and warranties of the Borrower Parties under the Amendment Documents and the other Loan Documents are true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) as of the date hereof, except for such representations and warranties made as of a specific date, which are true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) as of such date, and there exists no Default or Event of Default, in each case after giving effect to this Amendment.

(d) The execution, delivery, and performance of the Amendment Documents in accordance with their respective terms by the Borrower Parties and the consummation of the transactions contemplated hereby, and the performance of the Amendment Documents by the Borrower Parties, do not and will not (i) violate any Applicable Law in any material respect, (ii) conflict with, result in a breach of or constitute a default under the certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents of any Borrower Party or under any Material Contract, or (iii) result in or require the creation or imposition of any Lien upon or with any assets or property of any Borrower Party except Permitted Liens. Additionally, each Borrower Party and each Subsidiary of a Borrower Party is otherwise in compliance, in all material respects, with all Applicable Laws and with all of the provisions of its certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents.

(e) The Winopoly Purchase Documents constitute all of the documents by and among the parties thereto governing, relating to and required to effect the Winopoly Acquisition. The Borrower Parties have delivered to the Administrative Agent true, correct and complete copies of the Winopoly Purchase Documents, as in effect on the date hereof.

SECTION 6. **Effectiveness**. This Amendment shall be effective at the time that each of the conditions precedent set forth in this Section 6 shall have been met (such date, the "Eleventh Amendment Effective Date"):

(a) Amendment. The Administrative Agent shall have received duly executed counterparts of this Amendment signed by the Borrower Parties and Lenders constituting the Majority Lenders.

(b) Winopoly Purchase Documents. The Administrative Agent shall have received each Winopoly Purchase Document, duly executed by each party thereto.

(c) Representations and Warranties. The representations and warranties contained herein shall be true, correct and complete.

(d) No Default or Event of Default. No Default or Event of Default shall exist or would result after giving effect to this Amendment.

(e) Financial Covenants. The Borrower Parties shall be in compliance, on a pro forma basis after giving effect to the Winopoly Acquisition, with the financial covenants set forth in Sections 8.8, 8.9 and 8.10 of the Credit Agreement.

SECTION 7. Post-Closing Covenants. Within 10 Business Days of the Eleventh Amendment Effective Date (or such longer period as the Administrative Agent may agree in its sole discretion):

(a) The Administrative Agent shall have received, in each case in form and substance acceptable to the Administrative Agent:

(i) the Collateral Assignment of Representations, Warranties, Covenants and Indemnities (the "Winopoly Collateral Assignment"), duly executed by Inbox Pal and the Borrower;

(ii) a supplement to the Security Agreement to reflect the Equity Interests of Winopoly acquired by any Borrower Party in connection with the Winopoly Acquisition, duly executed by each such Borrower Party; and

(iii) the original Working Capital Note, together with an original undated power endorsed in blank.

(b) The Borrower Parties shall have paid all reasonable and documented out-of-pocket fees and expenses of the Administrative Agent and its professional advisors (including, without limitation, Latham & Watkins LLP) due and payable pursuant to Section 10.2 of the Amended Credit Agreement.

SECTION 8. Reference to and Effect upon the Loan Documents.

(a) Except as expressly modified hereby, all terms, conditions, covenants, representations and warranties contained in the Amended Credit Agreement and the other Loan Documents, and all rights of the Lender Parties and all of the Obligations, shall remain in full force and effect. Each of the Borrower Parties hereby confirms that the Amended Credit Agreement and the other Loan Documents are in full force and effect and that, as of the date hereof, no Borrower Party has any right of setoff, recoupment or other offset or any defense, claim or counterclaim with respect to any of the Obligations, the Amended Credit Agreement or any other Loan Document.

(b) Except as expressly provided herein, the execution, delivery and effectiveness of this Amendment shall not directly or indirectly (i) constitute a consent or waiver of any past, present or future violations of any provisions of the Amended Credit Agreement, this Amendment or any other Loan Document or (ii) amend, modify or operate as a waiver of any provision of the Amended Credit Agreement or any other Loan Documents or any right, power or remedy of any Lender Party.

(c) From and after the date hereof, (i) the term “Agreement” in the Amended Credit Agreement, and all references to the Credit Agreement in any Loan Document, shall mean the Amended Credit Agreement and (ii) the term “Loan Documents” in the Amended Credit Agreement and the other Loan Documents shall include, without limitation, this Amendment and any agreements, instruments and other documents executed and/or delivered in connection herewith.

(d) Neither the Administrative Agent nor any other Lender Party has waived, is by this Amendment waiving or has any intention of waiving (regardless of any delay in exercising such rights and remedies) any Default or Event of Default which may be continuing on the date hereof or any Default or Event of Default which may occur after the date hereof, and no Lender Party has agreed to forbear with respect to any of its rights or remedies concerning any Defaults or Events of Default, which may have occurred or are continuing as of the date hereof, or which may occur after the date hereof.

(e) This Amendment shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of the Amended Credit Agreement or any other Loan Document.

SECTION 9. General Release; Indemnity; Covenant Not To Sue.

(a) In consideration of, among other things, the execution and delivery of this Amendment by the Administrative Agent and Lenders signatory hereto, the Borrower Parties, on behalf of themselves and their respective agents, representatives, officers, directors, advisors, employees, subsidiaries, affiliates, successors and assigns (collectively, "Releasors"), hereby forever waive, release and discharge, to the fullest extent permitted by law, each Releasee (as hereinafter defined) from any and all claims (including, without limitation, crossclaims, counterclaims, rights of set-off and recoupment), actions, causes of action, suits, debts, accounts, interests, liens, promises, warranties, damages and consequential damages, demands, agreements, bonds, bills, specialties, covenants, controversies, variances, trespasses, judgments, executions, costs, expenses or claims whatsoever (collectively, the "Claims") that such Releasor now has or hereafter may have, of whatsoever nature and kind, whether known or unknown, whether now existing or hereafter arising, whether arising at law or in equity, against any or all members of the Lender Group, any of the foregoing parties in any other capacity and each of their respective affiliates, subsidiaries, shareholders and "controlling persons" (within the meaning of the federal securities laws), and their respective successors and assigns and each and all of the officers, directors, employees, agents, attorneys and other representatives of each of the foregoing (collectively, the "Releasees"), in each case based in whole or in part on facts, whether or not now known, existing on or before the date hereof, in each case that relate to, arise out of or otherwise are in connection with: (i) any or all of the Loan Documents or transactions contemplated thereby or any actions or omissions in connection therewith, (ii) any aspect of the dealings or relationships between or among the Borrower and the other Borrower Parties, on the one hand, and any or all members of the Lender Group, on the other hand, relating to any or all of the documents, transactions, actions or omissions referenced in clause (i) hereof, or (iii) any aspect of the dealings or relationships between or among any or all of the equity holders of the Borrower Parties, on the one hand, and the members of the Lender Group, on the other hand, but only to the extent such dealings or relationships relate to any or all of the documents, transactions, actions or omissions referenced in clause (i) hereof. The receipt by the Borrower or any other Borrower Party of any Loans or other advances made by any member of the Lender Group after the date hereof shall constitute a ratification, adoption and confirmation by such party of the foregoing general release of all Claims against the Releasees which are based in whole or in part on facts, whether or not now known or unknown, existing on or prior to the date of receipt by the Borrower or any other Borrower Party of any such Loans or other advances.

(b) The Borrower hereby agrees that it shall be obligated to indemnify and hold the Releasees harmless with respect to any and all liabilities, obligations, losses, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by the Releasees, or any of them, whether direct, indirect or consequential, arising from or in connection with the negotiation, preparation, execution, delivery, performance, administration and enforcement of the Amended Credit Agreement, the other Loan Documents, this Amendment or any other document executed and/or delivered in connection herewith or therewith; provided that the Borrower shall have no obligation to indemnify or hold harmless any Releasee hereunder with respect to liabilities to the extent they result from the gross negligence or willful misconduct of that Releasee as determined by a court of competent jurisdiction by a final and nonappealable judgment. If and to the extent that the foregoing undertaking may be unenforceable for any reason, the Borrower agrees to make the maximum contribution to the payment and satisfaction thereof which is permissible under applicable law.

(c) In entering into this Amendment, the Borrower Parties have consulted with, and have been represented by, legal counsel and expressly disclaims any reliance on any representations, acts or omissions by any of the Releasees made on or before the date hereof and hereby agree and acknowledge that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity hereof.

(d) The Borrower Parties hereby absolutely, unconditionally and irrevocably covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged pursuant to Section 9(a) hereof. If any Releasor violates the foregoing covenant, the Borrower agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and out-of-pocket expenses incurred by any Releasee as a result of such violation.

(e) The provisions of this Section 9 shall survive the termination of this Amendment, the Amended Credit Agreement, the other Loan Documents and payment in full of the Obligations.

SECTION 10. Construction. This Amendment and all other agreements and documents executed and/or delivered in connection herewith have been prepared through the joint efforts of all of the parties hereto. Neither the provisions of this Amendment or any such other agreements and documents nor any alleged ambiguity therein shall be interpreted or resolved against any party on the ground that such party or its counsel drafted this Amendment or such other agreements and documents, or based on any other rule of strict construction. Each of the parties hereto represents and declares that such party has carefully read this Amendment and all other agreements and documents executed in connection herewith, and that such party knows the contents thereof and signs the same freely and voluntarily. The parties hereto acknowledge that they have been represented by legal counsel of their own choosing in negotiations for and preparation of this Amendment and all other agreements and documents executed in connection herewith and that each of them has read the same and had their contents fully explained by such counsel and is fully aware of their contents and legal effect. If any matter is left to the decision, right, requirement, request, determination, judgment, opinion, approval, consent, waiver, satisfaction, acceptance, agreement, option or discretion of any member of the Lender Group or its employees, counsel or agents in the Amended Credit Agreement or any other Loan Documents, unless otherwise expressly set forth in the Amended Credit Agreement or such Loan Document, such action shall be deemed to be exercisable by such member of the Lender Group or such other Person in its sole and absolute discretion and according to standards established in its sole and absolute discretion. Without limiting the generality of the foregoing, "option" and "discretion" shall be implied by the use of the words "if" and "may."

SECTION 11. **Costs and Expenses**. As provided in Section 10.2 of the Amended Credit Agreement, the Borrower Parties agree to reimburse the Administrative Agent for all reasonable and documented out-of-pocket costs and expenses, including the reasonable fees and disbursements of counsel, incurred by the Administrative Agent in connection with this Amendment.

SECTION 12. **Governing Law**. All matters arising out of, in connection with or relating to this Amendment, including, without limitation, its validity, interpretation, construction, performance and enforcement (including, without limitation, any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest), shall be construed in accordance with and governed by the laws of the State of New York.

SECTION 13. **Consent to Jurisdiction**. FOR PURPOSES OF ANY LEGAL ACTION OR PROCEEDING BROUGHT BY ANY MEMBER OF THE LENDER GROUP WITH RESPECT TO THIS AMENDMENT, EACH BORROWER PARTY HEREBY IRREVOCABLY SUBMITS TO THE PERSONAL JURISDICTION OF THE FEDERAL AND STATE COURTS SITTING IN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND HEREBY IRREVOCABLY DESIGNATES AND APPOINTS, AS ITS AUTHORIZED AGENT FOR SERVICE OF PROCESS IN THE STATE OF NEW YORK, THE BORROWER, OR SUCH OTHER PERSON AS SUCH BORROWER PARTY SHALL DESIGNATE HEREAFTER BY WRITTEN NOTICE GIVEN TO THE ADMINISTRATIVE AGENT. THE CONSENT TO JURISDICTION HEREIN SHALL BE EXCLUSIVE; PROVIDED THAT THE LENDER GROUP, OR ANY OF THEM, RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY BORROWER PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY SECURITY DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT. THE LENDER GROUP SHALL FOR ALL PURPOSES AUTOMATICALLY, AND WITHOUT ANY ACT ON THEIR PART, BE ENTITLED TO TREAT SUCH DESIGNEE OF EACH BORROWER PARTY AS THE AUTHORIZED AGENT TO RECEIVE FOR AND ON BEHALF OF SUCH BORROWER PARTY SERVICE OF WRITS, OR SUMMONS OR OTHER LEGAL PROCESS IN THE STATE OF NEW YORK, WHICH SERVICE SHALL BE DEEMED EFFECTIVE PERSONAL SERVICE ON SUCH BORROWER PARTY SERVED WHEN DELIVERED, WHETHER OR NOT SUCH AGENT GIVES NOTICE TO SUCH BORROWER PARTY; AND DELIVERY OF SUCH SERVICE TO ITS AUTHORIZED AGENT SHALL BE DEEMED TO BE MADE WHEN PERSONALLY DELIVERED OR THREE (3) BUSINESS DAYS AFTER MAILING BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH AUTHORIZED AGENT. EACH BORROWER PARTY FURTHER IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL TO SUCH BORROWER PARTY AT THE ADDRESS SET FORTH IN THE AMENDED CREDIT AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE THREE (3) BUSINESS DAYS AFTER SUCH MAILING. IN THE EVENT THAT, FOR ANY REASON, SUCH AGENT OR ITS SUCCESSORS SHALL NO LONGER SERVE AS AGENT OF EACH BORROWER PARTY TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK, EACH BORROWER PARTY SHALL SERVE AND ADVISE THE ADMINISTRATIVE AGENT THEREOF SO THAT AT ALL TIMES EACH BORROWER PARTY WILL MAINTAIN AN AGENT TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK ON BEHALF OF SUCH BORROWER PARTY WITH RESPECT TO THIS AMENDMENT AND ALL OTHER LOAN DOCUMENTS. IN THE EVENT THAT, FOR ANY REASON, SERVICE OF LEGAL PROCESS CANNOT BE MADE IN THE MANNER DESCRIBED ABOVE, SUCH SERVICE MAY BE MADE IN SUCH MANNER AS PERMITTED BY LAW.

SECTION 14. **Consent to Venue**. EACH BORROWER PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION IT WOULD MAKE NOW OR HEREAFTER FOR THE LAYING OF VENUE OF ANY SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT BROUGHT IN THE FEDERAL COURTS OF THE UNITED STATES SITTING IN NEW YORK COUNTY, NEW YORK, AND HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION, OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

SECTION 15. **Waiver of Jury Trial**. EACH BORROWER PARTY, THE ADMINISTRATIVE AGENT AND EACH LENDER PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WAIVES, AND OTHERWISE AGREES NOT TO REQUEST, A TRIAL BY JURY IN ANY COURT AND IN ANY ACTION, PROCEEDING OR COUNTERCLAIM OF ANY TYPE IN WHICH ANY BORROWER PARTY, ANY MEMBER OF THE LENDER GROUP OR ANY OF THEIR RESPECTIVE SUCCESSORS OR ASSIGNS IS A PARTY, AS TO ALL MATTERS AND THINGS ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AMENDMENT AND THE RELATIONS AMONG THE PARTIES LISTED IN THIS AMENDMENT.

SECTION 16. **Headings**. Headings used in this Amendment are for convenience only and shall not affect the interpretation of any provision hereof.

SECTION 17. **Reaffirmation**. Each Borrower Party, as debtor, grantor, mortgagor, pledgor, guarantor, assignor, or in other similar capacities in which such Borrower Party grants liens or security interests in its properties or otherwise acts as accommodation party, guarantor or indemnitor, as the case may be, in any case under the Loan Documents, hereby (i) acknowledges, ratifies and confirms that all Obligations constitute valid and existing "Obligations" under the Amended Credit Agreement, and (ii) ratifies and confirms that (x) any and all Loan Documents to which it is a party and (y) all of its respective payment and performance obligations, contingent or otherwise, and all of its guarantees, pledges, grants of security interests and other similar rights or obligations, as applicable, under each of the Loan Documents to which it is party, remain in full force and effect notwithstanding the effectiveness of this Amendment to secure all of the Obligations arising under or pursuant to and as defined in the Amended Credit Agreement. Without limiting the generality of the foregoing, each Credit Party further agrees (A) that any reference to "Obligations" contained in any Loan Documents shall include, without limitation, the "Obligations" as such term is defined in the Amended Credit Agreement and (B) that the related guarantees and grants of security contained in such Loan Documents shall include and extend to such Obligations.

SECTION 18. **Severability**. Any provision of this Amendment which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 19. **Counterparts**. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same agreement. In proving this Amendment or any other Loan Document in any judicial proceedings, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom such enforcement is sought. Any signatures hereto delivered by Electronic Transmission shall be deemed an original signature hereto.

SECTION 20. **Assignments; No Third Party Beneficiaries**. This Amendment shall be binding upon and inure to the benefit of the Borrower, the other Borrower Parties, each member of the Lender Group and their respective successors and assigns; provided that the Borrower shall be entitled to delegate any of its duties hereunder or assign any of its rights or remedies set forth in this Amendment without the prior written consent of Administrative Agent in its sole discretion. No Person other than the Borrower, the other Borrower Parties and the Lender Group and, in the case of Section 9 hereof, the Releasees, shall have any rights hereunder or be entitled to rely on this Amendment and all third-party beneficiary rights (other than the rights of the Releasees under Section 9 hereof) are hereby expressly disclaimed.

[Signature pages to follow]

IN WITNESS WHEREOF, each of the undersigned has caused this Amendment to be duly executed and delivered as of the date first above written.

BORROWER PARTIES:

FLUENT, LLC,
as the Borrower

By: /s/ Ryan Schulke
Name: Ryan Schulke
Title: Chief Executive Officer

FLUENT, INC.,
as the Parent

By: /s/ Ryan Schulke
Name: Ryan Schulke
Title: Chief Executive Officer

AMERICAN PRIZE CENTER LLC
DELIVER TECHNOLOGY LLC
FIND DREAM JOBS, LLC
FLUENT MEDIA LABS, LLC
REWARD ZONE USA LLC
REWARDSFLOW LLC
SAMPLES & SAVINGS, LLC
SEARCH WORKS MEDIA, LLC
SEA OF SAVINGS LLC
EASE WINS, LLC
MAIN SOURCE MEDIA, LLC
BIG PUSH MEDIA, LLC
HVGUS, LLC
INBOX PAL, LLC
HUNT FOR JOBS, LLC
VESEY STUDIOS, LLC
CLICKGEN, LLC
NETCREATIONS, LLC
BXY VENTURES, LLC
ADPARLOR, LLC,
each as a Subsidiary Guarantor

By: /s/ Ryan Schulke
Name: Ryan Schulke
Title: Chief Executive Officer

WHITEHORSE FINANCE, INC.,
as Administrative Agent

By: /s/ Joyson Thomas
Name: Joyson Thomas
Title: Authorized Signatory

H.I.G. WHITEHORSE TRINITY CREDIT, LLC,
as a Lender

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

WHITEHORSE FINANCE CREDIT I, LLC,
as a Lender

By: /s/ Joyson Thomas
Name: Joyson Thomas
Title: Authorized Signatory

SWISS CAPITAL HYS PRIVATE DEBT FUND L.P,
as a Lender

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

WHITEHORSE ONSHORE CREDIT
OPPORTUNITIES I SPV, LLC,
as a Lender

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

[Signature Page to Limited Consent and Amendment No. 11 to Credit Agreement]

WHITEHORSE OFFSHORE CREDIT
OPPORTUNITIES I, LLC,
as a Lender

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

H.I.G. WHITEHORSE SMA, L.P.,
as a Lender

By: /s/ Richard Siegel
Name: Richard Siegel
Title: Authorized Signatory

[Signature Page to Limited Consent and Amendment No. 11 to Credit Agreement]

ANNEX I

Amended Credit Agreement

(See attached.)

CREDIT AGREEMENT

December 8, 2015,

as amended by

Limited Consent and Amendment No. 1 to Credit Agreement, dated as of June 8, 2016;
Limited Consent and Amendment No. 2 to Credit Agreement, dated as of September 30, 2016;
Amendment No. 3 to Credit Agreement, dated as of January 19, 2017;
Amendment No. 4 to Credit Agreement, dated as of August 7, 2017;
Amendment No. 5 to Credit Agreement, dated as of November 3, 2017;
Limited Consent and Amendment No. 6 to Credit Agreement, dated as of March 26, 2018;
Amendment No. 7 to Credit Agreement, dated as of September 10, 2018;
Amendment No. 8 to Credit Agreement, dated as of October 12, 2018;
Amendment No. 9 to Credit Agreement, dated as of November 8, 2019; ~~and~~
Amendment No. 10 to Credit Agreement, dated as of November 19, 2019; and
Limited Consent and Amendment No. 11 to Credit Agreement, dated as of April 1, 2020

by and among

~~COGINT~~FLUENT, INC.,
as Parent,

FLUENT, LLC,
as the Borrower,

THE PERSONS PARTY HERETO FROM TIME TO TIME AS GUARANTORS,
THE FINANCIAL INSTITUTIONS PARTY HERETO
FROM TIME TO TIME AS LENDERS,

and

WHITEHORSE FINANCE, INC.,
as the Administrative Agent

INDEX

SCHEDULES

EXHIBITS

CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of December 8, 2015 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement"), is by and among FLUENT, LLC (the "Borrower"), ~~COGINT~~FLUENT, INC., a Delaware corporation ("Parent"), the other Persons party hereto from time to time as Guarantors, the financial institutions party hereto from time to time as Lenders and WHITEHORSE FINANCE, INC., as the Administrative Agent.

W I T N E S S E T H:

WHEREAS, Parent has formed the Initial Borrower for the purposes of Parent's acquisition of the Target Borrower (the "Closing Date Acquisition") by means of the merger of the Initial Borrower with and into the Target Borrower, with the Target Borrower as the surviving entity (the "Merger"), and, promptly following the consummation of the Merger, the subsequent merger of the Target Borrower with and into the Ultimate Borrower, with the Ultimate Borrower as the surviving entity (the "Subsequent Merger"), in each case pursuant to the Purchase Agreement (as defined below);

WHEREAS, the Initial Borrower has requested that the Administrative Agent and the Lenders make available to it the Commitment, on the terms and conditions set forth herein, to refinance the Existing Debt, to fund a portion of the purchase price of the Closing Date Acquisition, to fund transaction costs associated with the foregoing and the transactions contemplated hereby, and to provide for the Borrower's general corporate purposes;

WHEREAS, upon consummation of the Merger on December 9, 2015, the Target Borrower shall have assumed the rights and Obligations of the Initial Borrower and shall be the "Borrower" hereunder and a direct wholly owned Subsidiary of Parent;

WHEREAS, upon consummation of the Subsequent Merger on or promptly following December 9, 2015, the Ultimate Borrower shall have assumed the rights and Obligations of the Target Borrower and shall be the "Borrower" hereunder and a direct wholly owned Subsidiary of Parent; and

WHEREAS, the Administrative Agent and the Lenders are willing to make the Commitment available to the Borrower upon the terms and conditions set forth herein;.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1

DEFINITIONS, ACCOUNTING PRINCIPLES AND OTHER INTERPRETIVE MATTERS

Section 1.1 Definitions. For the purposes of this Agreement:

"ABL Facility" shall mean an asset-based revolving credit facility having aggregate commitments not to exceed $10,000,000 at any time outstanding, to be entered into following the Sixth Amendment Effective Date among the Borrower Parties (or any of them) and a lender reasonably satisfactory to the Administrative Agent, on terms and conditions and subject to documentation reasonably satisfactory to the Administrative Agent and subject to the Intercreditor Agreement.

"ABL Loan Documents" shall mean the definitive loan agreement and other definitive documentation governing the ABL Facility, in each case on terms and conditions reasonably satisfactory to the Administrative Agent.

"Account Debtor" shall mean any Person who is obligated to make payments in respect of an Account.

"Accounts" shall mean accounts (as that term is defined in the UCC), whether now existing or hereafter created or arising, and, in any event, includes, without limitation, (a) all of each Borrower Party's accounts receivable, other receivables, book debts and other forms of obligations (including any such obligations that may be characterized as an account or contract right under the UCC) arising from such transactions, (b) all of each Borrower Party's rights in, to and under all purchase orders or receipts for goods or services, (c) all of each Borrower Party's rights to any goods represented by any of the foregoing (including unpaid sellers' rights of rescission, replevin, reclamation and stoppage in transit and rights to returned, reclaimed or repossessed goods), (d) all rights to payment due to a Borrower Party for property sold, leased, licensed, assigned or otherwise disposed of, for a policy of insurance issued or to be issued, for a secondary obligation incurred or to be incurred, for energy provided or to be provided, for the use or hire of a vessel under a charter or other contract, arising out of the use of a credit card or charge card, or for services rendered or to be rendered by such Borrower Party or in connection with any other transaction (whether or not yet earned by performance on the part of such Borrower Party), (e) all health care insurance receivables and (f) all collateral security of any kind, given by any Account Debtor or any other Person with respect to any of the foregoing.

"Additional Amount" shall have the meaning specified in Section 2.8(b)(i).

"Administrative Agent" shall mean WhiteHorse Finance, Inc. and any successor Administrative Agent appointed pursuant to Section 13.12.

"Administrative Agent Account" shall mean the account designated from time to time in writing as the "Administrative Agent Account" by the Administrative Agent to the Lenders and the Borrower.

"Administrative Agent Indemnified Person" shall have the meaning specified in Section 13.10.

"Administrative Agent's Office" shall mean the office of the Administrative Agent located at 1450 Brickell Avenue, 31st Floor, Miami, Florida 33131, Attention: John Yeager, or such other office as may be designated by the Administrative Agent pursuant to the provisions of Section 10.1.

"Administrative Questionnaire" shall mean a questionnaire in form and substance satisfactory to the Administrative Agent.

"Advance" or "Advances" shall mean that portion of the Loan advanced by the Lenders to, or on behalf of, the Borrower pursuant to Section 2.1 on the occasion of any borrowing.

"Affiliate" shall mean, with respect to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, or that is a director, officer, manager or partner of such Person. For purposes of this definition, "control" means, when used with respect to any Person, Control of such Person or the direct or indirect beneficial ownership of ten percent (10%) or more of the outstanding Equity Interests of such Person. Furthermore, any relative of any principal shall be an "Affiliate" of the Borrower Parties unless such relative is an employee of any Borrower Parties.

"Agency Fee" shall mean an agency fee to be paid to the Administrative Agent in accordance with the Fee Letter.

"Agreement" has the meaning specified in the preamble, together with all Exhibits and Schedules hereto.

"Agreement Date" shall mean the date as of which this Agreement is dated.

"Anti-Corruption Laws" shall mean all laws, rules, and regulations of any jurisdiction applicable to the Parent or its Subsidiaries from time to time concerning or relating to bribery or corruption, including the FCPA.

"Anti-Terrorism Laws" shall mean all laws, rules and regulations of any jurisdiction applicable to the Parent or its Subsidiaries from time to time concerning or relating to terrorism or money laundering including, (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto, (iv) the USA Patriot Act and (v) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations.

"Applicable Law" shall mean, in respect of any Person, all provisions of (a) constitutions, treaties, laws (statutory or common), ordinances, rules and regulations and (b) to the extent binding on such Person or its assets, policies, procedures, decisions and orders of governmental bodies or regulatory agencies applicable, whether by law or by virtue of contract, to such Person, and (c) all orders and decrees of all courts and arbitrators in proceedings or actions to which the Person in question is a party or by which it is bound.

"Applicable Margin" shall mean (a) for the period from the Ninth Amendment Effective Date until (but excluding) the first Business Day following the date on which the first Compliance Certificate following the Ninth Amendment Effective Date is delivered to the Administrative Agent pursuant to Section 7.3, the applicable per annum rate of interest set forth below as Pricing Level I and (b) for the period on and after the first Business Day following the date on which the first Compliance Certificate following the Ninth Amendment Effective Date is delivered to the Administrative Agent for the most recently ended fiscal quarter pursuant to Section 7.3, a per annum rate of interest based on the Total Leverage Ratio set out below, as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 7.3:

Pricing Level	Total Leverage Ratio	Base Rate Advances	Eurodollar Advances
I	≤ 2.50	6.00%	7.00%
II	> 2.50	6.50%	7.50%

Any increase or decrease in the Applicable Margin resulting from a change in the Total Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate for any fiscal quarter is delivered to the Administrative Agent pursuant to Section 7.3; provided, however, that, if a Compliance Certificate is not delivered to the Administrative Agent when due in accordance with such Section, then Pricing Level II shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the first Business Day after the date on which such Compliance Certificate is delivered to the Administrative Agent.

In the event that any financial statement or Compliance Certificate delivered pursuant to Section 7.3 is inaccurate, and such inaccuracy, if corrected, would have led to the imposition of a higher Applicable Margin for any period than the Applicable Margin applied for that period, then (i) the Borrower shall immediately deliver to Administrative Agent a corrected financial statement and a corrected Compliance Certificate for that period (the date on which such corrected financial statements and corrected Compliance Certificate are delivered, the "Corrected Financials Date"), (ii) the Applicable Margin shall be determined based on the corrected Compliance Certificate for that period and (iii) the Borrower shall immediately pay to Administrative Agent (for the account of the Lenders that hold the Commitments and Loans at the time such payment is received, regardless of whether those Lenders held the Commitments and Loans during the relevant period) the accrued additional interest owing as a result of such increased Applicable Margin for that period; provided that, for the avoidance of doubt, any deficiency shall be due and payable as at such Corrected Financials Date and no default under Section 9.1(b) shall be deemed to have occurred with respect to such deficiency prior to such date. This paragraph shall not limit the rights of Administrative Agent or the Lenders with respect to Article 9 hereof, and shall survive the termination of this Agreement until the payment in full in cash of the aggregate outstanding principal balance of the Loans.

"Approved Fund" shall mean any Person that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity that administers or manages a Lender.

"Assignment Agreement" shall mean the Assignment and Assumption Agreement by and among Parent, Red Violet, Inc. and the Cogint Entities (as defined therein), dated as of the Sixth Amendment Effective Date, as amended in accordance with Section 8.15.

"Assignment and Acceptance" shall mean that certain form of Assignment and Acceptance attached hereto as Exhibit E, pursuant to which each Lender may, as further provided in Section 10.5, sell all or a portion of its portion of the Loans and/or Commitments.

"Authorized Signatory" shall mean, with respect to any Borrower Party, such senior personnel of such Borrower Party as may be duly authorized and designated in writing to the Administrative Agent by such Borrower Party to execute documents, agreements, and instruments on behalf of such Borrower Party.

"Bankruptcy Code" shall mean the United States Bankruptcy Code (11 U.S.C. Section 101 et seq.), as amended from time to time, and any successor statute.

"Base Rate" shall mean, at any time, a rate per annum equal to the higher of (a) the rate last quoted by The Wall Street Journal as the "base rate on corporate loans posted by at least 75% of the nation's largest banks" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent), (b) the sum of 0.50% per annum and the Federal Funds Rate and (c) the sum of 1.00% per annum and the Eurodollar Rate determined on a daily basis for a period of one (1) month (any changes in such rates to be effective as of the date of any change in such rate). If the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Base Rate shall be determined without regard to clause (b) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the Base Rate due to a change in the base rate quoted by the Wall Street Journal, the Federal Funds Rate or the Eurodollar Rate shall be effective on the effective date of such change in the base rate, the Federal Funds Rate or the Eurodollar Rate, as the case may be.

"Base Rate Advance" shall mean any Term Loan bearing interest based upon the Base Rate, in accordance with the provisions of Section 2.2.

"Blocked Account" shall mean a deposit account or securities account subject to a Blocked Account Agreement.

"Blocked Account Agreement" shall mean any agreement executed by a depository bank and the Administrative Agent, for the benefit of the Lender Group, and acknowledged and agreed to by the applicable Borrower Party, in form and substance satisfactory to the Administrative Agent.

"Borrower" shall have the meaning specified in the preamble.

"Borrower Parties" shall mean, collectively, the Borrower and the Guarantors; and "Borrower Party" shall mean any one of the foregoing Borrower Parties.

"Borrower Party Payments" shall have the meaning specified in Section 2.8(b)(i).

"Business Day" shall mean any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are closed; provided, however, that when used with reference to a Eurodollar Advance (including the making, continuing, prepaying or repaying of any Eurodollar Advance), the term "Business Day" shall also exclude any day on which banks are not open for dealings in deposits of Dollars on the London interbank market.

"Capital Expenditures" shall mean, for any period, on a consolidated basis for the Borrower Parties, the aggregate of all expenditures made by the Borrower Parties during such period that, in conformity with GAAP, are required to be included in or reflected on the consolidated balance sheet as a capital asset of the Borrower Parties, including, without limitation, Capitalized Lease Obligations of the Borrower Parties but excluding any such expenditures made as part of a Permitted Acquisition or paid for with insurance proceeds in accordance with Section 2.6(c)(iii); provided, that the amount of Capital Expenditures shall be calculated on a Pro Forma basis for purposes of calculating any Financial Covenant on a Pro Forma Basis.

"Capitalized Lease Obligation" shall mean that portion of any obligation of a Person as lessee under a lease which at the time would be required to be capitalized on the balance sheet of such lessee in accordance with GAAP.

"Cash Equivalents" shall mean, collectively, (a) marketable, direct obligations of the U.S. and its agencies maturing within three hundred sixty-five (365) days of the date of purchase, (b) commercial paper issued by corporations, each of which shall (i) have a consolidated net worth of at least $500,000,000 and (ii) conduct substantially all of its business in the United States, which commercial paper will mature within two hundred seventy (270) days from the date of the original issue thereof and is rated "P-1" or better by Moody's or "A-1" or better by S&P, (c) certificates of deposit maturing within three hundred sixty-five (365) days of the date of purchase and issued by a U.S. national or state bank having deposits totaling more than $500,000,000, and whose short-term debt is rated "P-1" or better by Moody's or "A-1" or better by S&P, and (d) (i) short-term obligations issued by any local commercial bank or trust company located in those areas where the Borrower conducts its business, whose deposits are insured by the Federal Deposit Insurance Corporation, or (ii) commercial bank-insured money market funds, or any combination of the types of investments described in this clause (d).

"Cash Management Bank" shall have the meaning specified in Section 6.15.

"Change In Control" shall mean the occurrence of one or more of the following events: (a) the Sponsor Group ceases to own in the aggregate, taken as a whole, without giving effect to any Excluded Events (as defined below), directly or indirectly, beneficially or of record, at least 75% of the common Equity Interests of the Parent (on an as-converted basis with respect to all preferred Equity Interests of the Parent) owned by the Sponsor Group as of the Sixth Amendment Effective Date, immediately after giving effect to the transactions contemplated by the Separation Documents and other Related Agreements, (b) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the SEA and the rules of the Securities and Exchange Commission thereunder as in effect on the Agreement Date) of Equity Interests representing a percentage of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Parent that is greater than the percentage held by the Sponsor Group; (c) as of any date a majority of the board of directors (or equivalent governing body) of Parent consists (other than vacant seats) of individuals who were not either (i) directors of Parent as of the Sixth Amendment Effective Date, (ii) selected or nominated to become directors by the board of directors (or equivalent governing body) of Parent of which a majority consisted of individuals described in clause (i), or (iii) selected or nominated to become directors by the board of directors (or equivalent governing body) of Parent of which a majority consisted of individuals described in clause (i) and individuals described in clause (ii), (d) Parent ceases to Control or directly or indirectly own one hundred percent (100%) of the outstanding Equity Interests of the Borrower or any Subsidiary Guarantor, (e) the Borrower ceases to Control or directly or indirectly own one hundred percent (100%) of the outstanding Equity Interests of any other Borrower Party and (f) any "change of control" under the ABL Loan Documents.

For purposes of clause (a) of this definition of "Change in Control", (i) the term "Excluded Events" shall mean, at any time after the Sixth Amendment Effective Date, each of (x) the payment of a dividend or the making of any other distribution by the Parent upon the common Equity Interests or other Equity Interests of the Parent payable in shares of common stock or in options or convertible securities or other Equity Interests, and (y) the subdivision or combination (by any stock split, combination, reclassification, exchange, recapitalization or otherwise) of the outstanding shares of common Equity Interests or other Equity Interests of the Parent into a greater or lesser number of shares of common Equity Interests or other Equity Interests of the Parent, (ii) the Sponsor Group shall be deemed to no longer own any Equity Interests of the Parent which Equity Interests are subject to an agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, whether by means of derivatives or otherwise, entered into by any member of the Sponsor Group or its Affiliates, the primary purpose of which is to mitigate loss to or reduce the economic risk (of ownership or otherwise) of any such Equity Interests, such member of the Sponsor Group or its Affiliates with respect to such Equity Interests, and (iii) the ownership interest of the Sponsor Group in the Equity Interests of the Parent shall be net of any action or agreement or arrangement entered into by a member of the Sponsor Group or its Affiliates the primary purpose of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any such Equity Interests by, including but not limited to "short" positions in shares of common stock, "long" puts, "short" calls, "short" forward or swap positions, manage the risk of share price changes for, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the Equity Interests of the Parent.

"Closing Date Acquisition" shall have the meaning specified in the recitals.

"Closing Fee" shall mean a closing fee to be paid on the Agreement Date in accordance with the Fee Letter.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" shall mean all property pledged or purported to be pledged as collateral security for the Obligations pursuant to the Security Documents or otherwise, and all other property of any Borrower Party that is now or hereafter in the possession or control of any member of the Lender Group, or on which any member of the Lender Group has been granted a Lien (or upon which a Lien has been purported to have been granted) by any Borrower Party.

"Collateral Access Agreement" shall mean any agreement of any landlord, lessor, warehouseman, processor, consignee or other Person (i) in possession of, having a Lien upon or having rights or interests in, any of the Collateral in favor of the Administrative Agent for the benefit of the Lender Group, in form and substance satisfactory to the Administrative Agent in its sole discretion, waiving or subordinating Liens or certain other rights or interests such Person may hold in regard to the property of any of the Borrower Parties and providing the Administrative Agent access to its Collateral, and/or (ii) granting access or providing occupancy rights, in favor of the Administrative Agent for the benefit of the Lender Group for the purpose of disposing of Collateral located at such property, in form and substance satisfactory to the Administrative Agent in its sole discretion, providing such estoppel statements and leasehold mortgagee protections as the Administrative Agent shall reasonably request.

"Collateral Assignment of Separation Documents" shall mean that certain Collateral Assignment of Separation Documents dated as of the Sixth Amendment Effective Date among the Parent and the Administrative Agent, on behalf of, and for the benefit of, the Lender Group, in form and substance satisfactory to the Administrative Agent, as the same may be amended, restated, supplemented and/or modified from time to time in accordance with the terms hereof.

"Commitment" shall mean the Term Loan Commitment and the Incremental Term Loan Commitment.

"Commitment Ratio" shall mean (a) with respect to any Lender at any time prior to the Sixth Amendment Effective Date, the ratio, expressed as a percentage, of (i) such Lender's Term Loan Commitment, divided by (ii) the aggregate Term Loan Commitments of all Lenders, and (b) with respect to any Lender at any time following the Sixth Amendment Effective Date, the ratio, expressed as a percentage, of (i) the outstanding amount of the Term Loan held by such Lender, divided by (b) the aggregate outstanding amounts of the Term Loan held by all Lenders, which Commitment Ratio, as of the Sixth Amendment Effective Date, is as set forth (together with Dollar amounts thereof) on Schedule 2.1(a).

"Competitor" means any competitor of any Borrower Party or Subsidiary thereof that is an operating company that operates in the same or a similar line of business as such Borrower Party or such Subsidiary.

"Compliance Certificate" shall mean a certificate executed by an Authorized Signatory of the Borrower substantially in the form of Exhibit A.

"Confidential Information" shall have the meaning specified in Section 10.16.

"Continuing Default Margin" shall mean a cumulative per annum interest rate equal to 0.50% for each month that an Event of Default which gave rise to the imposition of the Default Rate remains unwaived in accordance with the terms of this Agreement.

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

"Copyright Security Agreements" shall mean, collectively, the Copyright Security Agreements made in favor of the Administrative Agent, on behalf of the Lender Group, from time to time.

"Credit Bid" shall mean to submit a bid at a public or private sale in connection with the purchase of all or any portion of the Collateral, in which any of the Obligations owing to the Lender Group, or any of them, under any Loan Document are used and applied as a credit on account of the purchase price.

"Default" shall mean any Event of Default and any of the events specified in Section 9.1 regardless of whether there shall have occurred any passage of time or giving of notice (or both) that would be necessary in order to constitute such event an Event of Default.

"Default Rate" shall mean a per annum interest rate equal to (a) with respect to all outstanding principal, the sum of (i) the applicable Interest Rate Basis, plus (ii) the Applicable Margin, plus (iii) [reserved], plus (iv) two percent (2.00%), plus (v) the Continuing Default Margin, and (b) with respect to all other Obligations, the sum of (i) the Base Rate, plus (ii) the Applicable Margin with respect to Base Rate Advances, (iii) [reserved], plus (iv) two percent (2.00%), plus (v) the Continuing Default Margin; provided, however, (y) as to any Eurodollar Advance outstanding on the date that the Default Rate becomes applicable, the Default Rate shall be based on the then applicable Eurodollar Basis until the end of the current Eurodollar Advance Period and thereafter the Default Rate shall be based on the Base Rate as in effect from time to time and (z) as to any Base Rate Advance outstanding on the date that the Default Rate becomes applicable, the Default Rate shall be based on the Base Rate as in effect from time to time.

"Direction Letter" shall mean (a) with respect to a borrowing of the Term Loan on the Agreement Date, that certain Direction Letter, dated as of the Agreement Date, by and among the Borrower and the Administrative Agent, in form and substance satisfactory to the Administrative Agent, with respect to the distribution of the proceeds of the Term Loan and the other sources and uses of funds occurring on the Agreement Date, (b) with respect to a borrowing of the Term Loan on the Sixth Amendment Effective Date, that certain Direction Letter, dated as of the Sixth Amendment Effective Date, by and among the Borrower and the Administrative Agent, in form and substance satisfactory to the Administrative Agent, with respect to the distribution of the proceeds of the Term Loan and the other sources and uses of funds occurring on the Sixth Amendment Effective Date and (c) with respect to a borrowing of Incremental Term Loans after the Sixth Amendment Effective Date, any Direction Letter, dated as of the date of such borrowing, by and among Borrower and the Administrative Agent, in form and substance satisfactory to the Administrative Agent, with respect to the distribution of the proceeds of such Incremental Term Loan and the other sources and uses of funds occurring on such date.

"Disqualified Equity Interests" shall mean any Equity Interests which, by their terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Equity Interests), in whole or in part, on or prior to 181 days following the Maturity Date at the time such Equity Interest is issued, (b) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interests that would constitute Disqualified Equity Interests, in each case at any time on or prior to 181 days following the Maturity Date at the time such Equity Interest is issued, (c) contains any mandatory repurchase obligation which may come into effect prior to the Maturity Date or (d) provides for the scheduled payments of dividends in cash on or prior to 181 days following the Maturity Date at the time such Equity Interest is issued.

"Disqualified Institutions" means (a) the Persons identified by legal name in writing to Administrative Agent on or prior to the Agreement Date, (b) those Competitors identified on Schedule 1.1(a) (as such Schedule may be supplemented from time to time by the Borrower pursuant to clause (c) below) and (c) subject to the prior written consent of the Administrative Agent acting in its reasonable discretion, any other Competitor identified by legal name in writing to the Administrative Agent after the Agreement Date (it being understood that the Borrower shall be required to provide a fully updated Schedule 1.1(a) to the Administrative Agent in order to supplement such Schedule after the Closing Date), which designation shall become effective three (3) Business Days after the date that such written designation to the Administrative Agent is made available to the Lenders on IntraLinks/IntraAgency, Syndtrak or another similar electronic system, but which shall not apply retroactively to disqualify any persons that have previously acquired an assignment or participation interest in the Loans and/or Commitments; provided, that no Affiliate of any Competitor that is an Affiliate by virtue of being a private equity owner of or investor in such Competitor shall constitute a Disqualified Institution.

"Dividends" shall mean any direct or indirect distribution, dividend, or payment of cash or other property of any kind to any Person on account of any Equity Interests of any Borrower Party.

"Dollars" or "$" shall mean the lawful currency of the United States.

"Domestic Subsidiary" shall mean any Subsidiary of a Borrower Party that is organized and existing under the laws of the U.S. or any state or commonwealth thereof or under the laws of the District of Columbia.

"EBITDA" shall mean, with respect to any Person and its Subsidiaries for any period, determined on a consolidated basis in accordance with GAAP, the Net Income for such period, plus, without duplication and to the extent deducted in determining Net Income for such period:

(a) income taxes;

(b) Interest Expense;

(c) depreciation and amortization expense;

(d) fees, costs and expenses incurred in connection with the Loan and negotiating and documenting the Loan Documents, including without limitation the Closing Fee and the Agency Fee, in an aggregate amount disclosed to the Administrative Agent prior to the Agreement Date;

(e) all non-cash expenses and losses calculated in accordance with GAAP related to: (i) all non-recurring deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Funded Debt and any net loss attributable to any write-off or forgiveness of Funded Debt, (ii) any non-cash expense or loss arising from the application of purchase accounting adjustments as a result of any Permitted Acquisition, (iii) non-cash expenses arising from grants to employees, officers or directors of stock appreciation rights, stock options, restricted stock or restricted stock units, (iv) non-cash expenses arising from the issuance of Equity Interests to vendors in the ordinary course of business and (v) other non-cash expenses and charges resulting from impairment charges and including losses against book value on the disposal or write-off of any business or assets (including pursuant to any sale/leaseback transaction), provided that, if any such non-cash expense or loss represents an accrual or reserve for potential cash items in any future period, the cash payment thereof in such future period shall be subtracted from "EBITDA" in the period in which such payment is made;

(f) unrealized losses resulting from mark to market accounting for hedging activities permitted under this Agreement, calculated in accordance with GAAP;

(g) fees and expenses (including expenses paid for advisory services) in an aggregate amount not to exceed (i) $2,000,000 in any four fiscal-quarter period, to the extent incurred in connection with **(A)** Investments permitted under Section 8.5(d), (g), (h) and (i), Permitted Acquisitions, dispositions permitted under Section 8.7(b)(vi), the incurrence of permitted Funded Debt, amendments and other modifications to the Loan Documents after the Agreement Date**,** and the offering or issuance of Equity Interests **and (B) the Winopoly Acquisition (in the case of this clause (B), not to exceed $50,000 in the aggregate during the term of this Agreement)**, in each case **of clauses (A) and (B)** to the extent consummated during such period, plus (ii) all such fees and expenses funded with (A) the Net Cash Proceeds of Funded Debt permitted under Section 8.1(a), (c), (d), (g) and (i), and (B) the Net Cash Proceeds of the issuance of Equity Interests permitted hereunder, to the extent the Net Cash Proceeds thereof are not otherwise required to prepay the Loans in accordance with Section 2.6(c);

(h) to the extent incurred by Parent, fees, costs and expenses incurred after January 31, 2018 in connection with the spin-off of the Red Violet Entities by Parent, in an aggregate amount not to exceed $2,000,000;

minus

(i) unrealized gains resulting from mark to market accounting for hedging activities permitted under this Agreement, calculated in accordance with GAAP;

(j) any non-cash gains increasing Net Income;

(k) to the extent the amount of any non-cash expense or loss is added back to EBITDA pursuant to clause (e) above, the cash payment in respect thereof;

(l) all capitalized labor costs;

(m) costs and expenses relating to internally used software;

(n) capitalized costs relating to the defense of intellectual property;

provided, however, that if any such calculation includes any period in which an acquisition or sale of a Person or all or substantially all of the assets of a Person occurred, then such calculation shall be made on a Pro Forma Basis. For purposes of calculating EBITDA as of any date of measurement from and after the Sixth Amendment Effective Date until December 31, 2018, EBITDA of Parent and its Subsidiaries (a) for the fiscal quarter ended on June 30, 2017 shall equal $7,873,835, (b) for the fiscal quarter ended on September 30, 2017 shall equal $8,605,346, (c) for the fiscal quarter ended on December 31, 2017 shall equal $11,547,826 and (d) for the fiscal month ended on January 31, 2018 shall equal $3,642,815. Further, any calculation of EBITDA as of any date of measurement with respect to any period that includes any of the period from January 1, 2018 through December 31, 2018 shall not include any EBITDA of the Red Violet Entities.

"ECF Prepayment Date" shall have the meaning assigned to such term in Section 2.6(c).

"Electronic Transmission" shall mean each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail, facsimile, or otherwise to or from an E-System or any other equivalent service.

"Eleventh Amendment" shall mean the Limited Consent and Amendment No. 11 to Credit Agreement, dated as of April 1, 2020, among the Parent, the Borrower, the other Borrower Parties party thereto, the Administrative Agent and the Lenders party thereto.

"Eligible Assignee" shall mean (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund; (d) any other Person (other than a Disqualified Institution) approved by (i) the Administrative Agent and (ii) except following the occurrence and during the continuance of an Event of Default, the Borrower (such consent of the Borrower not to be unreasonably withheld, conditioned or delayed); provided, that, the Borrower shall be deemed to have given consent unless an objection is delivered to the Administrative Agent within five (5) Business Days after notice of a proposed assignment is delivered to the Borrower.

"Employment Agreements" shall mean the employment agreements dated as of the date hereof between the Borrower and each of Matthew Conlin, Ryan Schulke, Daniel Barksy, Sean Cullen, Matthew Koncz and Don Patrick.

"Employee Matters Agreement" shall mean the Employee Matters Agreement by and among Parent and Red Violet, Inc., dated as of February 27, 2018, as amended in accordance with Section 8.15.

"Environmental Laws" shall mean, collectively, any and all applicable federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any Governmental Authority regulating, relating to or imposing liability or standards of conduct concerning environmental protection matters, including without limitation, Hazardous Materials or human health (as it relates to exposures to Hazardous Materials), as now or may at any time during the term of this Agreement be in effect.

"Environmental Liability" shall mean any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Borrower Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract or agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" shall mean, as applied to any Person, any capital stock, membership interests, partnership interests or other equity interests of such Person, regardless of class or designation, and all warrants, options, purchase rights, conversion or exchange rights, voting rights, calls or claims of any character with respect thereto.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" shall mean, with respect to any Borrower Party, any trade or business (whether or not incorporated) that together with such Borrower Party, are treated as a single employer under Section 414 of the Code.

"ERISA Event" shall mean, with respect to any Borrower Party or any ERISA Affiliate, (a) any "reportable event" within the meaning of Section 4043 of ERISA with respect to a Title IV Plan, other than those events for which the thirty (30) day notice period has been waived by regulation; (b) the failure to meet the minimum funding standard of Sections 412 or 430 of the Code or Sections 302 or 303 of ERISA with respect to any Title IV Plan, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Title IV; (d) the withdrawal of any Borrower Party or ERISA Affiliate from a Title IV 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; (e) the complete or partial withdrawal of any Borrower Party or any ERISA Affiliate from any Multiemployer Plan; (f) the filing of a notice of intent to terminate a Title IV Plan or the treatment of a plan amendment as a termination under Section 4041 of ERISA; (g) the institution or threatened institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (h) the insolvency of a Multiemployer Plan under Section 4245 of ERISA; (i) the failure by any Borrower Party or ERISA Affiliate to make when due required contributions to a Multiemployer Plan or Title IV Plan; (j) a determination that any Title IV Plan is, or is expected to be, in "at risk" status (as defined in Section 430 of the Code or Section 303 of ERISA); (k) a determination that any Multiemployer Plan is, or is expected to be, in "critical" or "endangered" status under Section 432 of the Code or Section 305 of ERISA; (l) any other event or condition that could be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of liability under Section 4069 or 4212(c) of ERISA, (m) revocation of the tax qualified status under Code Section 401(a) of any Plan that is intended to be so tax qualified; (n) the imposition of a lien pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code with respect to any Title IV Plan; (o) the assertion of a material claim (other than routine claims for benefits) against any Plan (other than a Multiemployer Plan) or the assets thereof, or against any of the Borrower Parties or any of their respective ERISA Affiliates in connection with any Plan; or (p) the occurrence of a non-exempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could reasonably be expected to result in liability to any of the Borrower Parties or any of their respective ERISA Affiliates.

"E-System" shall mean any electronic system, including Intralinks®, SyndTrak Online and any other internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent, any of its Affiliates or any other Person, providing for access to data protected by passcodes or other security system.

"Eurodollar Advance" shall mean an Advance that bears interest based upon the Eurodollar Rate or which is continued as or converted as an Advance that bears interest based upon the Eurodollar Rate, in accordance with the provisions of Section 2.2.

"Eurodollar Advance Period" shall mean, for each Eurodollar Advance, each one (1), two (2), or three (3) month period commencing on the date on which such Eurodollar Advance is borrowed, as selected by the Borrower pursuant to Section 2.2, during which the applicable Eurodollar Rate (but not the Applicable Margin) shall remain unchanged. Notwithstanding the foregoing, however: (a) any applicable Eurodollar Advance Period which would otherwise end on a day which 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 Eurodollar Advance Period shall end on the next preceding Business Day; (b) any applicable Eurodollar Advance Period which begins on a day for which there is no numerically corresponding day in the calendar month during which such Eurodollar Advance Period is to end shall (subject to clause (a) above) end on the last day of such calendar month; and (c) no Eurodollar Advance Period shall extend beyond the Maturity Date or such earlier date as would interfere with the repayment obligations of the Borrower under Section 2.6.

"Eurodollar Basis" shall mean, with respect to each Eurodollar Advance Period, a per annum interest rate equal to the quotient of (a) the Eurodollar Rate divided by (b) one minus the Eurodollar Reserve Percentage, stated as a decimal. The Eurodollar Basis shall remain unchanged during the applicable Eurodollar Advance Period, except for changes to reflect adjustments in the Eurodollar Reserve Percentage.

"Eurodollar Rate" shall mean, for any Eurodollar Advance Period, the greater of (a) the rate per annum quoted for Dollar deposits for such Eurodollar Advance Period on Reuters Screen LIBOR03 (or similar service, as determined by the Administrative Agent) as of 11:00 a.m. (London, England time) two (2) Business Days prior to the applicable date of determination; provided, however, that if no such quoted rate appears on such page, the rate used for such Eurodollar Rate shall be the per annum rate of interest determined by the Administrative Agent to be the rate at which Dollar deposits for such Eurodollar Advance Period are offered to the Administrative Agent as of 11:00 a.m. (London, England time) two (2) Business Days prior to such date of determination, and (b) 0.50%. If Reuters no longer reports the Eurodollar Rate or the Administrative Agent determines in good faith that the rate so reported no longer accurately reflects the rate available to the Administrative Agent in the London Interbank Market or if such index no longer exists or if Reuters Screen LIBOR03 no longer exists or accurately reflects the rate available to the Administrative Agent, then the Administrative Agent shall endeavor to establish an alternate rate of interest to the Eurodollar Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and the Administrative Agent and the Borrower Parties shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable.

"Eurodollar Reserve Percentage" shall mean the aggregate of the maximum reserve percentages (including, without limitation, any emergency, supplemental, special or other marginal reserves) expressed as a decimal (rounded upwards to the next one one-hundredth of one percent (1/100th of 1%)) in effect on any day to which the Administrative Agent is subject with respect to the Eurodollar Basis pursuant to regulations issued by the Board of Governors of the Federal Reserve System (or any Governmental Authority succeeding to any of its principal functions) ("Regulation D") with respect to Eurocurrency Liabilities (as that term is defined in Regulation D). Eurodollar Advances shall be deemed to constitute Eurocurrency Liabilities and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to the Administrative Agent under Regulation D. The Eurodollar Reserve Percentage shall be adjusted automatically on and as of the effective date of any change in any reserve percentage. The Eurodollar Basis for any Eurodollar Advance shall be adjusted as of the effective date of any changes in the Eurodollar Reserve Percentage.

"Event of Default" shall mean any of the events specified in Section 9.1, provided that any requirement for notice or lapse of time, or both, has been satisfied.

"Excess Cash Flow" shall mean, without duplication, with respect to any fiscal quarter of the Borrower and its Subsidiaries, Net Income plus (a) depreciation, amortization, Interest Expense and all other non-cash charges to the extent deducted in determining Net Income, minus (b) Capital Expenditures during such fiscal quarter (excluding the financed portion thereof), minus (c) Interest Expense paid in cash, minus (d) scheduled principal payments paid in cash in respect of Funded Debt, minus (e) voluntary principal payments paid in cash in respect of the Term Loans, plus or minus (as the case may be), plus (f) extraordinary gains which are cash items not included in the calculation of Net Income, plus (g) taxes deducted in determining Net Income to the extent not paid for in cash (but not including any reserves for tax obligations anticipated to be payable in the subsequent twelve (12) months, so long as such tax obligations are readily verifiable by the Administrative Agent), minus (h) extraordinary losses which are cash items not included in the calculation of Net Income, minus (i) any increase in the Working Capital of the Borrower and its Subsidiaries during such period (measured as the excess of such Working Capital at the end of such period over such Working Capital at the beginning of such period), plus (j) any decrease in the Working Capital of the Borrower and its Subsidiaries during such period (measured as the excess of such Working Capital at the beginning of such period over such Working Capital at the end thereof).

"Excluded Accounts" means (a) any deposit account the funds in which shall be used solely to fund payroll and tax obligations of the Borrower Parties, so long as all such funds shall be deposited in such accounts (i) no more than three Business Days prior to the date on which such funds shall be used to pay such payroll and tax obligations and (ii) in amounts not to exceed such tax and payroll obligations, (b) any deposit account the funds in which shall be used solely to segregate 401(k) contributions or contributions to an employee stock purchase plan and other health and benefit plan, in each case in accordance with any Applicable Laws (collectively, "Segregated Benefit Plan Funds"), so long as all funds shall be deposited in such accounts in amounts not to exceed all payment obligations in respect of such Segregated Benefit Plan Funds, (c) any deposit account the funds in which consist solely of funds held by Parent or any Subsidiary on behalf of or in trust for the benefit of any third party that is not an Affiliate of Parent or any Subsidiary, (d) the Wells Fargo Cash Management Collateral Account, and (e) all other deposit accounts to the extent the aggregate amount of funds located in such accounts at any time does not exceed $50,000.

"Excluded Subsidiary" means any Subsidiary that is (a) a Foreign Subsidiary that is a "controlled foreign corporation" (as defined in the Code) that has not guaranteed or pledged any of its assets to secure, or with respect to which there shall not have been pledged two-thirds or more of the voting Equity Interests to secure, any indebtedness of a Borrower Party, (b) a Foreign Subsidiary owned, directly or indirectly, by a Foreign Subsidiary described in clause (a) of this definition or (c) a Domestic Subsidiary owned directly or indirectly, by a Foreign Subsidiary described in clause (a) of this definition.

"Excluded Taxes" shall mean any of the following Taxes imposed on or with respect to any member of the Lender Group or required to be withheld or deducted from a payment to any member of the Lender Group, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such member of the Lender Group being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on Borrower Party Payments pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.8, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to the failure of such member of the Lender Group to comply with Section 2.8(b)(v)-(vii) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"Existing Debt" shall mean all indebtedness and other obligations under that certain Loan Agreement, dated as of September 13, 2012, between Fluent, Inc., as the borrower, and Bank of America, N.A., as the lender, as amended prior to the Agreement Date.

"Extraordinary Receipts" shall mean any cash received by any Borrower Party or any of its Subsidiaries that constitutes (a) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (b) indemnity payments, (c) proceeds of any Key Man Life Insurance Policy and (d) any purchase price adjustment received in connection with any purchase agreement.

"Extraordinary Receipts Reinvestment Period" shall have the meaning specified in Section 2.6(c)(iv).

"FATCA" shall mean Sections 1471, 1472, 1473 and 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future U.S. Treasury Regulations promulgated thereunder and published guidance with respect thereto, any agreements entered into pursuant to Section 1471(b)(1) of the Code, any applicable intergovernmental agreements entered into in connection with the foregoing and any Applicable Law implementing any such intergovernmental agreements.

"FCPA" shall mean the U.S. Foreign Corrupt Practices Act of 1977.

"Federal Funds Rate" shall mean an interest rate per annum equal to the weighted average of the rates for overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it, it being understood that the Federal Funds Rate for any day which is not a Business Day shall be the Federal Funds Rate for the next preceding Business Day.

"Fee Letter" shall mean that certain second amended and restated fee letter, dated as of the Sixth Amendment Effective Date, executed by the Administrative Agent and the Borrower.

"Financial Covenants" shall mean the financial covenants applicable to the Borrower Parties from time to time pursuant to Sections 8.8, 8.9 and 8.10.

"First Amendment" shall mean that certain Limited Consent and Amendment No. 1 to Credit Agreement, dated as of June 8, 2016, by and among the Borrower, the Administrative Agent and the Lenders party thereto.

"First Amendment Effective Date" shall have the meaning specified in the First Amendment.

"First-Tier Foreign Subsidiary" shall mean any Foreign Subsidiary that is described in clause (a) of the definition of "Excluded Subsidiary" and whose Equity Interests are directly owned by a Borrower Party.

"Fixed Charge Coverage Ratio" shall mean, with respect to Parent and its Subsidiaries on a consolidated basis for any period, the ratio of (a) the greater of (i) EBITDA of the Parent and its Subsidiaries for such period and (ii) zero, to (b) Fixed Charges of the Parent and its Subsidiaries for such period.

"Fixed Charges" shall mean, with respect to Parent and its Subsidiaries for any period, the sum of (a) Interest Expense paid or payable in cash during such period, (b) scheduled payments of principal paid or payable with respect to Funded Debt during such period, (c) Dividends paid in cash during such period, (d) tax payments and Tax Distributions paid in cash during such period and (e) Capital Expenditures of the Borrower and its Subsidiaries during such period; provided, that the amount of Fixed Charges shall be calculated on a Pro Forma basis for purposes of calculating any Financial Covenant on a Pro Forma Basis. For purposes of calculating Fixed Charges as of any date of measurement from and after the Sixth Amendment Effective Date until December 31, 2018, Fixed Charges (a) for the measurement period ending on June 30, 2018, shall equal Fixed Charges during the period from April 1, 2018 through June 30, 2018 multiplied by 4, (b) for the measurement period ending on September 30, 2018, shall equal Fixed Charges during the period from April 1, 2018 through September 30, 2018 multiplied by 2, and (c) for the measurement period ending on December 31, 2018 shall equal Fixed Charges during the period from April 1, 2018 through December 31, 2018 multiplied by 4/3.

"Foreign Lender" shall have the meaning specified in Section 2.8(b)(v).

"Foreign Subsidiary" shall mean any Subsidiary of a Borrower Party that does not constitute a Domestic Subsidiary.

"Funded Debt" shall mean, with respect to any Person, as of any calculation date, (a) any obligation of such Person for borrowed money, including, without limitation, all of the Obligations, (b) any obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) any obligation (whether contingent or otherwise) of such Person to pay the deferred purchase price of property or for services (other than in the ordinary course of business), including in respect of ~~earnouts~~earn-outs, regardless of whether such ~~earnouts~~earn-outs would constitute liabilities under GAAP, (d) any Capitalized Lease Obligation, (e) any obligation or liability of others secured by a Lien on property owned by such Person, whether or not such obligation or liability is assumed, (f) any debt, liability or obligation of such Person arising from or in connection with any Hedge Agreements, (g) any reimbursement obligations (contingent or otherwise) of such Person with respect to letters of credit, bankers acceptances and similar instruments issued for the account of such Person, (h) any Guaranty of another Person's Funded Debt (except items of shareholders' equity or Equity Interests or surplus or general contingency or deferred tax reserves), (i) any financial obligation of such Person under purchase money mortgages, (j) any financial obligation of such Person under asset securitization vehicles, synthetic leases, off-balance sheet loans or similar off-balance sheet financing products or other off-balance sheet obligations (k) any obligations of such Person under conditional sales contracts and similar title retention instruments with respect to property acquired, (l) any financial obligation of such Person as issuer of Equity Interests redeemable in whole or in part at the option of a Person other than such issuer, at a fixed and determinable date or upon the occurrence of an event not solely within the control of such issuer; provided, however, that notwithstanding anything in GAAP to the contrary, the amount of all obligations shall be the full face amount of such obligations, (m) the full face amount of letters of credit, bankers acceptances and similar instruments issued for the account of such Person and (n) Disqualified Equity Interests.

"Funding Losses" shall mean expenses incurred by any Lender or any Participant of such Lender permitted hereunder in connection with the re-employment of funds prepaid, repaid, not borrowed, or paid, as the case may be, excluding any lost profit of such Lender or any Participant of such Lender over the remainder of the Eurodollar Advance Period for such prepaid Advance. For purposes of calculating amounts payable to a Lender hereunder with respect to Funding Losses, each Lender shall be deemed to have actually funded its relevant Eurodollar Advance through the purchase of a deposit bearing interest at the Eurodollar Rate in an amount equal to the amount of that Eurodollar Advance and having a maturity and repricing characteristics comparable to the relevant Eurodollar Advance Period; provided, however, that each Lender may fund Eurodollar Advances in any manner it sees fit, and the foregoing assumption shall be utilized only for the calculation of amounts payable hereunder.

"GAAP" shall mean generally accepted accounting principles and practices set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the US accounting profession); provided, that all calculations relative to liabilities shall be made without giving effect to Statement of Financial Accounting Standards No. 159 or any similar principal or practice with respect to fair value accounting of liabilities.

"Government Contract" shall mean any contract between a Borrower Party or a Subsidiary of a Borrower Party, on one hand, and one or more divisions, agencies, organizations, departments or instrumentalities of the United States government or any state or local government, on the other hand.

"Governmental Authority" shall mean any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Guarantors" shall mean, collectively, Parent, the Subsidiary Guarantors and any other Person that has executed a Guaranty Supplement or other document guaranteeing the Obligations; and "Guarantor" shall mean any one of the foregoing Guarantors.

"Guaranty" or "Guaranteed," as applied to an obligation (each a "primary obligation"), shall mean and include (a) any guaranty, direct or indirect, in any manner, of any part or all of such primary obligation, and (b) any agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non-performance) of any part or all of such primary obligation, including, without limiting the foregoing, any reimbursement obligations as to amounts drawn down by beneficiaries of outstanding letters of credit, and any obligation of any Person, whether or not contingent, (i) to purchase any such primary obligation or any property or asset constituting direct or indirect security therefor, (ii) to advance or supply funds (A) for the purchase or payment of such primary obligation or (B) to maintain working capital, equity capital or the net worth, cash flow, solvency or other balance sheet or income statement condition of any other Person, (iii) to purchase property, assets, securities or services primarily for the purpose of assuring the owner or holder of any primary obligation of the ability of the primary obligor with respect to such primary obligation to make payment thereof or (iv) otherwise to assure or hold harmless the owner or holder of such primary obligation against loss in respect thereof, but in all events excluding the endorsement of instruments for collection in the ordinary course of business. All references in this Agreement to "this Guaranty" shall be to the Guaranty provided for pursuant to the terms of Article 3.

"Guaranty Supplement" shall have the meaning specified in Section 6.20.

"Hazardous Materials" shall mean any hazardous materials, hazardous wastes, hazardous constituents, hazardous or toxic substances, petroleum products (including crude oil or any fraction thereof), friable asbestos containing materials defined or regulated as such in or under any Environmental Law.

"Hedge Agreement" shall mean any and all transactions, agreements or documents now existing or hereafter entered into between or among any Borrower Party, on the one hand, and a third party, on the other hand, which provides for an interest rate, credit or equity swap, cap, floor, collar, forward foreign exchange transaction, currency swap, cross currency rate swap, currency option, or any combination of, or option with respect to, these or similar transactions, for the purpose of hedging such Borrower Party's exposure to fluctuations in interest or exchange rates, loan, credit exchange, security or currency valuations.

"Inbox Pal" means Inbox Pal, LLC, a Delaware limited liability company and a Borrower Party.

"Incremental Borrowing Date" shall have the meaning specified in Section 2.2(c).

"Incremental Closing Date" shall mean the date on which the Incremental Term Loan shall be made.

"Incremental MW Period" shall have the meaning specified in Section 2.4(a)(ii)(A).

"Incremental Term Loan" shall mean the loans issued pursuant to Section 2.1(c) hereof. For the avoidance of doubt, once issued, all Incremental Term Loans shall become Term Loans for purposes of this Agreement.

"Incremental Term Loan Commitment" shall have the meaning specified in Section 2.1(c).

"Indemnified Person" shall mean each member of the Lender Group, each Affiliate thereof, and each of their respective partners, employees, representatives, officers, agents, directors, legal counsel, advisors and consultants.

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

"Insolvency Proceeding" shall mean any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state, federal or non-US bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

"Intellectual Property" shall mean all patents, trademarks, service marks, trade names, copyrights, technology, software, know-how and processes.

"Intellectual Property Licenses" means rights under or interest in any Patent, Trademark, Copyright or other Intellectual Property, including software license agreements with any other party and those exclusive Intellectual Property licenses set forth on Schedule 5.1(p) hereof, whether the applicable Borrower Party is a licensee or licensor under any such exclusive license agreement, and the right to use the foregoing in connection with the enforcement of the Administrative Agent's rights under the Loan Documents in accordance with the terms thereof but subject to the terms of the Security Agreement.

"Intercreditor Agreement" shall mean an intercreditor agreement by and among the Administrative Agent and the agent or other representative of the lenders under the ABL Facility, in form and substance reasonably satisfactory to the Administrative Agent in its sole discretion.

"Interest Expense" shall mean, for any Person and its Subsidiaries, for any period determined on a consolidated basis in accordance with GAAP, an amount equal to (a) the sum of (i) interest expense payable during such period, including capitalized and non-capitalized interest and the interest component of Capitalized Lease Obligations, interest on customer deposits and other interest items in accordance with GAAP including interest on tax settlement (whether or not actually paid during such period), (ii) the net amount payable (or minus the net amount receivable) under any Hedge Agreement during such period (whether or not actually paid or received during such period), other than termination payments or the receipt thereof, and (iii) letter of credit fees, unused line fees, administrative agency fees, ratings agency fees and amortized debt issuance costs, minus (b) any interest income during such period (other than termination payments received under any Hedge Agreement).

"Interest Rate Basis" shall mean the Base Rate or the Eurodollar Basis, as applicable.

"Inventory" shall mean inventory (as that term is defined in the UCC), whether now existing or hereafter acquired, wherever located, and, in any event, including, without limitation, inventory, merchandise, goods and other personal property that are held by or on behalf of a Borrower Party for sale or lease or are furnished or are to be furnished under a contract of service, goods that are leased by a Borrower Party as lessor, or that constitute raw materials, samples, work-in-process, finished goods, returned goods, promotional materials or materials or supplies of any kind, nature or description used or consumed or to be used or consumed in a Borrower Party's business or in the processing, production, packaging, promotion, delivery or shipping of the same, including all supplies and embedded software.

"Investment" shall mean, with respect to any Person, any loan, advance or extension of credit by such Person to, or any Guaranty with respect to the Equity Interests, Funded Debt or other obligations of, or any contributions to the capital of, any other Person, or any ownership, purchase or other acquisition by such Person of any Equity Interests of any other Person, other than any acquisition of all or substantially all of the Equity Interests of a Person or all or substantially all of the assets, property or business of a Person.

"Key Man Life Insurance Policies" shall mean the key-man life insurance policies on the lives of each of Matt Conlin and Ryan Schulke in the amounts required pursuant to Section 6.5 and otherwise in form and substance reasonably acceptable to the Administrative Agent.

"Lender Agreement" shall mean a lender joinder agreement, in form and substance satisfactory to the Administrative Agent.

"Lender Group" shall mean, collectively, the Administrative Agent and the Lenders.

"Lenders" shall mean those lenders whose names are set forth on the signature pages to this Agreement under the heading "Lenders" and any assignees of the Lenders who hereafter become parties hereto pursuant to and in accordance with Section 10.5; and "Lender" shall mean any one of the foregoing Lenders.

"Lien" shall mean, with respect to any property, any mortgage, lien, pledge, negative pledge agreement, assignment for security purposes, charge, option, security interest, title retention agreement, levy, execution, seizure, attachment, garnishment, any documents, notice, instruments or other filings under the Federal Assignment of Claims Act of 1940 or other encumbrance of any kind in respect of such property, whether or not choate, vested, or perfected.

"Loan" shall mean the Term Loan.

"Loan Account" shall have the meaning specified in Section 2.7.

"Loan Documents" shall mean this Agreement, the Security Documents, the Intercreditor Agreement, the Blocked Account Agreements, the Fee Letter, the Master Intercompany Subordinated Note, the Guaranty Supplements, the Direction Letter, any Term Loan Notes, any Notices of Borrowing, all Collateral Access Agreements, all Compliance Certificates, all documents executed by a Borrower Party in connection with the Federal Assignment of Claims Act of 1940 and all similar state statutes (if any), and all other documents, instruments, certificates, and agreements executed or delivered by a Borrower Party in connection with or contemplated by this Agreement or any other Loan Documents, including, without limitation, any security agreements or guaranty agreements from any of the Borrower Parties' Subsidiaries to the Lender Group, or any of them.

"Lower-Tier Excluded Subsidiary" shall mean any Subsidiary, whose Equity Interests are directly owned by another Excluded Subsidiary.

"Majority Lenders" shall mean, as of any date of calculation, Lenders the sum of whose outstanding principal amounts of the Loans and outstanding amounts of the unutilized Commitments in each case on such date of calculation exceeds fifty percent (50%) of the sum of the aggregate outstanding principal amounts of the Loans and the aggregate outstanding amounts of the unutilized Commitments in each case held by all Lenders as of such date of calculation.

"Make Whole Amount" shall mean, at any date of repayment, acceleration, commitment reduction or termination, prepayment or refinancing, a prepayment premium, payable in cash, equal to the sum of the amount which causes the applicable Lenders' return on the principal amount of the Loans repaid, prepaid, refinanced or accelerated or the amount of commitments reduced or terminated at such time to equal the full net present value of the amount of interest that would otherwise have been payable in respect of such principal amount if such amount had remained outstanding during the Make Whole Period or the Incremental MW Period, as applicable, which shall be calculated by the Administrative Agent in its reasonable discretion. A certificate of the Administrative Agent delivered to Borrower showing the computation of the Make Whole Amount in reasonable detail shall be conclusive absent manifest error.

"Make Whole Period" shall have the meaning specified in Section 2.4(a)(i)(A).

"Margin Stock" shall have the meaning specified in Section 5.1(t).

"Master Intercompany Subordinated Note" shall mean that certain Amended and Restated Master Intercompany Subordinated Note, dated as of the Sixth Amendment Effective Date, by and among the Borrower Parties, subordinated to the Obligations in accordance with the terms thereof and otherwise in form and substance satisfactory to the Administrative Agent.

"Material Contracts" shall mean, collectively, (a) each contract set forth on Schedule 5.1(h) and (b) all other contracts, leases, instruments, guaranties, licenses or other arrangements (other than the Loan Documents) to which any Borrower Party or any Subsidiary of a Borrower Party is or becomes a party and as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Materially Adverse Effect.

"Materially Adverse Effect" shall mean, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration or governmental investigation or proceeding or any change in Applicable Law), a material adverse change in, or a material adverse effect on: (a) the business, operations, properties, condition (financial or otherwise), assets or income of the Borrower Parties, taken as a whole; (b) the ability of a Borrower Party to perform any material obligations under this Agreement or any other Loan Documents to which it is a party; or (c) (i) the validity, binding effect or enforceability of any Loan Document, (ii) the rights, remedies or benefits available to any member of the Lender Group under the Loan Documents, taken as a whole, or (iii) the attachment, perfection or priority of any Lien of the Administrative Agent under the Security Documents on a material portion of the Collateral. In determining whether any individual event, act, condition or occurrence of the foregoing types has a Materially Adverse Effect, notwithstanding that a particular event, act, condition or occurrence does not itself have such effect, a Materially Adverse Effect shall be deemed to have occurred if the cumulative effect of such event, act, condition or occurrence and all other events, acts, conditions and occurrences of the foregoing types which have occurred, in aggregate, have a Materially Adverse Effect.

"Maturity Date" shall mean the fifth anniversary of the Sixth Amendment Effective Date, or such earlier date as payment of the Loan shall be due (whether by acceleration or otherwise).

"Maximum Guaranteed Amount" shall have the meaning specified in Section 3.1(g).

"Monthly Report" shall have the meaning specified in Section 7.1(a).

"Moody's" shall mean Moody's Investors Service, Inc., or any successor thereto.

"Mortgage" shall mean, collectively, any mortgage, deed of trust or deed to secure debt entered into by a Borrower Party in favor of the Administrative Agent, for the benefit of the Lender Group, in form and substance satisfactory to the Administrative Agent.

"Multiemployer Plan" shall mean a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA, and to which any Borrower Party or ERISA Affiliate is making, is obligated to make or has made or been obligated to make at any time within the past five (5) years, contributions on behalf of participants who are or were employed by any of them.

"Necessary Authorizations" shall mean, with respect to any Person, all authorizations, consents, permits, approvals, licenses, accreditations, certificates, certifications, concessions, grants, franchises, variances, permissions and exemptions from, and all filings, reports, registrations and contractual obligations with, and all reports to, any Governmental Authority whether federal, state, local, and all agencies thereof, or other third party, in each case whether or not having the force of law, which are required for the transactions contemplated by the Loan Documents, the conduct of the businesses or the ownership (or lease) of the properties and assets of the Borrower Parties and any of their Subsidiaries, or which are otherwise applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Net Cash Proceeds" shall mean, with respect to any sale, lease, transfer, assignment, casualty loss or other disposition or loss of assets by any Borrower Party or any issuance by any Borrower Party of any Equity Interests or the incurrence by any Borrower Party of any Funded Debt (other than the Obligations), the aggregate amount of cash received for such assets or Equity Interests, or as a result of such Funded Debt, net of (i) reasonable and documented transaction costs and expenses (including reasonably attorneys' fees) properly attributable to such transaction and payable by such Borrower Party to a non-Affiliate (or to an Affiliate, to the extent such payments are permitted under Sections 8.6(b) or (c)) in connection with such sale, lease, transfer or other disposition of assets or the issuance of any Equity Interests or the incurrence of any Funded Debt, including, without limitation, sales commissions and underwriting discounts, (ii) taxes payable as a direct result of such transactions, and (iii) in the case of any sale, lease, transfer or assignment, any reserve established in accordance with GAAP against any retained liability or purchase price adjustment.

"Net Cash Proceeds Reinvestment Period" shall have the meaning specified in Section 2.6(c)(iii).

"Net Income" shall mean, for any period, the consolidated net income (or loss) of any Person and its Subsidiaries for such period determined in accordance with GAAP, but excluding therefrom (to the extent otherwise included therein) (a) any extraordinary gains or losses and any associated tax consequences in accordance with GAAP; provided that notwithstanding anything herein to the contrary, for the avoidance of doubt, any payments made with respect to those matters referenced in a letter from the Borrower to the Lender Group dated as of January 17, 2017 and delivered pursuant to Section 7.6(a) of this Agreement, and any expenses related thereto, shall not be excluded from the calculation of Net Income except as expressly permitted to be added back to Net Income pursuant to clauses (h) and (i) of the definition of "EBITDA", (b) any gains attributable to write-ups of assets, (c) any non-cash losses attributable to write-downs of assets, (d) the income (or loss) of any other Person which is not a Subsidiary of such Person, except to the extent of the amount of dividends or other distributions actually paid to such Person or any of its Subsidiaries in cash by such other Person during such period, (e) any income (or loss) of any other Person accrued prior to the date it becomes a Subsidiary of such Person, or is merged into or consolidated with such Person, or any Subsidiary of such Person on the date that such other Person's assets are acquired by such Person or such Subsidiary of such Person, (f) the proceeds of any life insurance policy, and (g) gains or losses from the sale, exchange, transfer or other disposition of Property or assets not in the ordinary course of business of such Person and its Subsidiaries, and related tax effects in accordance with GAAP.

"Ninth Amendment Effective Date" means November 8, 2019.

"Notice of Borrowing" means a notice given by the Borrower to the Administrative Agent pursuant to Section 2.2, in substantially the form of Exhibit F hereto.

"Obligations" shall mean (a) all payment and performance obligations, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired, of the Borrower Parties to the Lender Group, or any of them, or to any other Indemnified Person, under this Agreement and the other Loan Documents, or as a result of making the Loan, including, without limitation, principal, interest, fees, expenses and other obligations of any kind or nature whatsoever (including any interest, fees and expenses that, but for the provisions of the Bankruptcy Code, would have accrued) and (b) the obligation to pay an amount equal to the amount of any and all damages which the Lender Group, or any of them, or any other Indemnified Person, may suffer by reason of a breach by a Borrower Party of any obligation, covenant or undertaking with respect to this Agreement or any other Loan Document.

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

"Other Taxes" shall have the meaning specified in Section 2.8(b)(ii).

"Parent" shall have the meaning specified in the preamble.

"Participant" shall have the meaning specified in Section 10.5(d).

"Participant Register" shall have the meaning specified in Section 10.5(d).

"Patent Security Agreements" shall mean, collectively, the Patent Security Agreements made in favor of the Administrative Agent, on behalf of the Lender Group, from time to time.

"Payment Date" shall mean the last day of each Eurodollar Advance Period for a Eurodollar Advance.

"PBGC" shall mean the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Permitted Acquisition" shall mean any acquisition by the Borrower Parties of all of the Equity Interests of any Person or all or substantially all of the assets of any Person, in each case, to the extent that each of the following conditions shall have been satisfied:

(a) the Lender Group shall have received evidence reasonably satisfactory to them that the Borrower Parties are in compliance on a Pro Forma Basis after giving effect to any funding of Loans under the Incremental Term Loan Commitments and the use of proceeds thereof with the financial covenants set forth in Sections 8.8, 8.9, 8.10 and 8.12 of this Agreement;

(b) if a Permitted Acquisition is financed with an Incremental Term Loan, the Borrower Parties shall have prepared a written proposal for the Administrative Agent and the Lender Group detailing the proposed use of the proceeds of the requested Incremental Term Loan Commitment, which proposal shall have been consented to in writing by the Administrative Agent and those Lenders agreeing to make such Incremental Term Loan Commitment, which consent shall be in each of the Administrative Agent's and such Lenders' sole discretion;

(c) if a Permitted Acquisition is financed with an Incremental Term Loan, the Administrative Agent shall be satisfied with the due diligence it shall have conducted in respect of the proposed use of the proceeds of the Incremental Term Loan (including with respect to the target (or target assets) of such Permitted Acquisition);

(d) the Borrower shall have delivered to the Administrative Agent (i) as soon as available, executed counterparts of the material agreements, documents or instruments pursuant to which such Permitted Acquisition is to be consummated (including any management, non-compete, employment or option agreements) and any schedules to such agreements, documents or instruments, (ii) to the extent required under the related acquisition agreement, all consents and approvals from applicable Governmental Authorities and other Persons required to consummate such Permitted Acquisition and (iii) if required by the Administrative Agent, environmental assessments reasonably satisfactory to the Administrative Agent;

(e) the Borrower Parties (including any new Subsidiary to the extent required under this Agreement) shall execute and deliver the agreements, instruments and other documents required by Section 6.20, and following the consummation of such Permitted Acquisition, the target thereof shall be a Domestic Subsidiary and Subsidiary Guarantor hereunder;

(f) all of the representations and warranties of the Borrower Parties under this Agreement and the other Loan Documents shall be true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) both before and after giving effect to the Permitted Acquisition and application of the proceeds of any Loan funded in connection therewith;

(g) there shall not exist on such date, both before and after giving effect to the Permitted Acquisition, a Default or Event of Default;

(h) the total cash consideration paid or payable (including all transaction costs, Funded Debt incurred (other than Funded Debt permitted pursuant to Section 8.1(d)), assumed and/or reflected on a consolidated balance sheet of the Borrower Parties and their Subsidiaries after giving effect to such Permitted Acquisition and the maximum amount of all deferred payments, including earn-outs (such amounts, collectively, the "Acquisition Consideration"), for all Permitted Acquisitions consummated during the term of this Agreement shall not exceed the sum of (i) an amount equal to $25,000,000, plus (ii) [reserved], plus (iii) the aggregate principal amount of any Incremental Term Loan, to the extent the proceeds thereof are used directly to fund a Permitted Acquisition plus (iv) the aggregate amount of Net Cash Proceeds from the issuance of Equity Interests as permitted pursuant to Section 2.6(c)(i) (to the extent not previously applied to fund Permitted Acquisitions, other Investments or other purposes);

(i) if the Acquisition Consideration of such Permitted Acquisition exceeds $7,500,000, no later than fifteen (15) Business Days prior to the closing of such Permitted Acquisition, the Borrower Parties shall deliver to the Administrative Agent: (w) any historical and pro forma financial information of the target of such Permitted Acquisition reasonably requested by the Administrative Agent, including, but not limited to, such target's balance sheets, related statements of income and retained earnings and the related statements of cash flow, (x) board materials related to the acquisition, (y) a quality of earnings report for the target of such Permitted Acquisition (provided, that the Administrative Agent may waive satisfaction of this clause (i)(y) in its sole discretion) and (z) evidence that the target of such Permitted Acquisition generated positive EBITDA in the most recently ended twelve month period (provided, that the Administrative Agent may waive satisfaction of this clause (i)(z) in its sole discretion); in each case, in form and substance reasonably satisfactory to the Administrative Agent; and

(j) if the Acquisition Consideration of such Permitted Acquisition is less than or equal to $7,500,000, no later than fifteen (15) Business Days prior to the closing of such Permitted Acquisition, the Borrower Parties shall have delivered to the Administrative Agent evidence, in form and substance reasonably satisfactory to the Administrative Agent, that the target of such Permitted Acquisition shall have generated EBITDA greater than or equal to -$2,500,000 for the most recently ended twelve month period; provided, that the Administrative Agent may waive satisfaction of this clause (j) in its sole discretion.**"**

"Permitted Liens" shall mean, as applied to any Person, the following Liens; provided that, in each case, any Funded Debt secured by such Liens is permitted by Section 8.1:

(a) any Lien in favor of the Administrative Agent or any other member of the Lender Group given to secure the Obligations;

(b) (i) Liens on real estate for real estate taxes not yet delinquent and (ii) Liens for taxes, assessments, judgments, governmental charges or levies, or claims not yet delinquent or the non-payment of which is being reasonably and diligently contested in good faith by appropriate proceedings and for which adequate reserves have been set aside on such Person's books;

(c) Liens of carriers, warehousemen, mechanics, laborers, suppliers, workers, materialmen or other like Liens incurred in the ordinary course of business for sums not yet overdue for a period of more than 60 days or which are being reasonably and diligently contested in good faith, if adequate reserves have been set aside on such Person's books;

(d) purchase money security interests and Liens securing Capitalized Lease Obligations provided that such Lien attaches only to the asset (which asset shall not constitute Inventory or Real Property) so purchased or leased by such Person and secures only Funded Debt incurred by such Person in order to purchase or lease such asset, but only to the extent permitted by Section 8.1(c);

(e) Liens on assets of the Borrower Parties (i) existing as of the Sixth Amendment Effective Date which are set forth on Schedule 1.1(d) and (ii) securing any refinancing of Funded Debt permitted under Section 8.1(b) and secured only by Liens referenced on Schedule 1.1(d);

(f) any attachment or judgment Lien not constituting an Event of Default under Section 9.1(i);

(g) deposits and pledges of cash securing obligations incurred in respect of workers' compensation, unemployment insurance or other forms of governmental insurance or benefits, in each case, incurred in the ordinary course of business,

(h) deposits and pledges of cash securing obligations incurred in respect of (i) the performance of bids, tenders, leases, contracts (including, but not limited to, all Material Contracts, other than for the payment of money) and statutory obligations or (ii) obligations on surety or appeal bonds or letters of credit, but only to the extent such deposits or pledges are made or otherwise arise in the ordinary course of business and secure obligations not past due, collectively, in the cases (i) and (ii), in an amount not to exceed $750,000 in the aggregate;

(i) easements, zoning restrictions and similar encumbrances on real property and minor irregularities in the title thereto that do not (i) secure obligations for the payment of money or (ii) materially impair the value of such property or its use by any Borrower Party or any of its Subsidiaries in the normal conduct of such Person's business;

(j) licenses, sublicenses, leases or subleases granted in the ordinary course of business to other Persons not materially interfering with the conduct of the business of the Borrower Parties or any of their Subsidiaries;

(k) precautionary financing statement filings regarding operating leases;

(l) rights of setoff or bankers' liens in favor of banks or other depository institutions arising in the ordinary course of business;

(m) statutory and common law landlords' liens (and any substantially similar lien in such lease) under leases to which the Borrower or any of its Subsidiaries is a party;

(n) Liens securing Funded Debt permitted under Section 8.1(l); provided that such Liens are on only those assets that underlie the related Capital Lease Obligation or purchase money debt, in each case, of the Person or assets acquired in the subject Permitted Acquisition, and provided, further, that such Liens were existing at the time of, and not created or granted in connection with or in anticipation or contemplation of, the Permitted Acquisition pursuant to which such Funded Debt was incurred and do not extend to any other assets;

(o) Liens on cash and Cash Equivalents in an aggregate amount not to exceed $750,000 securing obligations under Hedge Agreements permitted hereunder;

(p) the Liens on cash and Cash Equivalents in the Wells Fargo Cash Management Collateral Account in an aggregate amount not to exceed $800,000, plus any interest accruing thereon securing obligations, as provided under the Wells Fargo Cash Management Documents; and

(q) Liens on Accounts of the Borrower Parties securing Funded Debt permitted under Section 8.1(n), so long as subject to the Intercreditor Agreement.

"Person" shall mean an individual, corporation, partnership, trust, joint stock company, limited liability company, unincorporated organization, other legal entity or joint venture or a government or any agency or political subdivision thereof, whether foreign or domestic.

"Plan" shall mean an employee benefit plan within the meaning of Section 3(3) of ERISA that any Borrower Party or ERISA Affiliate maintains, sponsors, contributes to or has an obligation to contribute to or has maintained, contributed to or had an obligation to contribute to at any time within the past six (6) years on behalf of participants who were employed by any Borrower Party or ERISA Affiliate.

"Pro Forma Basis" shall mean, for purposes of determining compliance with the Financial Covenants and the defined terms relating thereto, giving pro forma effect to any acquisition, spin-off (including the Red Violet Entities) or sale of a Person, all or substantially all of the business or assets of a Person, and any related incurrence, repayment or refinancing of Funded Debt, Capital Expenditures or other related transactions which would otherwise be accounted for as an adjustment permitted by Regulation S-X under the Securities Act or on a pro forma basis under GAAP, in each case, as if such acquisition, spin-off or sale and related transactions were realized on the first day of the relevant period (other than as to the spin-off of the Red Violet Entities, which shall be given effect as of January 1, 2018).

"Proceeding" shall have the meaning specified in Section 13.10.

"Property" shall mean any real property or personal property, plant, building, facility, structure, underground storage tank or unit, equipment, Inventory or other asset owned, leased or operated by the Borrower Parties, their Subsidiaries or any of them (including, without limitation, any surface water thereon or adjacent thereto, and soil and groundwater thereunder).

"Purchase Agreement" shall mean the Agreement and Plan of Merger, dated as of November 16, 2015 by and among Parent, Fluent Acquisition I, Inc., a Delaware corporation, Fluent Acquisition II, LLC, a Delaware limited liability company, Fluent, Inc., a Delaware corporation, and the other Parties (as defined therein).

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

"Red Violet Entities" shall mean each of Red Violet, Inc., a Delaware corporation, Red Violet Blockchain and Analytical Solutions, LLC, a Delaware limited liability company, Forewarn, LLC, a Delaware limited liability company, IDI Holdings, LLC, a Delaware limited liability company, Cogint Technologies, LLC, a Delaware limited liability company, IDI Verified, LLC, a Delaware limited liability company, and Interactive Data, LLC, a Georgia limited liability company.

"Register" shall have the meaning specified in Section 10.5(c).

"Related Agreements" shall mean the Employment Agreements, the Shareholder Agreement, and the Separation Documents.

"Replacement Lender" shall have the meaning specified in Section 10.12(b).

"Restricted Payment" shall mean (a) Dividends, (b) any redemption, purchase, retirement, defeasance, sinking fund or similar payment or any claim of rescission with respect to any Equity Interest of any Borrower Party **(including in respect of the Winopoly Put/Call)** and (c) any payment of management, consulting, investment banking or similar fees payable by a Borrower Party or any Subsidiary of a Borrower Party to any Affiliate of a Borrower Party or such Subsidiary (for avoidance of doubt, excluding any payment under the Related Agreements).

"Restricted Purchase" shall mean any payment on account of the purchase, redemption, or other acquisition or retirement of any shares of Equity Interests of a Borrower Party **(including in respect of the Winopoly Put/Call)**, in each case not including any Permitted Acquisition or Investment expressly permitted under Section 8.5.

"Sanctioned Country" shall mean, at any time, a country or territory which is the subject or target of any Sanctions.

"Sanctioned Person" shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

"Sanctions" shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"S&P" shall mean Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc., or any successor thereto.

"Scheduled Amortization Payment" shall have the meaning specified in Section 2.6(b).

"SEA" shall mean the Securities and Exchange Act of 1934 and the rules promulgated thereunder by the Securities and Exchange Commission, as amended from time to time, or any similar Federal law in force from time to time.

"Second Amendment" shall mean that certain Limited Consent and Amendment No. 2 to Credit Agreement, dated as of September 30, 2016, by and among Parent, the Borrower, the other Borrower Parties, the Administrative Agent and the Lenders party thereto.

"Second Amendment Effective Date" shall have the meaning specified in the Second Amendment.

"Securities Act" shall mean the Securities Act of 1933, as amended from time to time, or any similar Federal law in force from time to time.

"Security Agreement" shall mean that certain Security Agreement dated as of the Agreement Date among the Borrower Parties and the Administrative Agent, on behalf of, and for the benefit of, the Lender Group, in form and substance satisfactory to Administrative Agent.

"Security Documents" shall mean, collectively, the Copyright Security Agreements, the Mortgages, the Patent Security Agreements, the Security Agreement, the Trademark Security Agreements, the Collateral Assignment of Separation Documents, **the Winopoly Collateral Assignment (as defined in the Eleventh Amendment),** all documents executed in connection with the Federal Assignment of Claims Act of 1940 (if any) and any other document, instrument or agreement granting a security interest in the Collateral for the Obligations.

"Separation Agreement" shall mean the Separation and Distribution Agreement by and among Parent and Red Violet, Inc., dated as of February 27, 2018, as amended in accordance with Section 8.15.

"Separation Documents" shall mean the Separation Agreement, the Transition Services Agreement, the Employee Matters Agreement, the Tax Matters Agreement and the Assignment Agreement.

"Shareholder Agreement" shall mean each of (a) the Stockholders' Agreement dated as of March 26, 2018 by and among Michael Brauser and the other Stockholders (as defined therein), and (b) the Stockholders' Agreement dated as of March 26, 2018 by and among Dr. Phillip Frost and the other Stockholders (as defined therein).

"Sixth Amendment" shall mean that certain Limited Consent and Amendment No. 6 to Credit Agreement, dated as of March 26, 2018, by and among Parent, the Borrower, the other Borrower Parties, the Administrative Agent and the Lenders, in each case as defined therein.

"Sixth Amendment Effective Date" shall have the meaning specified in the Sixth Amendment.

"Specified Permitted Payments" shall mean those payments designated as "Specified Permitted Payments" on Schedule I to the First Amendment.

"Sponsor Group" shall mean each of Dr. Phillip Frost, Frost Gamma Investments Trust, Ryan Schulke, Matt Conlin and Michael Brauser, and, in each case, any of their respective Affiliates.

"Subordinated Notes" shall mean each of (i) that certain unsecured promissory note issued as of the date hereof by the Borrower in favor of Frost Gamma Investments Trust in an original principal amount of $5,000,000, (ii) that certain unsecured promissory note issued as of the date hereof by the Borrower in favor of Michael Brauser in an original principal amount of $4,000,000, and (iii) that certain unsecured promissory note issued as of the date hereof by the Borrower in favor of Barry Honig in an original principal amount of $5,000,000, in each case subordinated to the Obligations in accordance with the terms of the Subordination Agreement and otherwise in form and substance satisfactory to the Administrative Agent.

"Subordination Agreement" shall mean the Subordination Agreement dated as of the Agreement Date by and among the holders of the Subordinated Notes, the Borrower Parties and the Administrative Agent, in form and substance satisfactory to the Administrative Agent.

"Subsidiary" shall mean, as applied to any Person, any corporation of which more than fifty percent (50%) of the outstanding stock (other than directors' qualifying shares) having ordinary voting power to elect a majority of its board of directors (or equivalent governing body), regardless of the existence at the time of a right of the holders of any class or classes of securities of such corporation to exercise such voting power by reason of the happening of any contingency, or any partnership or limited liability company of which more than fifty percent (50%) of the outstanding partnership interests or membership interests, as the case may be, is at the time owned by such Person, or by one or more Subsidiaries of such Person, or by such Person and one or more Subsidiaries of such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries (direct or indirect) of Parent.

"Subsidiary Guarantors" shall mean all Subsidiaries of any Borrower Party signatory to this Agreement as a "Subsidiary Guarantor" and all Subsidiaries of any Borrower Party that have executed and delivered a Guaranty Supplement, which, in either case, shall not include any Excluded Subsidiary.

"Tax Distributions" shall have the meaning specified in Section 8.4.

"Tax Matters Agreement" shall mean the Amended and Restated Tax Matters Agreement by and among Parent and Red Violet, Inc., dated as of February 27, 2018, as amended in accordance with Section 8.15.

"Taxes" shall have the meaning specified in Section 2.8(b)(i).

"Tenth Amendment Effective Date" means November 19, 2019.

"Term Loan" shall mean, collectively, (a) amounts advanced by the Lenders to the Borrower on the Sixth Amendment Effective Date under the Term Loan Commitment (the amount of which shall not exceed the amount of the Term Loan Commitment) and (b) Incremental Term Loans.

"Term Loan Commitment" shall mean the several obligations of the Lenders to advance the sum of $70,000,000 on the Sixth Amendment Effective Date, in accordance with their respective Commitment Ratios, to the Borrower pursuant to the terms of this Agreement.

"Term Loan Notes" shall mean those certain promissory notes issued by the Borrower to each of the Lenders that requests a promissory note, in accordance with such Lender's Commitment Ratio, in substantially the form of Exhibit D.

"Third Amendment" shall mean that certain Amendment No. 3 to Credit Agreement, dated as of January 19, 2017, by and among Parent, the Borrower, the other Borrower Parties, the Administrative Agent, the Existing Lenders and the New Lenders, in each case as defined therein.

"Third Amendment Effective Date" shall have the meaning specified in the Third Amendment.

"Title IV Plan" shall mean a Plan that is an "employee pension benefit plan," within the meaning of Section 3(2) of ERISA, that is subject to Title IV of ERISA or Sections 412 and 430 of the Code or Section 302 of ERISA.

"Total Leverage Ratio" shall mean, as of any date of determination, the ratio of (a) the Parent's and its Subsidiaries' consolidated Funded Debt (excluding clause (f) thereof) as of such date to (b) the Parent's and its Subsidiaries' EBITDA for the 12 month period most recently ended prior to such date.

"Trademark Security Agreements" shall mean, collectively, the Trademark Security Agreements made in favor of the Administrative Agent, on behalf of the Lender Group, from time to time.

"Trading with the Enemy Act" shall mean the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto.

"Transition Services Agreement" shall mean the Transition Services Agreement by and among Parent and Red Violet, Inc., dated as of February 27, 2018, as amended in accordance with Section 8.15.

"Treasury Rate" shall mean, as of any prepayment or refinancing date, the yield to maturity as of such prepayment or refinancing date of U.S. Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the prepayment or refinancing date (or if such Statistical Release is no longer published any publicly available source of similar market data)) of one year.

"UCC" shall mean the Uniform Commercial Code as the same may, from time to time, be enacted and in effect in the State of New York; provided, that to the extent that the UCC is used to define any term herein and such term is defined differently in different Articles or Divisions of the UCC, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, the Administrative Agent's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the New York, the term "UCC" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

"Uniform Customs" shall mean the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, as amended from time to time.

"Unrestricted Subsidiary" shall have the meaning specified in Section 8.5.

"U.S." or "United States" shall mean the United States of America, including the District of Columbia and its possessions and territories.

"U.S. Lender" shall have the meaning specified in Section 2.8(b)(vi).

"USA Patriot Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001), as amended from time to time.

"Voidable Transfer" shall have the meaning specified in Section 10.17.

"Wells Fargo Cash Management Collateral Account" shall mean Account #4117952325 of Parent held at Wells Fargo Bank, National Association, or any replacement account therefor.

"Wells Fargo Cash Management Documents" shall mean those agreements between or among any Borrower Party and Wells Fargo Bank, National Association described on Exhibit A to the First Amendment and in form and substance reasonably acceptable to Administrative Agent, provided that a credit limit of $1,250,000 under the Wells Fargo Wellsone Commercial Card Agreement shall be acceptable to the Administrative Agent.

"Winopoly" means Winopoly LLC, a New York limited liability company.

"Winopoly A&R LLC Agreement" means the Amended and Restated Limited Liability Company Agreement, dated as of April 1, 2020, among Winopoly and the members named therein, without giving effect to any amendments, supplements or other modifications thereto without the prior written consent of the Administrative Agent.

"Winopoly Acquisition" shall mean the acquisition by Inbox Pal of 50% of the Equity Interests of Winopoly pursuant to the terms of the Winopoly Purchase Agreement.

"Winopoly Earn-Outs" shall mean each Earnout Payment (as defined in the Winopoly Purchase Agreement) contemplated by Section 1.5 of the Winopoly Purchase Agreement.

"Winopoly Involuntary Withdrawal" shall mean the occurrence of an Involuntary Withdrawal (as defined in the Winopoly A&R LLC Agreement) pursuant to Section 9.04(b) of the Winopoly A&R LLC Agreement.

"Winopoly Purchase Agreement" shall mean the Member Interest Purchase Agreement, dated as of April 1, 2020, among Inbox Pal, as the buyer, the Seller Parties (as defined therein) and Winopoly, without giving effect to any amendments, supplements or other modifications thereto without the prior written consent of the Administrative Agent.

"Winopoly Purchase Documents" shall mean the Winopoly Purchase Agreement, the Winopoly A&R LLC Agreement and each other Transaction Document (as defined in the Winopoly Purchase Agreement), without giving effect to any amendments, supplements or other modifications to any of the foregoing without the prior written consent of the Administrative Agent.

"Winopoly Put/Call" shall mean, collectively, (a) the Put/Call Transfer (as defined in the Winopoly A&R LLC Agreement) and (b) the occurrence of any Put/Call Trigger (as defined in the Winopoly A&R LLC Agreement), in each case pursuant to Section 9.03 of the Winopoly A&R LLC Agreement.

"Winopoly Voluntary Withdrawal" shall mean the occurrence of the Voluntary Withdrawal (as defined in the Winopoly A&R LLC Agreement) pursuant to Section 9.04(a) of the Winopoly A&R LLC Agreement.

"Winopoly WC Line" shall mean the unsecured working capital line provided by Inbox Pal to Winopoly pursuant to Section 1.6(e) of the Winopoly Purchase Agreement and the Working Capital Note (as defined in the Winopoly Purchase Agreement).

"Working Capital" shall mean, for any Person at any date, its consolidated current assets (excluding cash (including cash that is received from AdParlor clients for media reimbursement and owing to third party media suppliers) and Cash Equivalents) at such date minus its consolidated current liabilities (excluding the current portion of long term debt and Capitalized Lease Obligations) at such date.

Section 1.2 Accounting Principles. The classification, character and amount of all assets, liabilities, capital accounts and reserves and of all items of income and expense to be determined, and any consolidation or other accounting computation to be made, and the interpretation of any definition containing any financial term, pursuant to this Agreement shall be determined and made in accordance with GAAP consistently applied and consistent with past practices, unless such principles are inconsistent with the express requirements of this Agreement; provided that if because of a change in GAAP after the Sixth Amendment Effective Date any Borrower Party or any of its Subsidiaries would be required to alter a previously utilized accounting principle, method or policy in order to remain in compliance with GAAP (including treatment of leases that would be classified as operating leases under GAAP as it exists on the Sixth Amendment Effective Date as capitalized leases), such determination shall continue to be made in accordance with such Borrower Party's or such Subsidiary's previous accounting principles, methods and policies. All accounting terms used herein without definition shall be used as defined under GAAP. All financial calculations hereunder shall, unless otherwise stated, be determined for the Borrower Parties on a consolidated basis with their Subsidiaries.

Section 1.3 Other Interpretive Matters. Each definition of an instrument or agreement in this Article 1 shall include such instrument or agreement as amended, restated, supplemented or otherwise modified from time to time with, if required by the Loan Documents, the prior written consent of the Administrative Agent or the Majority Lenders, except as provided in Section 10.12 and otherwise to the extent permitted under this Agreement and the other Loan Documents. Except where the context otherwise requires, definitions imparting the singular shall include the plural and vice versa. The words "hereof", "herein" 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 of this Agreement, unless otherwise specifically provided herein. References in this Agreement to "Articles", "Sections", "Schedules" or "Exhibits" shall be to Articles, Sections, Schedules or Exhibits of or to this Agreement unless otherwise specifically provided. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", whether or not so expressly stated in each such instance, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". The word "will" shall be construed to have the same meaning and effect as the word "shall". "Writing", "written" and comparable terms refer to printing, typing, computer disk, e-mail and other means of reproducing words in a visible form. "Ordinary course", "normal course" or comparable terms shall be deemed to refer to the ordinary course of business, consistent with historical practices, in each context. Except where otherwise specifically restricted, reference to a party to a Loan Document includes that party and its successors and assigns. All terms used herein which are defined in Article 9 of the UCC and which are not otherwise defined herein shall have the same meanings herein as set forth therein. For the avoidance of doubt, and notwithstanding any other provision in this Agreement to the contrary, financial statements, reports and other information filed by any Borrower Party or any of its Subsidiaries with the Securities and Exchange Commission or any national securities exchange shall not be deemed "furnished" to the Administrative Agent or the other members of the Lender Group solely by reason of such filing for any purposes of this Agreement (including Article VII hereof).

Section 1.4 Term Loan Refinancing. The proceeds of the Term Loan funded on the Sixth Amendment Effective Date shall be used by the Borrower to, among other things, refinance in their entirety the Term Loans, Original Incremental Term Loans and Additional Incremental Term Loans, in each case outstanding under, and as defined under, this Agreement on the Sixth Amendment Effective Date, immediately prior to effectiveness of the Sixth Amendment.

ARTICLE 2

THE LOAN

Section 2.1 The Loans.

(a) The Term Loan. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Borrower Parties contained herein, each Lender agrees, severally and not jointly with the other Lenders, upon the terms and subject to the conditions of this Agreement, to lend to the Borrower on the Sixth Amendment Effective Date an amount equal to such Lender's ratable share of the Term Loan Commitment (based upon such Lender's Commitment Ratio), at which time the Term Loan Commitment shall immediately, without notice or further action by any party, irrevocably terminate. Amounts borrowed under this Section 2.1(a) that are repaid or prepaid may not be reborrowed.

(b) [Reserved].

(c) Incremental Term Loans. At the request of the Borrower, and subject to the terms and conditions of this Agreement, including, but not limited to, the Borrower Parties' satisfaction of the additional conditions set forth in Section 4.3, each Lender, severally and not jointly, agrees to lend to the Borrower additional amounts up to the amount set forth opposite such Lender's name on Schedule 2.1(c) under the heading "Incremental Term Loan Commitments" (such amounts as the same may be reduced or increased from time to time in accordance with this Agreement, being referred to herein as such Lender's "Incremental Term Loan Commitment"); provided, that at the time all Loans that may be advanced without exceeding the Incremental Term Loan Commitment have been so advanced, the Incremental Term Loan Commitment shall immediately, without notice or further action by any party, irrevocably terminate; provided, however, that, after giving effect to any funding in respect of any Incremental Term Loan Commitment, any Loans advanced under such Incremental Term Loan Commitment shall be Term Loans hereunder.

Section 2.2 Manner of Borrowing and Disbursement of Loan.

(a) Borrowing and Disbursement of the Term Loan. To request the borrowing of the Term Loan on the Sixth Amendment Effective Date, the Borrower shall, no later than 2:00 p.m. (New York time), one (1) Business Day prior to the Sixth Amendment Effective Date, provide irrevocable written notice delivered to the Administrative Agent in the form of a Notice of Borrowing and deliver to the Administrative Agent a written Direction Letter. On the Sixth Amendment Effective Date, the Administrative Agent shall, subject to the satisfaction of the conditions set forth in Section 4.4, disburse the amounts made available to the Administrative Agent by the Lenders in like funds by wire transfer pursuant to and in accordance with the Direction Letter.

(b) [Reserved].

(c) Borrowing and Disbursement of the Incremental Term Loan. To request a borrowing of the Incremental Term Loan, the Borrower shall provide irrevocable written notice delivered to the Administrative Agent in the form of a Notice of Borrowing or in a writing in any other form acceptable to the Administrative Agent, which notice must be received by the Administrative Agent prior to 2:00 p.m. (New York time) on the date which is three (3) Business Days prior to the requested Advance date and deliver to the Administrative Agent a written Direction Letter. Such Notice of Borrowing shall specify (i) the amount of the Advance (which shall be in an aggregate principal amount not less than $5,000,000), (ii) the requested Eurodollar Advance Period, (iii) the requested Advance date, which shall be a Business Day (the "Incremental Borrowing Date"), (iv) whether such borrowing of Incremental Term Loans is to be a borrowing of Base Rate Advances or Eurodollar Advances (and, if not specified in the Notice of Borrowing, then the requested borrowing shall be a borrowing of Base Rate Advances), (v) to the extent applicable, the requested Eurodollar Advance Period and (vi) the wiring information of the Borrower's account to which funds are to be disbursed or that disbursement instructions shall be in accordance with the Direction Letter. Upon receipt of a Notice of Borrowing, the Administrative Agent will promptly notify each Lender of such Notice of Borrowing and of the amount of such Lender's Incremental Term Loan Commitment. On the Incremental Borrowing Date, each Lender providing such Incremental Term Loan shall make the Incremental Term Loan to be made by it by wire transfer of immediately available funds to such account as the Administrative Agent may designate not later than 2:00 p.m. (New York time). Unless the Administrative Agent is otherwise directed in writing by the Borrower, upon satisfaction of the conditions set forth in Section 4.3, the proceeds of the Incremental Term Loan will be made available to the Borrower by the Administrative Agent by wire transfer of such amount to the Borrower pursuant to the wire transfer instructions specified in the applicable Notice of Borrowing or Direction Letter (or, if such borrowing of Incremental Term Loans shall not occur on the Incremental Borrowing Date because any condition precedent specified in Section 4.3 shall not have been met, return the amounts so received to the applicable Lenders no later than the next succeeding Business Day).

(d) Choice of Interest Rate, etc. Each of the Advance of the Term Loan on the Sixth Amendment Effective Date, and, if applicable, the Advance of the Incremental Term Loan on a date following the Sixth Amendment Effective Date, shall be made as a Eurodollar Advance with a Eurodollar Advance Period equal to one (1), two (2) or three (3) months, as requested by the Borrower in the Notice of Borrowing; provided, however, if the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Eurodollar Rate, then the Administrative Agent may at its option convert all outstanding Eurodollar Advances to Base Rate Advances upon notice to the Borrower.

Section 2.3 Interest.

(a) On the Loan. Interest on the Loan, subject to Sections 2.3(b) and (c), shall be payable as follows:

(i) On Base Rate Advances. Interest on the outstanding principal amount of each Base Rate Advance shall be computed for the actual number of days elapsed on the basis of a hypothetical year of three hundred sixty-five (365) days and shall be payable monthly in arrears on the first Business Day of each calendar month, commencing January 1, 2016. Interest on Base Rate Advances then outstanding shall also be due and payable on the Maturity Date (or the date of any earlier prepayment in full of the Obligations). Interest shall accrue and be payable on the outstanding principal amount of each Base Rate Advance at the per annum interest rate equal to the sum of (x) the Base Rate and (y) the Applicable Margin.

(ii) On Eurodollar Advances. Interest on the outstanding principal amount of each Eurodollar Advance shall be computed for the actual number of days elapsed on the basis of a hypothetical year of three hundred sixty (360) days and shall be payable in arrears on (x) the Payment Date for such Advance, and (y) on the last Business Day of each calendar month interval, commencing January 8, 2016. Interest on Eurodollar Advances then outstanding shall also be due and payable on the Maturity Date (or the date of any earlier prepayment in full of the Obligations). Interest shall accrue and be payable on the outstanding principal amount of each Eurodollar Advance at a rate per annum equal to the sum of (x) the Eurodollar Basis applicable to such Eurodollar Advance and (y) the Applicable Margin.

(iii) If No Notice of Continuation of Interest Rate. If the Borrower fails to elect to continue any Eurodollar Advance then outstanding prior to the last Payment Date applicable thereto, the Administrative Agent may elect to apply the Base Rate to such Advance commencing on and after such Payment Date.

(b) Upon Default. Immediately upon the occurrence and during the continuance of an Event of Default, interest on the outstanding Obligations shall accrue at the Default Rate from the date of such Event of Default or, if later, the date specified in any notice provided by the Administrative Agent. Interest accruing at the Default Rate shall be payable on demand and in any event on the Maturity Date (or the date of any earlier prepayment in full of the Obligations) and shall accrue until the earliest to occur of (i) waiver of the applicable Event of Default in accordance with Section 10.12, (ii) written agreement by the Majority Lenders to rescind the charging of interest at the Default Rate, or (iii) payment in full of the Obligations. The Lenders shall not be required to (A) accelerate the maturity of the Loan or (B) exercise any other rights or remedies under the Loan Documents in order to charge interest hereunder at the Default Rate.

(c) Computation of Interest. In computing interest on any Advance, the date of making the Advance shall be included and the date of payment shall be excluded; provided, however, that if an Advance is repaid on the date that it is made, one (1) day of interest shall be due with respect to such Advance. Each determination by the Administrative Agent of interest, fees or other amounts of compensation due hereunder shall be conclusively correct absent manifest error.

Section 2.4 Fees. The Borrower agrees to pay to the Administrative Agent when due all of the following fees.

(a) Prepayment Premiums.

(i) If (x) the Borrower repays the Term Loan (other than any Incremental Term Loans) in any amount and for any reason (including, without limitation, (1) voluntary prepayments pursuant to Section 2.5, (2) foreclosure and sale of, or collection of, the Collateral, (3) sale of the Collateral in any Insolvency Proceeding, (4) the restructure, reorganization, or compromise of the Obligations by the confirmation of a plan of reorganization or any other plan of compromise, restructure, or arrangement in any Insolvency Proceeding or (5) any mandatory prepayment pursuant to Section 2.6(c)(i), (ii), (iii) or (iv)), other than pursuant to a mandatory prepayment required by Section 2.6(c)(v) or a Scheduled Amortization Payment, or (y) the maturity of the Term Loan (other than any Incremental Term Loans) shall be accelerated, then there shall become due and payable a prepayment premium calculated as follows:

(A) if any such repayment or acceleration occurs after the Sixth Amendment Effective Date but on or prior to the twenty-four (24) month anniversary of the Sixth Amendment Effective Date (the "Make Whole Period"), the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, in an amount equal to the Make Whole Amount plus three percent (3.00%) of the principal amount of the Term Loan (other than any Incremental Term Loan) repaid or accelerated at such time;

(B) if any such repayment or acceleration occurs after the twenty-four (24) month anniversary of the Sixth Amendment Effective Date but on or prior to the forty-eight (48) month anniversary of the Sixth Amendment Effective Date, the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, equal to two percent (2.00%) of the principal amount of the Term Loan (other than any Incremental Term Loan) repaid or accelerated at such time; and

(C) if any such repayment or acceleration occurs after the forty-eight (48) month anniversary of the Sixth Amendment Effective Date but on or prior to the sixty (60) month anniversary of the Sixth Amendment Effective Date, the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, equal to one percent (1.00%) of the principal amount of the Term Loan (other than any Incremental Term Loan) repaid or accelerated at such time.

(ii) If (x) the Borrower repays any Incremental Term Loans in any amount and for any reason (including, without limitation, (1) voluntary prepayments pursuant to Section 2.5, (2) foreclosure and sale of, or collection of, the Collateral, (3) sale of the Collateral in any Insolvency Proceeding, (4) the restructure, reorganization, or compromise of the Obligations by the confirmation of a plan of reorganization or any other plan of compromise, restructure, or arrangement in any Insolvency Proceeding or (5) any mandatory prepayment pursuant to Section 2.6(c)(i), (ii), (iii) or (iv)), other than pursuant to a mandatory prepayment required by Section 2.6(c)(v) or a Scheduled Amortization Payment, or (y) the maturity of the Incremental Term Loan shall be accelerated, then there shall become due and payable a prepayment premium calculated as follows:

(A) if any such repayment or acceleration occurs after the Incremental Closing Date but on or prior to the twenty-four (24) month anniversary of the Incremental Closing Date (the "Incremental MW Period"), the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, in an amount equal to the Make Whole Amount plus three percent (3.00%) of the principal amount of the Incremental Term Loan repaid or accelerated at such time;

(B) if any such repayment or acceleration occurs after the twenty-four (24) month anniversary of the Incremental Closing Date but on or prior to the forty-eight (48) month anniversary of the Incremental Closing Date, the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, equal to two percent (2.00%) of the principal amount of the Incremental Term Loan repaid or accelerated at such time; and

(C) if any such repayment or acceleration occurs after the forty-eight (48) month anniversary of the Incremental Closing Date but on or prior to the sixty (60) month anniversary of the Incremental Closing Date, the Borrower shall pay the Administrative Agent, for the account of the Lenders in accordance with their respective Commitment Ratios, a prepayment premium, payable in cash, equal to one percent (1.00%) of the principal amount of the Incremental Term Loan repaid or accelerated at such time.

(iii) The Borrower Parties agree that the prepayment premiums required under this Section 2.4(a) are a reasonable calculation of the Lenders' lost profits in view of the difficulties and impracticality of determining actual damages resulting from a voluntary prepayment and/or an early repayment of the Term Loan. All prepayment premiums under this Section 2.4(a) shall be in addition to all other amounts which may be due to any member of the Lender Group from time to time pursuant to the terms of this Agreement and the other Loan Documents. All of the Loans are subject to the prepayment premiums set forth in this Section 2.4(a) and the payment of one prepayment premium shall not excuse or reduce the payment of a prepayment premium on any subsequent repayment or acceleration.

(b) Fee Letter. The Borrower agrees to pay to the Administrative Agent such fees as are set forth in the Fee Letter.

(c) Computation and Treatment of Fees. In computing any fees payable under this Section 2.4, the first day of the applicable period shall be included and the date of the payment shall be excluded. Without limitation, all fees payable under this Section 2.4 shall be fully earned when due, non-refundable when paid and shall be in addition to all other amounts which may be due to any member of the Lender Group from time to time pursuant to the terms of this Agreement and the other Loan Documents.

Section 2.5 Prepayment. Subject to Section 2.4(a), the principal amount of any Base Rate Advance may be repaid in full or in part at any time upon at least one (1) Business Day's prior written notice before 1:00 p.m. (New York time). Subject to Section 2.4(a), the principal amount of any Eurodollar Advance may be prepaid prior to the applicable Payment Date, upon at least three (3) Business Days' prior written notice before 1:00 p.m. (New York time) to the Administrative Agent, provided that the Borrower shall reimburse the Lenders and the Administrative Agent, on the earlier of demand or the Maturity Date, for any Funding Loss or expense incurred by the Lenders or the Administrative Agent in connection with such prepayment, as set forth in Section 2.9. Each notice of prepayment of any Eurodollar Advance shall be irrevocable, and each prepayment or repayment made under this Section 2.5 shall include the accrued and unpaid interest on the principal amount so prepaid to but excluding the date of payment. Other than with respect to amounts required to be applied to the Loan pursuant to Section 2.6, repayments or prepayments of principal hereunder shall be in minimum amounts of $1,000,000 and integral multiples of $500,000 in excess thereof. Upon receipt of any notice of repayment or prepayment, the Administrative Agent shall promptly notify each Lender of the contents thereof by telephone or telecopy and of such Lender's portion of the repayment or prepayment.

Section 2.6 Repayments and Mandatory Prepayments.

(a) [Reserved].

(b) The Term Loan. Any principal and interest on the Term Loan remaining unpaid on the Maturity Date shall be due and payable in full on the Maturity Date. The Term Loan shall also be prepaid as shall be required by Section 2.6(c). Additionally, on the last Business Day of each fiscal quarter (commencing with the fiscal quarter ending June 30, 2018), the outstanding principal balance of the Term Loan shall be repaid in an amount equal to $875,000 (each such payment, a "Scheduled Amortization Payment").

Any prepayments of the Term Loan, pursuant to Section 2.6(c) or otherwise, unless otherwise specifically provided for with respect to such prepayments, shall be applied to reduce all remaining Scheduled Amortization Payments on a pro rata basis; provided, however, that prepayments pursuant to Section 2.6(c)(v) shall be applied to reduce the principal balance of the Term Loan owing on the Maturity Date.

(c) Mandatory Prepayments.

(i) [Reserved].

(ii) In the event that, after the Agreement Date, any Borrower Party or any Subsidiary of a Borrower Party shall incur any Funded Debt other than Funded Debt permitted under Section 8.1, one hundred percent (100%) of the Net Cash Proceeds received by any Borrower Party or such Subsidiary from such incurrence shall be paid within one (1) Business Day of receipt of the proceeds thereof by such Borrower Party to the Lenders as a mandatory prepayment of the Obligations in accordance with Section 2.6(b).

(iii) One hundred percent (100%) of the Net Cash Proceeds from any sale, transfer, assignment or other disposition, whether voluntary, as a result of any enforcement action by any member of the Lender Group or otherwise (other than with respect to the sale, transfer or disposition of assets permitted under clauses (i) and (ii) of Section 8.7(b)), or casualty or condemnation loss of any Collateral or other assets of any Borrower Party shall be paid within two (2) Business Days of receipt thereof by any Borrower Party as a mandatory prepayment of the Obligations in accordance with Section 2.6(b). Notwithstanding the foregoing, unless an Event of Default shall have occurred and be continuing or would result therefrom, the Borrower Parties may elect to reinvest Net Cash Proceeds from any such sale, transfer, assignment or other disposition or any such casualty or condemnation loss of any Collateral or such other assets, so long as the Borrower Parties (a)(i) notify the Administrative Agent in writing on or prior to the date any payment thereof would have been required hereunder of the intent to reinvest such Net Cash Proceeds in similar assets for the business of a Borrower Party (which assets shall be consistent with the assets utilized by such Borrower Party in the ordinary course of its business) and identifies the long-term assets which shall constitute such reinvestment within 180 days of the date of such sale or receipt of insurance proceeds and (ii) confirm that such Net Cash Proceeds have been deposited into a Blocked Account, which Net Cash Proceeds when so deposited (A) shall constitute Collateral, securing the payment of the Obligations then outstanding, (B) may be withdrawn by the applicable Borrower Party solely to reinvest in such identified long-term assets that are useful in the business of such Borrower Party and (C) shall, upon the Administrative Agent's request following the occurrence and during the continuance of an Event of Default, be applied (or an amount equal to such Net Cash Proceeds shall be applied) to the prepayment of the Obligations as set forth above in Section 2.6(b) and (b) deliver a certificate from the Borrower to the Administrative Agent that states that the Borrower Parties have reinvested such Net Cash Proceeds in the business of a Borrower Party within 180 days of the date of such sale or receipt of insurance proceeds (the "Net Cash Proceeds Reinvestment Period"). If and to the extent such Net Cash Proceeds are not fully reinvested during the Net Cash Proceeds Reinvestment Period, an amount equal to such remaining Net Cash Proceeds is required to be applied to prepay the Obligations in accordance with Section 2.6(b) immediately upon the expiration of the Net Cash Proceeds Reinvestment Period.

(iv) One hundred percent (100%) of the Extraordinary Receipts in excess of $2,500,000 in the aggregate in any fiscal year received by any Borrower Party or any of its Subsidiaries shall be paid within five (5) Business Days of receipt thereof by the Borrower Parties to the Lenders as a mandatory prepayment of the Obligations in accordance with Section 2.6(b). Notwithstanding the foregoing, unless an Event of Default shall have occurred and be continuing or would result therefrom, the Borrower Parties may elect to reinvest amounts constituting Extraordinary Receipts under clause (a), (b) or (d) of the definition thereof, so long as the Borrower Parties (a)(i) notify the Administrative Agent in writing on or prior to the date any payment thereof would have been required hereunder of the intent to reinvest such Extraordinary Receipts in the business of a Borrower Party and identifies the long-term assets which shall constitute such reinvestment within 180 days of the date of receipt of such proceeds and (ii) confirm that such Extraordinary Receipts have been deposited into a Blocked Account, which Extraordinary Receipts when so deposited (A) shall constitute Collateral, securing the payment of the Obligations then outstanding, (B) may be withdrawn by the applicable Borrower Party solely to reinvest in such identified long-term assets that are useful in the business of such Borrower Party and (C) shall, upon the Administrative Agent's request following the occurrence and during the continuance of an Event of Default, be applieds (or an amount equal to such Extraordinary Receipts shall be applied) to the prepayment of the Obligations as set forth above in Section 2.6(b) and (b) deliver a certificate from the Borrower to the Administrative Agent that states that the Borrower Parties have reinvested such Extraordinary Receipts in the business of a Borrower Party within 180 days of the date of receipt of such proceeds (the "Extraordinary Receipts Reinvestment Period"). If and to the extent such Extraordinary Receipts are not fully reinvested during the Extraordinary Receipts Reinvestment Period, an amount equal to such remaining Extraordinary Receipts is required to be applied to prepay the Obligations in accordance with Section 2.6(b) immediately upon the expiration of the Extraordinary Receipts Reinvestment Period.

(v) On the date that is ten (10) Business Days after the earlier of (A) the date on which the quarterly unaudited financial statements for any fiscal quarter (commencing with the fiscal quarter ending June 30, 2018) are delivered pursuant to Section 7.1(b), or (B) the date on which such financial statements were required to be delivered pursuant to Section 7.1(b) (the "ECF Prepayment Date"), the Borrower Parties shall make a mandatory prepayment of the Obligations in an amount equal to fifty percent (50%) of Excess Cash Flow for such fiscal quarter in accordance with Section 2.6(b). Each such prepayment shall be accompanied bys a certificate signed by an Authorized Signatory of the Borrower Parties certifying the manner in which Excess Cash Flow and the resulting prepayment were calculated, which certificate shall be in form and substance satisfactory to the Administrative Agent. Payments of Excess Cash Flow pursuant to this Section 2.6(c)(v) shall not reduce the amount of any Scheduled Amortization Payment required to be made pursuant to Section 2.6(b).

(vi) Any payments due under this Section 2.6(c) shall be accompanied by all accrued interest on the principal amount of the Loans being prepaid and applied in the manner set forth in Section 2.10 and shall be subject to any applicable prepayment premiums set forth herein and in the other Loan Documents. Within the parameters of the applications set forth above, prepayments of the Term Loans pursuant to this Section 2.6(c) shall be applied first to Base Rate Advances and then to Eurodollar Advances in direct order of Eurodollar Advance Period maturities. Nothing in this Section 2.6(c) shall be deemed to allow the Borrower Parties to issue Equity Interests or incur Funded Debt except as otherwise not prohibited by this Agreement and the other Loan Documents. Notwithstanding anything contained in this Section 2.6(c) to the contrary, each Lender shall be permitted in its sole discretion to decline all or any portion of any mandatory prepayment required pursuant to the terms hereof, other than mandatory prepayments required under clause (v) of this Section 2.6(c).

(vii) The Borrower shall give prior written notice of any prepayment required under this Section 2.6(c) to the Administrative Agent as far in advance thereof as is reasonably practicable (and in any event at least three Business Days prior thereto), and, except with respect to prepayments required pursuant to clause (v) above, deliver to the Administrative Agent at least three Business Days prior to making of each such prepayment, a certificate signed by an Authorized Signatory of the Borrower setting forth in reasonable detail the calculation of the amount of such prepayment. Each notice of prepayment shall specify the prepayment date and the principal amount of the Term Loans to be prepaid. Notwithstanding anything to the contrary herein, failure to provide such notice hereunder shall not preclude the Borrower's ability to make such prepayment hereunder.

(d) The Other Obligations. In addition to the foregoing, the Borrower hereby promises to pay all other Obligations, including, without limitation, the principal amount of the Loan and interest and fees on the foregoing, as the same become due and payable hereunder and, in any event, on the Maturity Date.

Section 2.7 Loan Accounts.

(a) The Loan shall be repayable in accordance with the terms and provisions set forth herein. At the request of any Lender, a Term Loan Note shall be issued by the Borrower to such Lender and shall be duly executed and delivered by an Authorized Signatory of the Borrower.

(b) The Administrative Agent shall open and maintain on its books in the name of the Borrower a loan account with respect to the Loan and interest thereon (the "Loan Account"). The Administrative Agent shall debit such Loan Account for the principal amount of each Advance made by it on behalf of the Lenders, accrued interest thereon, and all other amounts which shall become due from the Borrower pursuant to this Agreement and shall credit the Loan Account for each payment which the Borrower shall make in respect to the Obligations. The records of the Administrative Agent with respect to such Loan Account shall be conclusive evidence of the Loan and accrued interest thereon, absent manifest error.

Section 2.8 Manner of Payment.

(a) When Payments Due.

(i) Each payment (including any prepayment) by the Borrower on account of the principal of or interest on the Loan, fees, and any other amount owed to any member of the Lender Group under this Agreement or the other Loan Documents shall be made not later than 2:00 p.m. (New York, New York time) on the date specified for payment under this Agreement or any other Loan Document to the Administrative Agent Account, for the account of the Lenders or the Administrative Agent, as the case may be, in Dollars in immediately available funds, without setoff, counterclaim, defense or deduction of any kind. Any payment received by the Administrative Agent after 2:00 p.m. (New York, New York time) shall be deemed received on the next Business Day. In the case of a payment for the account of a Lender, the Administrative Agent will promptly thereafter distribute the amount so received in like funds to such Lender. If the Administrative Agent shall not have received any payment from the Borrower as and when due, the Administrative Agent will promptly notify the Lenders accordingly.

(ii) Except as provided in the definition of Eurodollar Advance Period, if any payment under this Agreement or any other Loan Document shall be specified to be made on a day which is not a Business Day, it shall be made on the next succeeding day which is a Business Day, and such extension of time shall in such case be included in computing interest and fees, if any, in connection with such payment.

(b) (i) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower does not in fact make such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at a rate determined by the Administrative Agent to represent its cost of overnight or short-term funds (which determination shall be conclusive absent manifest error).

(ii) To the extent any Lender has failed to pay the Administrative Agent any amount required to be paid by it pursuant to this Agreement within ten (10) Business Days of the date when due, any payment of principal, interest, fees or other amounts received by Administrative Agent for the Account of such Lender (whether voluntary or mandatory, at maturity or otherwise) shall be applied at such time or times as may be determined by Administrative Agent as follows: FIRST, to the payment of any amounts owing by such Lender to the Administrative Agent hereunder: and SECOND, to such Lender.

(c) Taxes.

(i) Any and all payments of principal and interest, or of any fees or indemnity or expense reimbursements by any Borrower Party hereunder or under any other Loan Documents (the "Borrower Party Payments") shall be made without setoff or counterclaim and free and clear of and without deduction for any and all current or future taxes, levies, imposts, deductions, charges or withholdings with respect to such Borrower Party Payments and all interest, penalties or similar liabilities with respect thereto (collectively or individually "Taxes"), except as required by Applicable Law. If any Borrower Party (or any withholding agent of such Borrower Party) is required to deduct any Taxes from or in respect of any sum payable to any member of the Lender Group hereunder or under any other Loan Document, such Borrower Party (or such withholding agent of the Borrower Party) shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and if such Taxes are Indemnified Taxes, then the sum payable shall be increased by the Borrower Party by the amount (an "Additional Amount") necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.8(b)(i)) such member of the Lender Group shall receive an amount equal to the sum it would have received had no such deductions been made.

(ii) Without duplicating the provisions of subsection (i), the Borrower shall pay to the relevant Governmental Authority in accordance with Applicable Law any current or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies that arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any other Loan Document (such Taxes being "Other Taxes").

(iii) The Borrower shall indemnify each member of the Lender Group for the full amount of Indemnified Taxes with respect to Borrower Party Payments payable or paid by such Person, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted by the relevant Governmental Authority, but only to the extent not otherwise reimbursed by the Borrower Party by the payment of any Additional Amount or paid by the Borrower Party pursuant to Section 2.8(b)(i) or (ii). A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. Such indemnification shall be made within thirty (30) days after the date the Administrative Agent or such member, as the case may be, makes written demand therefor.

(iv) As soon as practicable after the date of any payment of Taxes or Other Taxes by the Borrower to the relevant Governmental Authority, the Borrower will deliver to the Administrative Agent, at its address, the original or a certified copy of a receipt issued by such Governmental Authority evidencing payment thereof, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(v) On or prior to the Agreement Date (or, in the case of any Lender that becomes a party to this Agreement pursuant to an Assignment and Acceptance, on or prior to the effective date of such Assignment and Acceptance), and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent, each member of the Lender Group that is not a "United States person" as defined in Section 7701(a)(30) of the Code (a "Foreign Lender") shall provide each of the Administrative Agent and the Borrower with either (A) two (2) properly executed originals of Internal Revenue Service Form W-8ECI, Form W-8BEN-E or Form W-8BEN (or any successor forms) prescribed by the Internal Revenue Service or other documents satisfactory to the Borrower and the Administrative Agent, as the case may be, certifying (1) as to such Foreign Lender's status for purposes of determining exemption from United States withholding Taxes with respect to all payments to be made to such Foreign Lender hereunder and under any other Loan Documents or (2) that all payments to be made to such Foreign Lender hereunder and under any other Loan Documents are subject to such taxes at a rate reduced by an applicable tax treaty, (B)(1) a certificate in the form of Exhibit H executed by such Foreign Lender certifying that such Foreign Lender is not a "bank" and that such Foreign Lender qualifies for the portfolio interest exemption under Section 881(c) of the Code, and (2) two (2) properly executed originals of Internal Revenue Service Form W-8BEN-E or Form W-8BEN (or any successor form), in each case, certifying such Lender's entitlement to an exemption from United States withholding tax with respect to payments of interest to be made hereunder or under any other Loan Documents, (C) two (2) properly executed originals of Internal Revenue Service Form W-8IMY, together with appropriate forms, certifications and supporting statements or (D) any other applicable document prescribed by the IRS certifying as to the entitlement of such Foreign Lender to such exemption from United States withholding Tax or reduced rate with respect to all payments to be made to such Foreign Lender under the Loan Documents. Each such Foreign Lender agrees to provide the Administrative Agent and the Borrower with new forms prescribed by the Internal Revenue Service upon the expiration or obsolescence of any previously delivered form, or after the occurrence of any event requiring a change in the most recent forms delivered by it to the Administrative Agent and the Borrower.

(vi) On or prior to the Agreement Date (or, in the case of any Lender that becomes a party to this Agreement pursuant to an Assignment and Acceptance, on or prior to the effective date of such Assignment and Acceptance), and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent, each member of the Lender Group that is a "United States person" as defined in Section 7701(a)(30) of the Code (a "U.S. Lender") shall provide each of the Administrative Agent and the Borrower with two (2) properly executed originals of Internal Revenue Service Form W-9 (or any successor form) certifying that such U.S. Lender is entitled to an exemption from U.S. backup withholding Tax. Each such U.S. Lender agrees to provide the Administrative Agent and the Borrower with new forms prescribed by the Internal Revenue Service upon the expiration or obsolescence of any previously delivered form, or after the occurrence of any event requiring a change in the most recent forms delivered by it to the Administrative Agent and the Borrower.

(vii) If a payment made to a Foreign Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Foreign Lender fails to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Foreign Lender shall deliver to each of the Administrative Agent and the Borrower any documentation required under Applicable Law or reasonably requested by the Administrative Agent and the Borrower sufficient for the Administrative Agent and the Borrower to comply with their obligations under FATCA and to determine that such Foreign Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for the purposes of this clause (vii), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(viii) The Administrative Agent shall deliver to the Borrower, on or prior to the date on which the Administrative Agent becomes an Administrative Agent under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower) such properly completed and executed documentation reasonably requested by the Borrower as will enable the Borrower to determine whether or not payments may be made under any Loan Document to the Administrative Agent without withholding. In addition, the Administrative Agent, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not the Administrative Agent is subject to information reporting requirements and to satisfy any such requirements. Without limiting the generality of the foregoing, the Administrative Agent shall deliver to the Borrower (A) executed originals of Form W-9 certifying that the Administrative Agent is exempt from United States federal backup withholding tax or (B) executed originals of Form W-8IMY certifying that the Administrative Agent is acting as a "qualified intermediary" or a "nonqualified intermediary" and accompanied by any required attachments (including certification documents from each beneficial owner). For purposes of this Section 2.8(b)(viii), the "Administrative Agent" shall mean the Administrative Agent in its capacity as such and not in any other capacity (such as a Lender).

(ix) If any member of the Lender Group determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 2.8(b) (including by the payment of Additional Amounts), it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments or Additional Amounts paid under this Section 2.8(b) with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such member of the Lender Group and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Borrower, upon the request of such member of the Lender Group, shall repay to such member of the Lender Group the amount paid over pursuant to this Section 2.8(b)(ix) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such member of the Lender Group is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.8(b)(ix), in no event will any member of the Lender Group be required to pay any amount to Borrower pursuant to this Section 2.8(b)(ix) the payment of which would place the member of the Lender Group in a less favorable net after-Tax position than the member of the Lender Group 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.

(x) Nothing contained in this Section 2.8(b) shall require any member of the Lender Group to make available to the Borrower any of its tax returns (or any other information) that it deems confidential or proprietary.

(xi) Each party's obligations under this Section 2.8(b) shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(xii) If any Lender requests compensation under Section 11.3, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to this Section 2.8(b), then such Lender shall (at the request of Borrower) 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 judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 11.3 or 2.8(b), as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.9 Reimbursement. Whenever any Lender shall sustain or incur any Funding Losses or out-of-pocket expenses in connection with (a) prepayment of any Eurodollar Advance in whole or in part for any reason or (b) failure by the Borrower to prepay any Eurodollar Advance after giving notice of its intention to prepay such Advance, the Borrower agrees to pay to such Lender, promptly upon such Lender's demand therefor (with a copy to the Administrative Agent), an amount sufficient to compensate such Lender for all such Funding Losses and reasonable documented out-of-pocket expenses. Such Lender's determination of the amount of such Funding Losses and out-of-pocket expenses, absent manifest error, shall be binding and conclusive. Losses subject to reimbursement hereunder shall include, without limitation, expenses incurred by any Lender permitted hereunder in connection with the re-employment of funds prepaid, repaid, not borrowed, or paid, as the case may be. For purposes of calculating amounts payable to a Lender under this paragraph, each Lender shall be deemed to have actually funded its relevant Eurodollar Advance through the purchase of a deposit bearing interest at the Eurodollar Rate in an amount equal to the amount of that Eurodollar Advance and having a maturity and repricing characteristics comparable to the relevant Eurodollar Advance Period; provided, however, that each Lender may fund each of its Eurodollar Advances in any manner it sees fit, and the foregoing assumption shall be utilized only for the calculation of amounts payable under this Section.

Section 2.10 Application of Payments. Notwithstanding anything in this Agreement or any other Loan Document which may be construed to the contrary, subsequent to the occurrence and during the continuance of an Event of Default, payments and prepayments with respect to the Obligations made to the Lender Group, or any of them, or otherwise received by any member of the Lender Group (from realization on Collateral or otherwise) shall be distributed in the following order of priority (subject, as applicable, to Section 2.14):

FIRST, pro rata, to the payment of indemnities and out-of-pocket costs and expenses (including reasonable attorneys' fees) of the Administrative Agent arising hereunder or under any other Loan Document;

SECOND, pro rata, to payment of any fees then due and payable to the Administrative Agent hereunder or under any other Loan Document;

THIRD, pro rata, to the payment of indemnities and out-of-pocket costs and expenses (including reasonable attorneys' fees) of the Lenders arising hereunder or under any other Loan Document;

FOURTH, pro rata, to the payment of all Obligations consisting of accrued fees and interest payable to the Lenders hereunder;

FIFTH, to the payment of principal on the Term Loan then outstanding (and any prepayment premiums owing in connection with such payment, if any);

SIXTH, pro rata to the payment of all other Obligations not otherwise referred to in this Section 2.10(b); and

SEVENTH, upon satisfaction in full of all Obligations, to the Borrower or as otherwise required by law.

Section 2.11 Use of Proceeds. (a) The proceeds of the Term Loan shall be used by the Borrower, to fund a portion of the purchase price of the Closing Date Acquisition (which amounts will be used to refinance the Existing Debt), to fund transaction costs associated with the foregoing and the transactions contemplated hereby, and to provide for the Borrower's general corporate purposes, including, without limitation, as set forth on the disbursement schedule attached as Schedule 2.11. The proceeds of the Loans will not be used in violation of Anti-Corruption Laws or applicable Sanctions.

(b) The proceeds of the Term Loan made on the Sixth Amendment Effective Date shall be used by the Borrower to, among other things, refinance in their entirety the Term Loans outstanding under this Agreement on the Sixth Amendment Effective Date, immediately prior to effectiveness of the Sixth Amendment, and repay in full the Subordinated Notes.

Section 2.12 All Obligations to Constitute One Obligation. All Obligations shall constitute one general obligation of the Borrower and shall be secured by the Administrative Agent's security interest (on behalf of, and for the benefit of, the Lender Group) and Lien upon all of the Collateral, and by all other security interests and Liens heretofore, now or at any time hereafter granted by any Borrower Party to the Administrative Agent or any other member of the Lender Group, to the extent provided in the Security Documents under which such Liens arise.

Section 2.13 Maximum Rate of Interest. The Borrower and the Lender Group hereby agree and stipulate that the only charges imposed upon the Borrower for the use of money in connection with this Agreement are and shall be the specific interest and fees described in this Article 2 and in any other Loan Document. The Borrower and the Lender Group further agree and stipulate that all closing fees, agency fees, syndication fees, facility fees, underwriting fees, default charges, late charges, funding or "breakage" charges, increased cost charges, attorneys' fees and reimbursement for costs and expenses paid by any member of the Lender Group to third parties or for damages incurred by the Lender Group, or any of them, are charges to compensate the Lender Group for underwriting and administrative services and costs or losses performed or incurred, and to be performed and incurred, by the Lender Group in connection with this Agreement and the other Loan Documents. In no event shall the amount of interest and other charges for the use of money payable under this Agreement exceed the maximum amounts permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. The Borrower and the Lender Group, in executing and delivering this Agreement, intend to agree to the extent permitted by Applicable Law upon the rate or rates of interest and other charges for the use of money and manner of payment stated within it; provided, however, that, anything contained in this Agreement to the contrary notwithstanding, if the amount of such interest and other charges for the use of money or manner of payment exceeds the maximum amount allowable under Applicable Law, then, ipso facto as of the Agreement Date, the Borrower is and shall be liable only for the payment of such maximum amount as allowed by law, and payment received from the Borrower in excess of such legal maximum amount, whenever received, shall be applied ***first*** to reduce the principal balance of the Loan (but without the imposition of any prepayment premium), ***second*** to the payment of all other Obligations then due and payable, and ***finally*** if such excess is greater than the foregoing, the Lender Group shall promptly refund the remainder thereof to the Borrower Parties.

Section 2.14 Pro Rata Treatment.

(a) Advances. Each Advance with respect to the Term Loan from the Lenders under this Agreement shall be made pro rata on the basis of their respective (a) Commitment Ratios, for Advances made pursuant to Section 2.1(a) and (b) Incremental Commitment Ratios, for Advances made pursuant to Section 2.1(c).

(b) Payments. Each payment and prepayment of the principal of the Term Loan and each payment of interest on the Term Loan received from the Borrower shall be made by the Administrative Agent to the Lenders pro rata on the basis of their applicable Commitment Ratio immediately prior to such payment or prepayment. If any Lender shall obtain any payment (whether involuntary, through the exercise of any right of set-off or otherwise) on account of the Term Loan (other than (x) any payment received by a Lender as consideration for the assignment of a sale of a participation in any of its Term Loan to any assignee or Participant or (y) as otherwise expressly provided elsewhere herein) in excess of its ratable share of the Term Loan under its applicable Commitment Ratio, such Lender shall forthwith purchase from the other Lenders such participation in such Loan made by them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and such Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery without interest thereon unless the Lender obligated to repay such amount is required to pay interest. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.14(b) may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

ARTICLE 3

GUARANTY

Section 3.1 Guaranty.

(a) Each Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the Administrative Agent, for the benefit of the Lender Group, the full and prompt payment when due, whether at stated maturity or earlier, by reason of acceleration, mandatory prepayment or otherwise in connection with any Loan Document, of the Obligations (whether existing on the Agreement Date or hereinafter incurred or created), including, without limitation, any interest thereon (including, without limitation, interest as provided in this Agreement, accruing after the filing of a petition initiating any Insolvency Proceedings, whether or not such interest accrues or is recoverable against the Borrower after the filing of such petition for purposes of the Bankruptcy Code or is an allowed claim in such proceeding). All costs and expenses, including, without limitation, attorneys' fees and expenses, incurred by the Administrative Agent in obtaining performance of or collecting payments due under this Guaranty shall be deemed part of the Obligations Guaranteed hereby.

(b) Regardless of whether any proposed guarantor or any other Person shall become in any other way responsible to the Lender Group, or any of them, for or in respect of the Obligations or any part thereof, and regardless of whether or not any Person now or hereafter is responsible to the Lender Group, or any of them, for the Obligations or any part thereof, whether under this Guaranty or otherwise and shall cease to be so liable, each Guarantor hereby declares and agrees that this Guaranty shall be a joint and several obligation of each Guarantor, shall be a continuing guaranty, and shall be operative and binding until the Obligations shall have been indefeasibly paid in full in cash and the Commitment shall have been terminated.

(c) Each Guarantor absolutely, unconditionally and irrevocably waives any and all right to assert any defense (other than the defense of payment in cash in full, to the extent of its obligations hereunder, or a defense that such Guarantor's liability is limited as provided in Section 3.1(g)), set-off, counterclaim or cross-claim of any nature whatsoever with respect to this Guaranty or the obligations of the Guarantors under this Guaranty or the obligations of any other Person or party (including, without limitation, the Borrower) relating to this Guaranty or the obligations of any of the Guarantors under this Guaranty or otherwise with respect to the Obligations in any action or proceeding brought by the Administrative Agent or any other member of the Lender Group to collect the Obligations or any portion thereof, or to enforce the obligations of any of the Guarantors under this Guaranty, including as a result of any of the following: (i) the invalidity or unenforceability of any obligation of the Borrower or any other Guarantor under any Loan Document or any other agreement or instrument relating thereto (including any amendment, consent or waiver thereto), or any security for, or other guaranty of, the Obligations or any part thereof, or the lack of perfection or continuing perfection or failure of priority in any security for the Obligations or any part thereof, including any Lien on, or the preservation of any rights with respect to, any Collateral, (ii) the absence of (A) any attempt to collect any Obligation or any part thereof from the Borrower or any other Guarantor or any other action to enforce the same or (B) any action to enforce any Loan Document or Lien thereunder, (iii) any workout, insolvency, bankruptcy proceeding, reorganization, arrangement, liquidation or dissolution by or against the Borrower, any other Guarantor or any of the Borrower's other Subsidiaries or any procedure, agreement, order, stipulation, election, action or omission thereunder, including any discharge or disallowance of, or bar or stay against collecting, any Obligation (or any interest thereon), in or as a result of any such proceeding or (iv) any foreclosure, whether or not through judicial sale, and any other sale or disposition of any Collateral or any election following the occurrence of an Event of Default by any member of the Lender Group to proceed separately against the Collateral in accordance with such member's rights under any Applicable Law.

(d) The Lender Group, or any of them, may from time to time, without notice to or demand upon any Guarantor and without exonerating or releasing any Guarantor in any way under this Guaranty and without incurring any liability hereunder, (i) take such further or other security or securities for the Obligations or any part thereof as they may deem proper, (ii) release, discharge, abandon or otherwise deal with or fail to deal with any Guarantor of the Obligations or any security or securities therefor or any part thereof now or hereafter held by the Lender Group, or any of them, (iii) amend, modify, extend, accelerate or waive in any manner any of the provisions, terms, or conditions of the Obligations or the Loan Documents, all as they may consider expedient or appropriate in their sole discretion, (iv) refund at any time any payment received by any member of the Lender Group in respect of any Obligation, (v) apply to the Obligations any sums by whomever paid or however realized to any Obligation in such order as provided in Section 2.10, (v) add, release or substitute any one or more other Guarantors, makers or endorsers of any Obligation or any part thereof or (vi) otherwise deal in any manner with the Borrower or any other Guarantor, maker or endorser of any Obligation or any part thereof. Without limiting the generality of the foregoing, or of Section 3.1(e), it is understood that the Lender Group, or any of them, may, without exonerating or releasing any Guarantor, sell, exchange, enforce, waive, substitute, liquidate, terminate, release, abandon, fail to perfect, subordinate, accept, surrender, exchange, affect, impair or otherwise alter or abstain from taking advantage of any security for the Obligations and accept or make any compositions or arrangements, and realize upon any security for the Obligations when, and in such manner, and with or without notice, all as such Person may deem expedient.

(e) Each Guarantor acknowledges and agrees that no change in the nature or terms of the Obligations or any of the Loan Documents, or other agreements, instruments or contracts evidencing, related to or attendant with the Obligations (including any novation), shall discharge all or any part of the liabilities and obligations of such Guarantor pursuant to this Guaranty; it being the purpose and intent of the Guarantors and the Lender Group that the covenants, agreements and all liabilities and obligations of each Guarantor hereunder are absolute, unconditional and irrevocable under any and all circumstances. Without limiting the generality of the foregoing, each Guarantor agrees that, until each and every one of the covenants and agreements of this Guaranty is fully performed, and without possibility of recourse, whether by operation of law or otherwise, such Guarantor's undertakings hereunder shall not be released, in whole or in part, by any action or thing which might, but for this paragraph of this Guaranty, be deemed a legal or equitable discharge of a surety or guarantor, or by reason of any waiver, omission of the Lender Group, or any of the, or their failure to proceed promptly or otherwise, or by reason of any action taken or omitted by the Lender Group, or any of them, whether or not such action or failure to act varies or increases the risk of, or affects the rights or remedies of, such Guarantor or by reason of any further dealings between the Borrower, on the one hand, and any member of the Lender Group, on the other hand, or any other guarantor or surety, and such Guarantor hereby expressly waives and surrenders any defense to its liability hereunder, or any right of counterclaim or offset of any nature or description which it may have or may exist based upon, and shall be deemed to have consented to, any of the foregoing acts, omissions, things, agreements or waivers.

(f) [Reserved.]

(g) The creation or existence from time to time of Obligations in excess of the amount committed to or outstanding on the date of this Guaranty is hereby authorized, without notice to any Guarantor, and shall in no way impair or affect this Guaranty or the rights of the Lender Group herein. It is the intention of each Guarantor and the Administrative Agent that each Guarantor's obligations hereunder shall be, but not in excess of, the Maximum Guaranteed Amount (as herein defined). The "Maximum Guaranteed Amount", with respect to any Guarantor, shall mean the maximum amount which could be paid by such Guarantor without rendering this Guaranty void or voidable as would otherwise be held or determined by a court of competent jurisdiction in any action or proceeding involving any state or Federal bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws relating to the insolvency of debtors.

(h) Upon the bankruptcy or winding up or other distribution of assets of the Borrower, or of any surety or guarantor (other than the applicable Guarantor) for any Obligations of the Borrower to the Lender Group, or any of them, the rights of the Administrative Agent against any Guarantor shall not be affected or impaired by the omission of any member of the Lender Group to prove its claim, or to prove the full claim, as appropriate, against the Borrower, or any other Borrower or any such other guarantor or surety, and the Administrative Agent may prove such claims as it sees fit and may refrain from proving any claim and in its discretion may value as it sees fit or refrain from valuing any security held by it without in any way releasing, reducing or otherwise affecting the liability to the Lender Group of each of the Guarantors.

(i) Each Guarantor hereby absolutely, unconditionally and irrevocably expressly waives and agrees not to assert any claim or defense, set-off or counterclaim based on, except to the extent such waiver would be expressly prohibited by Applicable Law, the following: (i) notice of acceptance of this Guaranty, (ii) notice of the existence or creation of all or any of the Obligations, (iii) presentment, demand, notice of dishonor, protest and all other notices whatsoever (other than notices expressly required hereunder or under any other Loan Document to which any Guarantor is a party), (iv) all diligence in collection or protection of or realization upon the Obligations or any part thereof, any obligation hereunder, or any security for any of the foregoing, (v) all rights to enforce any remedy which the Lender Group, or any of them, may have against the Borrower and (vi) until the Obligations shall have been paid in full in cash, all rights of subrogation, indemnification, contribution and reimbursement from the Borrower for amounts paid hereunder and any benefit of, or right to participate in, any collateral or security now or hereinafter held by the Lender Group, or any of them, in respect of the Obligations. If a claim is ever made upon any member of the Lender Group for the repayment or recovery of any amount or amounts received by such Person in payment of any of the Obligations and such Person repays all or part of such amount by reason of (A) any judgment, decree or order of any court or administrative body having jurisdiction over such Person or any of its property, or (B) any settlement or compromise of any such claim effected by such Person with any such claimant, including the Borrower, then in such event each Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon such Guarantor, notwithstanding any revocation hereof or the cancellation of any promissory note or other instrument evidencing any of the Obligations, and such Guarantor shall be and remain obligated to such Person hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Person.

(j) This Guaranty is a continuing guaranty of the Obligations and all liabilities to which it applies or may apply under the terms hereof and shall be conclusively presumed to have been created in reliance hereon. No failure or delay by any member of the Lender Group in the exercise of any right, power, privilege or remedy shall operate as a waiver thereof, and no single or partial exercise by the Administrative Agent of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy and no course of dealing between any Guarantor and any member of the Lender Group shall operate as a waiver thereof. No action or inaction by any member of the Lender Group permitted hereunder shall in any way impair or affect this Guaranty. For the purpose of this Guaranty, the Obligations shall include, without limitation, all Obligations of the Borrower to the Lender Group, notwithstanding any right or power of any third party, individually or in the name of the Borrower and the Lender Group, or any of them, to assert any claim or defense as to the invalidity or unenforceability of any such Obligation, and no such claim or defense shall impair or affect the obligations of any Guarantor hereunder.

(k) This is a guaranty of payment and not of collection. In the event the Administrative Agent makes a demand upon any Guarantor in accordance with the terms of this Guaranty, such Guarantor shall be held and bound to the Administrative Agent directly as debtor in respect of the payment of the amounts hereby Guaranteed.

(l) Each Subsidiary Guarantor is a direct or indirect wholly owned Domestic Subsidiary of the Parent, and each Subsidiary Guarantor is either a direct or indirect wholly owned Domestic Subsidiary of the Borrower or is an Affiliate of the Borrower. Each Guarantor expressly represents and acknowledges that any financial accommodations by the Lender Group to the Borrower, including, without limitation, the extension of credit, are and will be of direct interest, benefit and advantage to such Guarantor.

(m) Each Guarantor shall be entitled to subrogation and contribution rights from and against the Borrower to the extent any Guarantor is required to pay to any member of the Lender Group any amount in excess of the Loan advanced directly to, or other Obligations incurred directly by, such Guarantor or as otherwise available under Applicable Law; provided, however, that such subrogation and contribution rights are and shall be subject to the terms and conditions of this Section 3.1. The payment obligation of a Guarantor to any other Guarantor under any Applicable Law regarding contribution rights among co-obligors or otherwise shall be subordinate and subject in right of payment to the prior indefeasible payment in full in cash of the obligations of such Guarantor under the other provisions of this Guaranty, and such Guarantor shall not exercise any right or remedy with respect to such rights until indefeasible payment and satisfaction in full in cash of all such obligations. Notwithstanding anything to the contrary contained in this Guaranty, no Guarantor shall exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, nor shall proceed or seek recourse against or with respect to any property or asset of, the Borrower, any other Guarantor or any other guarantor (including after the indefeasible payment in full in cash of the Obligations), if all or any portion of the Obligations have been satisfied in connection with an exercise of remedies in respect of the Equity Interests of the Borrower, any other Guarantor or any other guarantor whether pursuant to the Security Agreement or otherwise.

Section 3.2 Special Provisions Applicable to Subsidiary Guarantors.

(a) Pursuant to Section 6.20 of this Agreement, any new Domestic Subsidiary of the Borrower (other than an Excluded Subsidiary or an Unrestricted Subsidiary) is required to enter into this Agreement by executing and delivering to the Administrative Agent a Guaranty Supplement. Upon the execution and delivery of a Guaranty Supplement by such new Domestic Subsidiary, such Domestic Subsidiary shall become a Guarantor and Borrower Party hereunder with the same force and effect as if originally named as a Guarantor or Borrower Party herein. The execution and delivery of any Guaranty Supplement (or any other supplement to any Loan Document delivered in connection therewith) adding an additional Guarantor as a party to this Agreement or any other applicable Loan Document shall not require the consent of any other party hereto. The rights and obligations of each party hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor hereunder.

ARTICLE 4

CONDITIONS PRECEDENT

Section 4.1 Conditions Precedent to Term Loan on the Agreement Date. The obligations of the Lenders to undertake the Commitment and to make the Term Loan on the Agreement Date are subject to the prior fulfillment of each of the following conditions:

(a) The Administrative Agent shall have received each of the following, in form and substance satisfactory to the Administrative Agent:

(i) This duly executed Agreement;

(ii) The Security Agreement, duly executed by the Borrower Parties, together with UCC financing statements related thereto, certificates representing all of the certificated Equity Interests of the pledged Subsidiaries of the Borrower Parties, and all other original Collateral to be delivered to the Administrative Agent pursuant to the Security Agreement, and transfer powers with respect thereto duly endorsed in blank;

(iii) A Trademark Security Agreement and a Patent Security Agreement, each duly executed by Fluent, LLC;

(iv) The Direction Letter duly executed by the Borrower;

(v) The Master Intercompany Subordinated Note duly executed by the parties thereto;

(vi) Reserved;

(vii) The legal opinion of Akerman, LLP, counsel to the Borrower Parties, addressed to the Lender Group;

(viii) With respect to each Borrower Party, a loan certificate signed by the secretary or assistant secretary of such Person (or, in the case of a Person that is a partnership, the general partner of such Person or, in the case of a Person that is a limited liability company, the members or manager, as appropriate, of such Person), in form and substance satisfactory to the Administrative Agent, including a certificate of incumbency with respect to each Authorized Signatory of such Person, together with appropriate attachments which shall include the following: (A) a copy of the certificate of incorporation or formation of such Person, certified (other than as to the Articles of Merger of the Target Borrower and Ultimate Borrower) to be true, complete and correct by the Secretary of State of the State of such Person's incorporation or formation within 3 days of the Agreement Date, (B) a true, complete and correct copy of the by-laws, partnership agreement or operating agreement of such Person, (C) a true, complete and correct copy of the resolutions of such Person (or its general partner, members or manager, as applicable) authorizing the execution, delivery and performance by such Person of the Loan Documents and, with respect to Borrower, authorizing the borrowings hereunder, and (D) certificates of good standing from such Person's jurisdiction of formation, dated within 3 days of the Agreement Date, and each other jurisdiction in which such Person does business, dated within 30 days of the Agreement Date;

(ix) Parent and its Subsidiaries' projected financial statements for fiscal years 2016, 2017 and 2018, including an income statement, balance sheet and statement of cash flows for each such fiscal year;

(x) Certificates of insurance and additional insured and loss payable endorsements, as applicable, with respect to the Borrower Parties and copies of all insurance policies of the Borrower Parties, in each case, meeting the requirements of Section 6.5;

(xi) Reserved;

(xii) Pay-off and/or release letters, termination statements, canceled mortgages and the like required by the Administrative Agent in connection with the removal of any Liens (other than Permitted Liens), including, without limitation, all tax liens, against the assets of the Borrower Parties, the repayment of Existing Debt or the release of a Borrower Party from a Guaranty;

(xiii) Lien search results with respect to the Borrower Parties from all appropriate jurisdictions and filing offices;

(xiv) Evidence satisfactory to the Administrative Agent that the Liens granted pursuant to the Security Documents will be first priority perfected Liens on the Collateral (subject only to Permitted Liens);

(xv) Payment of all fees and expenses payable to the Lender Group and the Affiliates of the members of the Lender Group in connection with the Loan Documents;

(xvi) A solvency certificate executed by the chief financial officer of each of the Borrower Parties regarding the solvency and financial condition of each Borrower Party, after giving effect to the transactions contemplated herein including the making of the Term Loan on the Agreement Date;

(xvii) A closing certificate executed by an Authorized Signatory of the Borrower, certifying as to the satisfaction of the closing conditions contained herein and attaching a fully executed copy of each Related Agreement, in each case together with all related exhibits and schedules;

(xviii) A duly executed Term Loan Note to the order of each Lender requesting a promissory note in the amount of such Lender's Commitment Ratio of the Commitment;

(xix) The Subordination Agreement duly executed by all parties thereto;

(xx) The Fee Letter duly executed by the Borrower;

(xxi) [Reserved]; and

(xxii) All such other certificates, agreements, reports, statements, opinions of counsel or other documents as the Administrative Agent may request, certified, as applicable and if so requested, by an appropriate governmental official or an Authorized Signatory.

(b) The Lender Group shall have received evidence satisfactory to it that no change in the business, assets, management, operations, financial condition or prospects of the Borrower Parties and their Subsidiaries or the laws regulating the business of the Borrower Parties shall have occurred since December 31, 2014, which change has had or could reasonably be expected to have a Materially Adverse Effect (but excluding any such change that results directly from the discontinuance of the operations of Parent and its Subsidiaries in China prior to the Agreement Date), and the Lender Group shall have received a certificate of an Authorized Signatory of the Borrower so stating.

(c) The Lender Group shall have received the financial statements described in Section 5.1(k), each in form and substance satisfactory to the members of the Lender Group.

(d) The Lender Group shall have received evidence satisfactory to them that all material Necessary Authorizations are in full force and effect and are not subject to any pending or threatened reversal or cancellation and that no Default exists, after giving effect to the making of the Term Loan hereunder, and the Lender Group shall have received a certificate of an Authorized Signatory of the Borrower so stating.

(e) The Administrative Agent shall have received UCC financing statements naming each Borrower Party as a debtor and naming the Administrative Agent as secured party in form for filing in all appropriate jurisdictions, in such form as shall be satisfactory to the Administrative Agent (with the filing thereof to occur upon the effectiveness of this Agreement).

(f) The Lender Group shall have completed such other business and legal due diligence with respect to the Borrower Parties and the results thereof shall be acceptable to each member of the Lender Group, in its sole discretion, including, without limitation, with respect to financial performance, capitalization of the Borrower Parties and applicable bank regulatory, "know your customer," and anti-money laundering matters including, for the avoidance of doubt, with respect to the USA Patriot Act and Sanctions.

(g) The Lender Group shall have completed background checks with respect to certain key officers of the Borrower Parties and such background checks shall be satisfactory to each member of the Lender Group.

(h) The Administrative Agent shall have received evidence that the Subordinated Notes have been issued, the proceeds of the Subordinated Notes have been received by the Borrower, and the Subordinated Notes are in full force and effect as of the Agreement Date.

(i) All of the representations and warranties of the Borrower Parties under this Agreement and the other Loan Documents shall be true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) both before and after giving effect to the application of the proceeds of the Term Loan on the Agreement Date.

(j) There shall not exist, on the date of the Advance of the Term Loan and after giving effect thereto, a Default or Event of Default.

(k) The Borrower Parties shall have disclosed to the Lender Group the substance of all material events and other circumstances relating to any defaults known to Borrower Parties as to any Material Contract in existence as of the Agreement Date.

(l) The Closing Date Acquisition shall have closed in the manner contemplated by the Purchase Agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent. The Administrative Agent shall have received evidence that a minimum of $25,000,000 in cash common equity has been contributed to the Borrower.

(m) The Administrative Agent shall have received evidence that the Employment Agreements are in full force and effect as of the Agreement Date.

(n) The ratio of (i) Funded Debt of the Borrower and its Subsidiaries as of the Agreement Date to (ii) EBITDA of the Borrower and its Subsidiaries for the 12-month period ended as of September 30, 2015 shall not exceed 4.00 to 1.00, as certified to the Lender Group (with back-up calculations satisfactory to the Administrative Agent) by an Authorized Signatory.

Section 4.2 [Reserved].

Section 4.3 Conditions Precedent to Incremental Term Loan Commitments. The obligations of the Lenders to make one or all Incremental Term Loan Commitments available to the Borrower are subject in each case to the prior fulfillment of each of the following conditions, in each case as of the date the proposed Incremental Term Loan Commitments take effect:

(a) the financial performance of the Borrower Parties for the twelve-month period (or such shorter period commencing on April 1, 2018) ended as of the most recent month-end is consistent with the projected financial performance of the Borrower Parties for such period, as set forth in the projections most recently delivered to the Administrative Agent as of the Sixth Amendment Effective Date or pursuant to Section 7.5(c), as the case may be;

(b) the Borrower Parties shall be in compliance on a pro forma basis after giving effect to any funding of Loans under the applicable Incremental Term Loan Commitment and the use of proceeds thereof with the Financial Covenants;

(c) the Borrower Parties, and any Subsidiary of a Borrower Party, shall continue to engage in business of the industry and type as generally conducted by it as of the Agreement Date, and shall be in compliance with the covenant set forth in Section 8.13;

(d) the Borrower Parties shall have prepared and delivered to the Administrative Agent at least 30 days in advance of the proposed borrowing (or such shorter period as the Administrative Agent may approve in its sole discretion), a written proposal for the Administrative Agent and the Lender Group detailing the proposed use of the proceeds of the requested Incremental Term Loan Commitment, which proposal shall be in form and substance acceptable to the Administrative Agent (and shall include, without limitation, a detailed summary of the terms and conditions to any contemplated Permitted Acquisition, projected cash flows therefor, projected financial performance and liquidity forecast, pro forma for the Loans funded under the Incremental Term Loan Commitment) and shall have been consented to in writing by the Administrative Agent and those Lenders agreeing to make such Incremental Term Loan Commitments, in each case acting in their respective sole discretion;

(e) the Administrative Agent shall be satisfied with the due diligence it shall have conducted in respect of the proposed use of the proceeds of the applicable Incremental Term Loan Commitment (including with respect to the target (or target assets) of any Permitted Acquisition);

(f) the payment of all fees and expenses payable to those members of the Lender Group with an Incremental Term Loan Commitment pursuant to the Fee Letter;

(g) the Administrative Agent shall have received a duly executed Notice of Borrowing in accordance with the terms hereof;

(h) all of the representations and warranties of the Borrower Parties under this Agreement and the other Loan Documents shall be true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) both before and after giving effect to the application of the proceeds of the Loans; and

(i) no Default or Event of Default would result from the funding of Loans under the applicable Incremental Term Loan Commitment or the use of proceeds thereof.

Section 4.4 Conditions Precedent to Term Loan Commitments on the Sixth Amendment Effective Date. The obligations of the Lenders to undertake the Term Loan Commitment and to make the Term Loan on the Sixth Amendment Effective Date are subject to the prior fulfillment of each of the following conditions:

(a) The Administrative Agent shall have received each of the following, in form and substance satisfactory to the Administrative Agent:

(i) The duly executed Sixth Amendment;

(ii) The Direction Letter duly executed by the Borrower;

(iii) The legal opinion of Akerman, LLP, counsel to the Borrower Parties, addressed to the Lender Group;

(iv) With respect to each Borrower Party, a loan certificate signed by the secretary or assistant secretary of such Person (or, in the case of a Person that is a partnership, the general partner of such Person or, in the case of a Person that is a limited liability company, the members or manager, as appropriate, of such Person), in form and substance satisfactory to the Administrative Agent, including a certificate of incumbency with respect to each Authorized Signatory of such Person, together with appropriate attachments which shall include the following: (A) a true, complete and correct copy of the resolutions of such Person (or its general partner, members or manager, as applicable) authorizing the execution, delivery and performance by such Person of the Loan Documents and, with respect to Borrower, authorizing the borrowings hereunder, and (B) certificates of good standing from such Person's jurisdiction of formation, dated within 3 days prior to the Sixth Amendment Effective Date;

(v) Lien search results with respect to the Borrower Parties from all appropriate jurisdictions and filing offices;

(vi) Payment of all fees and expenses payable to the Lender Group and the Affiliates of the members of the Lender Group in connection with the Loan Documents;

(vii) A solvency certificate executed by the interim chief financial officer of the Borrower regarding the solvency and financial condition of the Borrower Parties, after giving effect to the transactions contemplated herein including the making of the Term Loans on the Sixth Amendment Effective Date and the consummation of the Separation Transaction;

(viii) A closing certificate executed by an Authorized Signatory of the Borrower, certifying as to the satisfaction of the closing conditions contained herein and attaching the Separation Documents and the Shareholder Agreement;

(ix) A duly executed Term Loan Note to the order of each Lender requesting a promissory note in the amount of such Lender's Term Loan;

(x) Certificates of insurance and, subject to Section 6.22, additional insured and loss payable endorsements, as applicable, with respect to the Borrower Parties and copies of all insurance policies of the Borrower Parties, in each case, meeting the requirements of Section 6.5;

(xi) All such other certificates, agreements, reports, statements, opinions of counsel or other documents as the Administrative Agent may reasonably request, certified, as applicable and if so requested, by an appropriate governmental official or an Authorized Signatory.

(b) all of the representations and warranties of the Borrower Parties under this Agreement and the other Loan Documents shall be true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) both before and after giving effect to the funding of the Term Loans and the application of the proceeds of the Loans.

(c) no Default or Event of Default would result from the funding of Loans under the applicable Term Loan Commitment in effect on the Sixth Amendment Effective Date or the use of proceeds thereof.

(d) The Lender Group shall have received evidence satisfactory to it that no change in the business, assets, management, operations, financial condition or prospects of the Borrower Parties and their Subsidiaries or the laws regulating the business of the Borrower Parties shall have occurred since December 31, 2017, which change has had or could reasonably be expected to have a Materially Adverse Effect, and the Lender Group shall have received a certificate of an Authorized Signatory of the Borrower so stating.

(e) The Lender Group shall have received evidence satisfactory to them that all material Necessary Authorizations are in full force and effect and are not subject to any pending or threatened reversal or cancellation and that no Default exists, after giving effect to the making of the Term Loan hereunder, and the Lender Group shall have received a certificate of an Authorized Signatory of the Borrower so stating.

(f) The Lender Group shall have completed such other legal due diligence with respect to applicable bank regulatory, "know your customer," and anti-money laundering matters including, for the avoidance of doubt, with respect to the USA Patriot Act and Sanctions, in each case, with respect to the Borrower Parties and the results thereof shall be acceptable to each member of the Lender Group, in its sole discretion.

(g) The Borrower Parties shall have disclosed to the Lender Group the substance of all material events and other circumstances relating to any defaults known to Borrower Parties as to any Material Contract in existence as of the Sixth Amendment Effective Date.

(h) The EBITDA of the Borrower and its Subsidiaries for the twelve-month period ended as of December 31, 2017 (as reflected in the financial statements of the Borrower and its Subsidiaries delivered to the Administrative Agent for the period ending December 31, 2017) is at least $35,000,000 for such period.

(i) The Borrower Parties, and any Subsidiary of a Borrower Party, shall continue to engage in business of the industry and type as generally conducted by it as of the Agreement Date, and shall be in compliance with the covenant set forth in Section 8.13 of this Agreement.

(j) The Administrative Agent shall have received the Monthly Report for the fiscal month ending January 31, 2018.

(k) The Administrative Agent shall have received evidence satisfactory to the Administrative Agent that all Funded Debt under the Subordinated Notes shall be simultaneously terminated and all amounts thereunder shall be simultaneously repaid in full.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

Section 5.1 General Representations and Warranties. In order to induce the Lender Group to enter into this Agreement and to extend the Loan, each Borrower Party hereby represents, and warrants that:

(a) Organization; Power; Qualification. Each Borrower Party and each Subsidiary of a Borrower Party (i) is a corporation, partnership or limited liability company duly organized, validly existing, and in active status or good standing under the laws of its state of incorporation or formation, (ii) has the corporate or other company power and authority to own or lease and operate its properties and to carry on its business as now being and hereafter proposed to be conducted, and (iii) is duly qualified and is in active status or good standing as a foreign corporation or other company, and authorized to do business, in each jurisdiction in which the character of its properties or the nature of its business requires such qualification or authorization, except, in the case of clauses (ii) and (iii), to the extent the failure to do so could not reasonably be expected to have a Materially Adverse Effect.

(b) Authorization; Enforceability. Each Borrower Party has the power and has taken all necessary action, corporate or otherwise, to authorize it to execute, deliver, and perform its obligations under this Agreement and each of the other Loan Documents to which it is a party in accordance with the terms thereof and to consummate the transactions contemplated hereby and thereby. Each of this Agreement and each other Loan Document to which a Borrower Party is a party has been duly executed and delivered by such Borrower Party, and is a legal, valid and binding obligation of such Borrower Party, enforceable in accordance with its terms except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditor's rights generally or by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(c) Partnerships; Joint Ventures; Subsidiaries. Except as disclosed on Schedule 5.1(c)-1, as of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party has any Subsidiaries. As of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party is a partner or joint venturer in any partnership or joint venture other than (i) the Subsidiaries listed on Schedule 5.1(c)-1 and (ii) the partnerships and joint ventures (that are not Subsidiaries) listed on Schedule 5.1(c)-2. Schedule 5.1(c)-1 and Schedule 5.1(c)-2 set forth, for each Person set forth thereon, a complete and accurate statement of (i) the percentage ownership of each such Person by the applicable Borrower Party or Subsidiary of a Borrower Party as of the Sixth Amendment Effective Date, (ii) the state or other jurisdiction of incorporation or formation, as appropriate, of each such Person as of the Sixth Amendment Effective Date, (iii) each state in which each such Person is qualified to do business as of the Sixth Amendment Effective Date and (iv) all of each Borrower Party's trade names, trade styles or doing business forms which such Person has used or under which such Person has transacted business during the five (5) year period immediately preceding the Sixth Amendment Effective Date. As of the Sixth Amendment Effective Date, no Subsidiary of any Borrower Party is an Unrestricted Subsidiary.

(d) Capital Stock and Related Matters. The authorized Equity Interests as of the Sixth Amendment Effective Date of each Borrower Party and each Subsidiary of a Borrower Party and the number of shares or units of such Equity Interests that are issued and outstanding as of the Sixth Amendment Effective Date are as set forth on Schedule 5.1(d). All of the shares or units of such Equity Interests in each Borrower Party and each Subsidiary of a Borrower Party that are issued and outstanding have been duly authorized and validly issued and are fully paid and non-assessable. None of such Equity Interests in each Borrower Party and each Subsidiary of a Borrower Party have been issued in violation of the Securities Act, or the securities, "Blue Sky" or other Applicable Laws of any applicable jurisdiction. As of the Sixth Amendment Effective Date, the Equity Interests of each such Borrower Party and each such Subsidiary of a Borrower Party are owned by the parties listed on Schedule 5.1(d) in the amounts set forth on such schedule and a description of the Equity Interests of each such party is listed on Schedule 5.1(d). Except as described on Schedule 5.1(d), as of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party has outstanding any stock or securities convertible into or exchangeable for any shares or units of its Equity Interests, nor are there any preemptive or similar rights to subscribe for or to purchase, or any other rights to subscribe for or to purchase, or any options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments, or claims of any character relating to, any Equity Interests or any stock or securities convertible into or exchangeable for any Equity Interests. Except as set forth on Schedule 5.1(d), as of the Sixth Amendment Effective Date, (i) no Borrower Party or any Subsidiary of any Borrower Party is subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares or units of its Equity Interests or to register any shares or units of its Equity Interests, (ii) there are no agreements restricting the transfer of any shares or units of such Borrower Party's or such Subsidiary's Equity Interests or restricting the ability of any Subsidiary of the Borrower from making distributions, dividends or other Restricted Payments to the Borrower and (iii) there are no shareholders or unitholders or share or unit purchase agreements relating to the Equity Interests of any of the Borrower Parties. Schedule 5.1(d) sets forth a capitalization table reflecting the percentage ownership in Parent as of the Sixth Amendment Effective Date, giving effect to the Separation Transactions (as defined in the Sixth Amendment), provided that ownership by all public shareholders will be set forth in the aggregate.

(e) Compliance with Law, Loan Documents, and Contemplated Transactions. The execution, delivery, and performance of this Agreement and each of the other Loan Documents in accordance with their respective terms and the consummation of the transactions contemplated hereby and thereby do not and will not (i) violate any Applicable Law in any material respect, (ii) conflict with, result in a breach of or constitute a default under the certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents of any Borrower Party or under any Material Contract, or (iii) result in or require the creation or imposition of any Lien upon or with any assets or property of any Borrower Party except Permitted Liens. Additionally, each Borrower Party and each Subsidiary of a Borrower Party is otherwise in compliance, in all material respects, with all Applicable Laws and with all of the provisions of its certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents.

(f) Necessary Authorizations. Each Borrower Party and each Subsidiary of a Borrower Party has obtained all material Necessary Authorizations, and all such Necessary Authorizations are in full force and effect. None of such Necessary Authorizations is the subject of any pending or, to the best of each Borrower Party's knowledge, threatened attack, amendment, termination, revocation or adverse judgment, decree or order issued by the grantor of such Necessary Authorization.

(g) Title to Properties. Each Borrower Party has good, marketable and legal title to, or a valid leasehold interest in, all of its properties and assets and none of such properties or assets is subject to any Liens, other than Permitted Liens.

(h) Material Contracts. Schedule 5.1(h) contains a complete list, as of the Sixth Amendment Effective Date, of each Material Contract, true, correct and complete copies of which have been delivered to the Administrative Agent. Schedule 5.1(h) further identifies, as of the Sixth Amendment Effective Date, each Material Contract that requires consent to the granting of a Lien in favor of the Administrative Agent on the rights of any Borrower Party thereunder. No Borrower Party or any Subsidiary of a Borrower Party is in default under or with respect to any Material Contract to which it is a party or by which it or any of its properties are bound.

(i) Labor and Employment Matters. There are no material strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Borrower Party, threatened) against or involving any Borrower Party or any Subsidiary of any Borrower Party. Except as set forth on Schedule 5.1(i), (i) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Borrower Party or any Subsidiary of any Borrower Party, (ii) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Borrower Party or any Subsidiary of any Borrower Party and (c) no such representative has sought certification or recognition with respect to any employee of any Borrower Party or any Subsidiary of any Borrower Party. None of the Borrower Parties, their respective Subsidiaries, nor any officers or directors of any of the foregoing have been indicted for a felony or are currently under investigation for a felony by any Governmental Authority.

(j) Taxes. All federal income, state income and franchise and other material tax returns of each Borrower Party and each Subsidiary of a Borrower Party required by law to be filed have been duly filed and, except as set forth on Schedule 5.1(j), all such tax returns are true, complete and correct in all material respects. All federal income, state income and franchise, and other material taxes (including without limitation, all material real estate and personal property, income, franchise, transfer and gains taxes), all general or special assessments, and other governmental charges or levies upon each Borrower Party and each Subsidiary of a Borrower Party and any of their respective properties, income, profits, and assets, which are shown thereon or are otherwise due and payable, have been paid, except any payment of any of the foregoing which such Borrower Party or such Subsidiary, as applicable, is currently reasonably and diligently contesting in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of such Borrower Party or such Subsidiary, as the case may be. As of the Sixth Amendment Effective Date, no adjustment relating to any tax returns or any claim for taxes has been proposed in writing by any Governmental Authority and, to the knowledge of each Borrower Party no basis exists for any such adjustment, except as reflected in the charges, accruals and reserves on the books of the Borrower Parties and their Subsidiaries. The charges, accruals, and reserves on the books of the Borrower Parties and their Subsidiaries in respect of taxes are, in the reasonable judgment of the Borrower Parties, adequate. As of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party is being audited, or has knowledge of any pending audit, by the Internal Revenue Service or any other Governmental Authority. As of the Sixth Amendment Effective Date, no Borrower Party has executed or filed with the Internal Revenue Service or any other Governmental Authority any agreement or other document extending, or having the effect of extending, the period for assessment or collection of any taxes. As of the Sixth Amendment Effective Date, none of the Borrower Parties and their respective predecessors are liable for any taxes which are past due and not being contested in good faith: (i) under any agreement (including any tax sharing agreements) or (ii) to each Borrower Party's knowledge, as a transferee or successor. No Borrower Party has agreed, or been requested, to make any adjustment under Code Section 481(a), by reason of a change in accounting method or otherwise. No Borrower Party or any Subsidiary of a Borrower Party has participated in a "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4(b)(2) or has been a member of an affiliated, combined or unitary group other than the group of which a Borrower Party or a Subsidiary of a Borrower Party is the common parent. As of the Agreement Date, Florida documentary stamp tax of not more than $2,400 is payable by the Borrower as a result of the execution and delivery of the Credit Agreement and the Master Intercompany Subordinated Note, which tax is payable on or before April 20, 2018.

(k) Financial Statements. The Borrower has furnished, or has caused to be furnished, to the Lenders (i) the audited consolidated financial statements of Parent and its Subsidiaries, which are complete and correct in all material respects and present fairly in accordance with GAAP the respective financial positions of such Persons for the fiscal years ending on December 31, 2017, December 31, 2016 and December 31, 2015, and the results of operations of such Persons for the fiscal years then ended, and (ii) the unaudited consolidated financial statements of Parent and its Subsidiaries, which are complete and correct in all material respects and present fairly in accordance with GAAP, subject to normal year-end adjustments, the respective financial positions of such Persons as at January 31, 2018, and the results of operations of such Persons for the one-month period then ended. Except as disclosed in such financial statements, neither Parent nor any of its Subsidiaries has any liabilities, contingent or otherwise, and there are no unrealized or anticipated losses of Parent or any of its Subsidiaries, in each case which have not heretofore been disclosed in writing to the Lenders except to the extent incurred in the ordinary course of business.

(l) No Adverse Change. Since December 31, 2015, there has occurred no event or change (but excluding any event or change that results directly from those matters referenced in a letter from the Borrower to the Lender Group dated as of January 17, 2017 and delivered pursuant to Section 7.6(a) of this Agreement) which has had or could reasonably be expected to have a Materially Adverse Effect.

(m) Investments and Guaranties. As of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party owns any Equity Interests of any Person except as disclosed on Schedules 5.1(c)-1 and 5.1(c)-2, or has outstanding loans or advances to, or Guaranties of the obligations of, any Person, except as reflected in the financial statements referred to in Section 5.1(k) or disclosed on Schedule 5.1(m).

(n) Liabilities, Litigation, etc. Except for liabilities incurred in the ordinary course of business, no Borrower Party or any Subsidiary of any Borrower Party has any material (individually or in the aggregate) liabilities, direct or contingent, except as disclosed or referred to in the financial statements referred to in Section 5.1(k) or with respect to the Obligations. Except as described on Schedules 5.1(n) and 5.1(y), there is no litigation, legal or administrative proceeding, investigation, or other action of any nature pending or, to the knowledge of the Borrower Parties, threatened against any Borrower Party, any Subsidiary of any Borrower Party or any of their respective properties which could reasonably be expected to result in any judgment against or liability of such Borrower Party or Subsidiary in excess of $750,000 individually or in the aggregate with respect to all Borrower Parties and their Subsidiaries, or the loss of any certification or license material to the operation of the Borrower Parties' business. None of such litigation disclosed on Schedules 5.1(n) and 5.1(y), individually or collectively, could reasonably be expected to have a Materially Adverse Effect.

(o) ERISA. Except as could not reasonably be expected, individually or in the aggregate, to create any material liability to a Borrower Party, (i) each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service indicating that such Plan is so qualified and, to the knowledge of the Borrower, nothing has occurred subsequent to the issuance of such determination letter which could cause such Plan to lose its qualified status, (ii) each Borrower Party and each of their respective ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the Code and the regulations and published interpretations thereunder with respect to each Plan and (iii) except to the extent required under Section 4980B of the Code or similar state laws, no Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any of the Borrower Parties or any of their respective ERISA Affiliates. Except as could not reasonably be expected, individually or in the aggregate, to create any material liability to a Borrower Party, (i) no liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Plan or any trust established under Title IV of ERISA has been or is reasonably expected to be incurred by, any of the Borrower Parties or any of their ERISA Affiliates, (ii) no ERISA Event has occurred or is reasonably expected to occur, and (iii) the Borrower Parties and each of their ERISA Affiliates have complied with the requirements of Section 515 of ERISA with respect to each Multiemployer Plan and are not in "default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan.

(p) Intellectual Property; Licenses; Certifications. Schedule 5.1(p) sets forth, as of the Sixth Amendment Effective Date, all registered and pending patents, trademarks, service marks and copyrights owned by each Borrower Party and its Subsidiaries. The Borrower Parties and their Subsidiaries own (free and clear of all Liens other than Permitted Liens) or have the right to use all material Intellectual Property, licenses and certifications necessary for the conduct of their businesses. To the knowledge of each Borrower Party, (a) the conduct and operations of the businesses of each Borrower Party and each Subsidiary of each Borrower Party does not infringe, misappropriate, dilute or violate in any material respect any Intellectual Property owned by any other Person and (b) no other Person has contested any material right, title or interest of any Borrower Party or any Subsidiary of any Borrower Party in, or relating to, any Intellectual Property.

(q) Collateral; Perfection Matters. Subject to Section 6.20, the provisions of this Agreement, the Security Agreement and the other Loan Documents are and will be effective to create in favor of the Administrative Agent, for its benefit and the benefit of the Lender Group, a valid and enforceable security interest in and Lien upon the Collateral purported to be pledged, charged, mortgaged or assigned by it thereunder and described therein, subject, in the case of enforceability, to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity and principles of good faith and fair dealing, and upon the making of such filings and the taking of such other actions required to be taken hereby or by the applicable Loan Documents (including (a) the filing of appropriate UCC financing statements and continuations thereof in the jurisdictions specified therein, (b) with respect to United States copyright registrations, United States patents and pending patent applications, and United States federal trademark registrations and trademark applications, in each case, the recordation of the Copyright Security Agreements, the Patent Security Agreements and the Trademark Security Agreements, as applicable, in the U.S. Patent and Trademark Office or U.S. Copyright Office, as applicable, (c) the proper recordation of Mortgages and fixture filings with respect to owned real property other than property that is not required to be subject to a Mortgage hereunder and (d) the delivery to the Administrative Agent of any certificates evidencing the certificated securities required to be delivered pursuant to the applicable Security Documents, duly endorsed or accompanied by duly executed stock powers (where applicable)), such security interest and Lien shall constitute a fully perfected first priority Lien upon such right, title and interest of the Borrower Parties, in and to such Collateral (to the extent such Liens are required to be perfected under the terms of the Loan Documents), to the extent that such security interest and Lien can be perfected by such filings, actions, giving of notice and possession, subject only to Permitted Liens.

(r) Obligations Constitute Senior Secured Debt. The Obligations constitute first-priority senior secured indebtedness of the Borrower Parties and there is no other Funded Debt that ranks senior in right of payment to the Obligations.

(s) Accuracy and Completeness of Information. All written information, reports, other papers and data relating to the Borrower Parties and their Subsidiaries furnished by or at the direction of the Borrower Parties to the Lender Group, or any of them, in each case as modified or supplemented by other information so furnished, is complete and correct in all material respects and does not, when taken as a whole, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein not misleading in light of the circumstances under which such statements were made. No fact is currently known to any Borrower Party which has had, or could reasonably be expected to have, a Materially Adverse Effect. All financial projections, estimates and forecasts provided by or at the direction of the Borrower Parties and their Subsidiaries to the Lender Group (including those delivered prior to the Agreement Date) represent the Borrower Parties' good faith estimates of future financial performance and are based on assumptions believed by the Borrower Parties to be reasonable and fair as of the date furnished in light of the market conditions and facts known at the time of delivery, it being acknowledged and agreed by the Lender Group that projections as to future events are not to be viewed as fact and are not guarantees of financial performance and that the actual results during the period or periods covered by such projections may differ from the projected results and that such differences may be material.

(t) Compliance with Regulations T, U, and X. No Borrower Party or any Subsidiary of a Borrower Party is engaged principally in the business of, or has as one of its important activities, extending credit for the purpose of purchasing or carrying, and no Borrower Party or any Subsidiary of a Borrower Party owns or presently intends to acquire, any "margin security" or "margin stock" as defined in Regulations T, U and X of the Board of Governors of the Federal Reserve System (herein called "Margin Stock"). None of the proceeds of the Loan will be used, directly or indirectly, for the purpose of purchasing or carrying any Margin Stock or for the purpose of reducing or retiring any Funded Debt which was originally incurred to purchase or carry Margin Stock or for any other purpose which could reasonably be expected to constitute this transaction a "purpose credit" within the meaning of said Regulations T, U and X. None of any Borrower Party, any Subsidiary of a Borrower Party nor any bank acting on its behalf has taken or will take any action which might cause this Agreement or any other Loan Documents to violate Regulation T, U or X or any other regulation of the Board of Governors of the Federal Reserve System or to violate the SEA, in each case as now in effect or as the same may hereafter be in effect. If so requested by the Administrative Agent, the Borrower Parties and their Subsidiaries will furnish the Administrative Agent with (i) a statement or statements in conformity with the requirements of Federal Reserve Form U-1 referred to in Regulation U of said Board of Governors and (ii) other documents evidencing its compliance with the margin regulations requested by the Administrative Agent. Neither the making of the Loan nor the use of proceeds thereof will violate, or be inconsistent with, the provisions of Regulation T, U or X of said Board of Governors.

(u) Solvency. After giving effect to the transactions contemplated by the Loan Documents (including without limitation the Sixth Amendment, the funding of the Term Loans on the Sixth Amendment Effective Date and the Term Loan Refinancing as defined therein) and Related Agreements, including any Loans made hereunder and the application of proceeds thereof, (i) the property of each Borrower Party, at a fair valuation on a going concern basis, will exceed its debt; (ii) the capital of each Borrower Party will not be unreasonably small to conduct its business; (iii) no Borrower Party will have incurred debts, or have intended to incur debts, beyond its ability to pay such debts as they mature; (iv) the property of the Borrower Parties, taken as a whole, at a fair valuation on a going concern basis, will exceed their collective debt; (v) the capital of the Borrower Parties, taken as a whole, will not be unreasonably small to conduct their collective business; and (vi) the Borrower Parties, taken as a whole, shall not have incurred debts, or have intended to incur debts, beyond their collective ability to pay such debts as they mature. For purposes of this Section 5.1(u), "debt" shall mean any liability on a claim, and "claim" shall mean (A) the right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, undisputed, legal, equitable, secured or unsecured, or (B) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, undisputed, secured or unsecured.

(v) Insurance. The Borrower Parties and their Subsidiaries have insurance meeting the requirements of Section 6.5, and such insurance policies are in full force and effect. All insurance maintained by the Borrower Parties and their Subsidiaries as of the Sixth Amendment Effective Date is fully described on Schedule 5.1(v).

(w) Broker's or Finder's Commissions. Except as set forth on Schedule 5.1(w), no broker's or finder's fee or commission will be payable with respect to the execution and delivery of this Agreement and the other Loan Documents, and no other similar fees or commissions will be payable by the Borrower Parties for any other services rendered to the Borrower Parties ancillary to the credit transactions contemplated herein.

(x) Real Property. All real property leased by each Borrower Party and each Subsidiary of a Borrower Party as of the Sixth Amendment Effective Date, and the name of the lessor of such real property, is set forth in Schedule 5.1(x)-1. The leases of each Borrower Party and each Subsidiary of a Borrower Party material to the operations of the Borrower Parties and their Subsidiaries are valid, enforceable and in full force and effect, and have not been modified or amended, except as otherwise set forth in Schedule 5.1(x)-1. No Borrower Party or any Subsidiary of a Borrower Party has made any pledge, mortgage, assignment or sublease of any of its rights under such leases except pursuant to the Loan Documents and as set forth in Schedule 5.1(x)-1 and, there is no default or condition in respect of any such leases which, with the passage of time or the giving of notice, or both, could constitute a default on the part of the Borrower Parties and their Subsidiaries or, to the knowledge of the Borrower Parties and their Subsidiaries, the counterparties thereto, except to the extent such default or condition could not reasonably be expected to result in a Materially Adverse Effect. The Borrower Parties and their Subsidiaries have paid all rents and other material charges due and payable under such leases. All real property owned by each Borrower Party or a Subsidiary of a Borrower Party as of the Sixth Amendment Effective Date is set forth in Schedule 5.1(x)-2. As of the Sixth Amendment Effective Date, no Borrower Party or any Subsidiary of a Borrower Party owns, leases or uses any real property other than as set forth on Schedules 5.1(x)-1 or 5.1(x)-2. Each Borrower Party and each Subsidiary of a Borrower Party owns good and valid fee simple title to all of its owned real property, and none of its respective owned real property is subject to any Liens, except Permitted Liens. No Borrower Party or any Subsidiary of a Borrower Party owns or holds, or is obligated under or a party to, any option, right of first refusal or any other contractual right to purchase, acquire, sell, assign or dispose of any real property owned or leased by it, except as described on Schedule 5.1(x)-3 hereof.

(y) Environmental Matters.

(i) Except as specifically disclosed in Schedule 5.1(y), no Borrower Party or any Subsidiary thereof (A) has failed to comply in any material respect with any Environmental Law or to obtain, maintain or comply with any material permit, license or other approval required under any Environmental Law, (B) has received notice of any material claim with respect to any Environmental Law or (C) knows of any basis for any material liability under any Environmental Law.

(ii) Except as set forth in Schedule 5.1(y), (A) there are no and, to the knowledge of any Borrower Party, never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any Property currently owned or, to the knowledge of any Borrower Party, operated by any Borrower Party that are not in material compliance with Environmental Laws; (B) there is no asbestos or asbestos-containing material on any Property currently owned or, to the knowledge of any Borrower Party, operated by any Borrower Party that is not in material compliance with Environmental Laws; or; and (C) to the knowledge of the Borrower Parties, Hazardous Materials have not been released, discharged or disposed of on any Property currently or formerly owned or operated by any Borrower Party or any Subsidiary thereof in a manner that could reasonably be expected to result in any material liability of the Borrower Parties.

(iii) Except as set forth on Schedule 5.1(y), (i) no Borrower Party or any Subsidiary thereof is undertaking, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and (ii) all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any Property currently or formerly owned or operated by any Borrower Party or any Subsidiary thereof have been disposed of in a manner which could not be expected to result in any material liability to any Borrower Party or any Subsidiary thereof.

(z) OSHA. All of the Borrower Parties' and their Subsidiaries' operations are conducted in compliance, in all material respects, with all applicable rules and regulations promulgated by the Occupational Safety and Health Administration of the United States Department of Labor.

(aa) Name of Borrower Party. Except as set forth on Schedule 5.1(aa), no Borrower Party or any Subsidiary of any Borrower Party has changed its name within the five (5) years prior to the Sixth Amendment Effective Date, nor has any Borrower Party or any Subsidiary of a Borrower Party transacted business under any other name or trade name.

(bb) Investment Company Act. No Borrower Party or any Subsidiary of a Borrower Party is required to register as an "investment company" under the provisions of the Investment Company Act of 1940, as amended, and the entering into or performance by the Borrower Parties of this Agreement does not violate any provision of such Act or require any consent, approval, or authorization of, or registration with, any governmental or public body or authority pursuant to any of the provisions of such Act.

(cc) FCPA. No part of the proceeds of the Loan will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA**.**

(dd) Anti-Terrorism Laws.

(i) None of the Borrower Parties or any Affiliate of any Borrower Party is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(ii) None of the Borrower Parties, or any Affiliate of any Borrower Party, or, to the knowledge of any Borrower Party, their respective agents acting or benefiting in any capacity in connection with the Loans or the other transactions hereunder, is any of the following (each a "Blocked Person"): (A) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224; (B) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224; (C) a Person with which the Administrative Agent or any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (D) a Person that commits, threatens or conspires to commit or supports "terrorism" (as defined in the Executive Order No. 13224); (E) a Person that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or (F) a Person affiliated or associated with any Person in Section 5.1(dd)(i) through and including Section 5.1(dd)(ii) above.

(iii) No Borrower Party or to the knowledge of any Borrower Party, any of its agents acting in any capacity in connection with the Loans or the other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

(ee) Anti-Corruption Laws and Sanctions.

(i) The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Parent, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Parent, its Subsidiaries and their respective officers and employees and, to the knowledge of the Borrower and its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects.

(ii) None of (a) the Borrower Parties or their respective directors, officers or employees, or (b) to the knowledge of any Borrower Party, any agent of such Borrower Party that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No borrowing, use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or applicable Sanctions.

Section 5.2 Survival of Representations and Warranties, etc. All representations and warranties made by the Borrower Parties in the Loan Documents and in the reports, certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any incorrect representation or warranty at the time any Loan is made, and shall continue in full force and effect as long as any Obligation is outstanding and so long as the Commitment has not expired or terminated.

Section 5.3 Parent as Holding Company. Parent is a holding company and does not have any material liabilities, own any material assets or engage in any operations or business other than as set forth in Section 8.21.

ARTICLE 6

GENERAL COVENANTS

Until the Obligations shall have been indefeasibly paid in full in cash and the Commitments shall have been terminated:

Section 6.1 Preservation of Existence and Similar Matters. Each Borrower Party will, and will cause each of its Subsidiaries to, (i) except as expressly permitted by Section 8.7, preserve and maintain its due organization, valid existence and good standing, in each case in its jurisdiction of incorporation or organization, (ii) qualify and remain qualified and authorized to do business in each material jurisdiction in which the character of its properties or the nature of its business requires such qualification or authorization and (iii) maintain all Necessary Authorizations, except, in the case of clauses (ii) and (iii), to the extent the failure to be so qualified or maintain such Necessary Authorizations could not reasonably be expected to result in a Materially Adverse Effect.

Section 6.2 Compliance with Applicable Law. Each Borrower Party will, and will cause each of its Subsidiaries to, comply, in all material respects, with the requirements of all Applicable Law.

Section 6.3 Maintenance of Properties. Each Borrower Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in the ordinary course of business in good repair, working order and condition, normal wear and tear and disposal of obsolete equipment excepted, all properties used or useful in its business (whether owned or held under lease).

Section 6.4 Accounting Methods and Financial Records. Each Borrower Party will, and will cause each of its Subsidiaries to, maintain, on a consolidated basis, a system of accounting established and administered in accordance with GAAP and will keep adequate records and books of account in which complete entries will be made in accordance with such accounting principles consistently applied and reflecting all transactions required to be reflected by such accounting principles.

Section 6.5 Insurance. Each Borrower Party will, and will cause each of its Subsidiaries to, maintain insurance including, but not limited to, property insurance, public liability, comprehensive general liability, business interruption, fidelity coverage insurance, wind/hurricane insurance and flood insurance, in such amounts and against such risks as would be customary for companies in the same industry and of comparable size as the Parent and its Subsidiaries from financially sound and reputable insurance companies having and maintaining an A.M. Best rating of “A minus” or better. In addition to the foregoing, each Borrower Party further agrees to maintain and pay for insurance upon all goods constituting Collateral wherever located, in storage or in transit in vehicles, vessels or aircraft, including goods evidenced by documents, covering casualty, hazard, public liability and such other risks and in such amounts as would be customary for companies in the same industry and of comparable size as the Borrower Parties, from financially sound and reputable insurance companies having and maintaining an A.M. Best rating of “A minus” or better to insure the Lender Group’s interest in such Collateral. At all times after 90 days following the Sixth Amendment Effective Date (or such later date as the Administrative Agent may approve in its sole discretion), the Borrower will maintain with a responsible insurance company the Key Man Life Insurance Policies, each in an amount not less than $15,000,000 and pursuant to policies in form and substance reasonably satisfactory to Administrative Agent, each of which policies shall have been assigned to Administrative Agent for the benefit of Administrative Agent and the Lenders pursuant to a collateral assignment of life insurance policy in form and substance reasonably satisfactory to Administrative Agent. All such property insurance policies covering goods that constitute Collateral, and all property insurance policies covering real property owned or leased by any Borrower Party, shall name the Administrative Agent as loss payee and all liability insurance policies shall name the Administrative Agent as additional insured. Each Borrower Party shall deliver certificates of insurance evidencing that the required insurance is in force together with satisfactory lender’s loss payable and additional insured, as applicable, endorsements. Each policy of insurance or endorsement shall contain a clause requiring the insurer to give not less than thirty (30) days’ prior written notice to the Administrative Agent in the event of cancellation of the policy for any reason whatsoever (other than non-payment of premiums, which notice may be less than thirty (30) days but shall be at least ten (10) days) and the Borrower Parties shall use commercially reasonable efforts to deliver endorsements containing a clause requiring the insurer to give not less than thirty (30) days’ prior written notice to the Administrative Agent in the event of modification of the policy for any reason whatsoever. If any Borrower Party fails to provide and pay for such insurance, the Administrative Agent may, at the Borrower’s expense, procure the same, but shall not be required to do so. Each Borrower Party agrees to deliver to the Administrative Agent, promptly as rendered, true copies of all reports made in any reporting forms to insurance companies.

Section 6.6 Payment of Taxes and Claims. Each Borrower Party will, and will cause each of its Subsidiaries to, pay and discharge (i) all material taxes, assessments, and governmental charges or levies imposed upon it or its income or profit or upon any properties belonging to it prior to the date on which penalties attach thereto, and (ii) all lawful claims for labor, materials and supplies which have become due and payable and which by law have or may become a Lien upon any of its property; except that, no such tax, assessment, charge, levy, or claim need be paid which is being reasonably and diligently contested in good faith by appropriate proceedings and for which reserves in conformity with GAAP have been provided on the books of such Borrower Party, but only so long as such tax, assessment, charge, levy, or claim does not become a Lien or charge other than a Permitted Lien and no foreclosure, distraint, sale, or similar proceedings shall have been commenced and remain unstayed for a period thirty (30) days after such commencement. Each Borrower Party shall, and shall cause each of its Subsidiaries to, timely (subject to extension) file all federal, income, state income and franchise and other material tax and information returns required by any Governmental Authority.

Section 6.7 Visits and Inspections. Upon the request of the Administrative Agent, each Borrower Party will, and will permit each of its Subsidiaries to, permit representatives of the Administrative Agent and one additional Lender to (a) visit and inspect the properties of the Borrower Parties and their Subsidiaries during normal business hours, (b) inspect and make extracts from and copies of the Borrower Parties' and their Subsidiaries' books and records, (c) conduct appraisals, field examinations and audits of Inventory and other personal property of the Borrower Parties and their Subsidiaries for which the Borrower Parties shall be required to reimburse the Administrative Agent no more than two times per calendar year (provided that the number of appraisals, field exams and audits which the Administrative Agent or its representatives may perform and for which the Borrower Parties shall reimburse the Administrative Agent shall be unlimited if a Default or Event of Default has occurred and is continuing), and (d) discuss with the Borrower Parties' and their Subsidiaries' respective principal officers the Borrower Parties' or such Subsidiaries' businesses, assets, liabilities, financial positions, results of operations, and business prospects relating to the Borrower Parties or such Subsidiaries. Any other member of the Lender Group may, at its expense (unless an Event of Default has occurred and is continuing), accompany the Administrative Agent on any regularly scheduled visit (or at any time that a Default exists any visit regardless of whether it is regularly scheduled) to the Borrower Parties and their Subsidiaries' properties.

Section 6.8 [Reserved.]

Section 6.9 ERISA. Each Borrower Party shall at all times make, or cause to be made, prompt payment of contributions required to meet the minimum funding standards set forth in ERISA with respect to each Borrower Party's and its ERISA Affiliates' Title IV Plans that are subject to such funding requirements; furnish to the Administrative Agent, promptly upon the Administrative Agent's written request therefor, copies of any annual report required to be filed pursuant to ERISA in connection with each such Title IV Plan of each Borrower Party and its ERISA Affiliates; and notify the Administrative Agent as soon as practicable of any ERISA Event regarding any Plan, Title IV Plan or Multiemployer Plan that could reasonably be expected to have a Materially Adverse Effect or give rise to a Lien on any Borrower Party or on any of the assets thereof.

Section 6.10 Lien Perfection. Each Borrower Party agrees to take such action as may be requested by the Administrative Agent to perfect or continue the perfection of the Administrative Agent's (on behalf of, and for the benefit of, the Lender Group) security interest in the Collateral. Each Borrower Party hereby authorizes the Administrative Agent to file or transmit for filing, at any time, any financing statements and amendments in any jurisdiction and in any filing office (i) describing the Collateral as "all assets of the debtor" or "all personal property of the debtor" or words of similar effect, in each case, at the option of the Administrative Agent, indicating such Collateral includes such assets or property "whether now owned or hereafter acquired", (ii) describing the Collateral as being of equal or lesser scope or with greater detail, or (iii) that contains any information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance. Each Borrower Party also hereby ratifies any and all financing statements or amendments previously filed by or on behalf of the Administrative Agent in any jurisdiction.

Section 6.11 Location of Collateral. All tangible property owned by a Borrower Party constituting Collateral, other than Inventory in transit, Inventory sold in the ordinary course of business and raw materials and work-in-process located at manufacturing sites operated by a third party, will at all times be kept by the Borrower Parties at one or more of the business locations of the Borrower Parties set forth in Schedule 6.11. The Inventory shall not, without the prior written approval of the Administrative Agent, which approval shall not be unreasonably withheld, be moved from the locations set forth on Schedule 6.11 except as permitted in the immediately preceding sentence and except for, in the absence of a continuing Event of Default, (a) sales or other dispositions of assets permitted pursuant to Section 8.7 and (b) the storage of Inventory at locations within the continental U.S. other than those specified in the first sentence of this Section 6.11 as updated from time to time if (i) the Borrower gives the Administrative Agent written notice of the new storage location at least fifteen (15) Business Days prior to storing Inventory at such location, (ii) the Administrative Agent's security interest in such Inventory is and continues to be a duly perfected, first priority Lien thereon, (iii) neither any Borrower Party's nor the Administrative Agent's right of entry upon the premises where such Inventory is stored or its right to remove the Inventory therefrom, is in any way restricted, (iv) if requested by the Administrative Agent, any owner of such premises, and any bailee, warehouseman or similar party that will be in possession of such Inventory, shall have executed and delivered to the Administrative Agent a Collateral Access Agreement, and (v) all negotiable documents and receipts in respect of any Collateral maintained at such premises are promptly delivered to the Administrative Agent and any non-negotiable documents and receipts in respect of any Collateral maintained at such premises are issued to the Administrative Agent and promptly delivered to the Administrative Agent.

Section 6.12 Protection of Collateral. All insurance expenses and expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping the Collateral (including, without limitation, all rent payable by any Borrower Party to any landlord of any premises where any of the Collateral may be located), and any and all excise, property, sales, and use taxes imposed by any state, federal, or local authority on any of the Collateral or in respect of the sale thereof, shall be borne and paid by the Borrower Parties. If the Borrower Parties fail to promptly pay any portion thereof when due, after giving effect to any applicable grace periods, the Lender Group, or any of them, may, at its option during the existence of an Event of Default, but shall not be required to, pay the same directly to the appropriate Person. The Borrower agrees to reimburse the Lender Group, as applicable, promptly therefor with interest accruing thereon daily at the Default Rate provided in this Agreement for Base Rate Advances. All sums so paid or incurred by the Lender Group for any of the foregoing and all reasonable costs and expenses (including attorneys' fees, legal expenses, and court costs) which the Lender Group, or any of them, may incur in enforcing or protecting the Lien on or rights and interest in the Collateral or any of their rights or remedies under this or any other agreement between the parties hereto or in respect of any of the transactions to be had hereunder until paid by the Borrower to the Lender Group, as applicable, with interest at the Default Rate for Base Rate Advances, shall be considered Obligations owing by the Borrower to the Lenders hereunder. Such Obligations shall be secured by all Collateral and by any and all other collateral, security, assets, reserves, or funds of the Borrower Parties in or coming into the hands or inuring to the benefit of the Lender Group. The Lender Group shall not be liable or responsible in any way for the safekeeping of any of the Collateral or for any loss or damage thereto (and specifically disclaims any liability or responsibility with respect thereto) or for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency, or other person whomsoever, but the same shall be at the Borrower Parties' sole risk.

Section 6.13 Intellectual Property Rights. Each Borrower Party shall take all steps necessary or appropriate in its reasonable business judgment to (i) preserve and protect its respective rights in Intellectual Property material to the business of the Borrower Parties or their Subsidiaries or otherwise of material value and (ii) prevent any lapse, abandonment, cancellation, dedication to the public, forfeiture, finding of unenforceability or any other impairment of such Intellectual Property. Each Borrower Party shall take all commercially reasonable steps necessary to protect the secrecy of all material trade secrets of such Borrower Party.

Section 6.14 Administration of Accounts.

(a) The Administrative Agent retains the right upon the occurrence and during the continuance of an Event of Default to notify the Account Debtors that the Accounts have been assigned to the Administrative Agent, for the benefit of the Lender Group, and to collect the Accounts directly in its own name and to charge the collection costs and expenses, including attorneys' fees, to the Borrower. The Lender Group has no duty to protect, insure, collect or realize upon the Accounts or preserve rights in them. Each Borrower Party irrevocably makes, constitutes and appoints the Administrative Agent as such Borrower Party's true and lawful attorney and agent-in-fact to endorse such Borrower Party's name on any checks, notes, drafts or other payments relating to, the Accounts which come into the Administrative Agent's possession or under the Administrative Agent's control as a result of its taking any of the foregoing actions. Additionally, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have the right to collect and settle or adjust all disputes and claims directly with the Account Debtors and to compromise the amount or extend the time for payment of the Accounts upon such terms and conditions as the Administrative Agent may deem advisable, and to charge the deficiencies, costs and expenses thereof, including attorneys' fees, to the Borrower.

(b) If an Account includes a charge for any tax payable to any governmental taxing authority, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent is authorized, in its sole discretion, to pay the amount thereof to the proper taxing authority for the account of the applicable Borrower Party. The Borrower agrees to reimburse the Administrative Agent promptly therefor with interest accruing thereon daily at the Default Rate provided in this Agreement. The Borrower Parties shall notify the Administrative Agent if any Account includes any tax due to any governmental taxing authority and, in the absence of such notice, the Administrative Agent shall have the right to retain the full proceeds of the Account and shall not be liable for any taxes to any governmental taxing authority that may be due by any Borrower Party by reason of the sale and delivery creating the Account.

(c) Upon the occurrence and during the continuance of an Event of Default, any of the Administrative Agent's officers, employees or agents shall have the right, at any time or times hereafter, in the name of the Administrative Agent, or any designee of the Administrative Agent or the Borrower Parties, to verify the validity, amount or other matter relating to any Accounts by mail, telephone, telegraph or otherwise. The Borrower Parties shall cooperate fully with the Administrative Agent in an effort to facilitate and promptly conclude any such verification process.

Section 6.15 The Blocked Accounts. Subject to Section 6.22, on or before the Sixth Amendment Effective Date, and at all times thereafter:

(a) The Borrower Parties shall establish and maintain one or more deposit accounts at one or more third-party banking institutions acceptable to the Administrative Agent (each such bank, a "Cash Management Bank"). Each such Cash Management Bank at which a Borrower Party maintains a deposit account (other than an Excluded Account) shall agree, and the Borrower Parties shall cause such Cash Management Banks to agree, to a Blocked Account Agreement that shall be mutually satisfactory to the Administrative Agent, such Cash Management Bank and the Borrower Parties; provided that the Administrative Agent shall not exercise exclusive control over any deposit account unless an Event of Default shall have occurred and is continuing.

(b) As of the Sixth Amendment Effective Date, all bank accounts, deposit accounts, securities accounts and investment accounts of the Borrower Parties are listed on Schedule 6.15. Except as otherwise expressly agreed by the Administrative Agent, no Borrower Party shall open or maintain any bank account, deposit account (other than an Excluded Account), securities account or investment account, unless the depository bank or financial institution for such account shall have entered into a Blocked Account Agreement with the Administrative Agent.

Section 6.16 Further Assurances. Upon the request of the Administrative Agent, each Borrower Party will promptly cure, or cause to be cured, defects in the execution and delivery of the Loan Documents (including this Agreement) resulting from any act or failure to act by any Borrower Party or any employee or officer thereof. Each Borrower Party at its expense will promptly execute and deliver to the Administrative Agent and the Lenders, or cause to be executed and delivered to the Administrative Agent and the Lenders, all such other and further documents, agreements, and instruments in compliance with or accomplishment of the covenants and agreements of the Borrower Parties in the Loan Documents (including this Agreement) or to correct any omissions in the Loan Documents, or to obtain any consents, all as may be necessary or appropriate in connection therewith as may be reasonably requested by the Administrative Agent; provided that Borrower shall not be required to obtain a Collateral Access Agreement for its location at 33 Whitehall Street, 15th Fl., NY, NY 10004 unless Borrower determines to renew its lease at such location.

Section 6.17 Broker's Claims. Each Borrower Party hereby indemnifies and agrees to hold each member of the Lender Group harmless from and against any and all losses, liabilities, damages, costs and expenses which may be suffered or incurred by such member of the Lender Group in respect of any claim, suit, action or cause of action now or hereafter asserted by a broker or any Person acting in a similar capacity arising from or in connection with the execution and delivery of this Agreement or any other Loan Document or the consummation of the transactions contemplated herein or therein. This Section 6.17 shall survive termination of this Agreement.

Section 6.18 Indemnity. Each Borrower Party, jointly and severally, hereby indemnifies and agrees to hold harmless each Indemnified Person from and against any and all claims, liabilities, investigations, losses, damages, actions, demands, penalties, judgments, suits, investigations and costs, expenses (including reasonable, documented out-of-pocket fees and expenses of experts, agents, consultants and counsel) and disbursements, in each case, of any kind or nature (whether or not the Indemnified Person is a party to any such action, suit, investigation or proceeding) whatsoever which may be imposed on, incurred by, or asserted against an Indemnified Person resulting from (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, any breach or alleged breach by the Borrower Parties of any representation or warranty made hereunder, or otherwise in any way relating to or arising out of the Commitment, the Loan, the use of proceeds thereof, this Agreement, the other Loan Documents or any other document contemplated by this Agreement, the making, administration or enforcement of the Loan Documents and the Loan, any transaction contemplated hereby or any related matters, (ii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Borrower Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Borrower Party or any of its Subsidiaries or (iii) any related matters or any claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (each, a "Proceeding"), regardless of whether such Indemnified Person is a party hereto or to any other Loan Document, whether or not such Proceedings are brought by a Borrower Party, any of their Affiliates, or any other Person, and will reimburse each Indemnified Person within 30 days of written demand for any reasonable documented out of pocket expenses incurred in connection with investigating or defending any of the foregoing, unless, with respect to any of the above, such Indemnified Person's acts or omissions are determined by a final non-appealable judgment of a court of competent jurisdiction to constitute gross negligence or willful misconduct of such Indemnified Person. This Section 6.18 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY TO ANY LOAN DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY LOAN DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR UNDER ANY OTHER LOAN DOCUMENT. This Section 6.18 shall survive termination of this Agreement.

Section 6.19 Environmental Matters. Each Borrower Party shall (a) conduct its operations and keep and maintain its Properties in compliance with all Environmental Laws, except to the extent the failure to do so could not reasonably be expected to result in a Materially Adverse Effect; (b) obtain and renew all material environmental permits necessary for its operations and Properties, except to the extent the failure to do so could not reasonably be expected to result in a Materially Adverse Effect and (c) implement any and all investigation, remediation, removal and response actions that are necessary to maintain the value and marketability of its Properties or to otherwise comply with Environmental Laws pertaining to the presence, generation, treatment, storage, use, disposal, transportation or release of any Hazardous Materials on, at, in, under, above, to, from or about any of its Properties, provided, however, that no Borrower Party shall be required to undertake any such investigation, remediation, removal or response action to the extent that its obligation to do so is being reasonably and diligently contested in good faith and by proper proceedings and adequate reserves have been set aside and are being maintained by the Borrower Parties with respect to such circumstances in accordance with GAAP.

Section 6.20 Additional Collateral; Additional Guarantors and Formation of Subsidiaries.

(a) Subject to this Section 6.20 and in addition to Section 6.16, with respect to any property acquired after the Sixth Amendment Effective Date by any Borrower Party that is intended to be subject to the Lien created by any of the Security Documents but is not so subject, at the time of the acquisition thereof, such Borrower Party shall promptly (i) execute and deliver to the Administrative Agent such amendments or supplements to the relevant Security Documents or such other documents as the Administrative Agent shall deem necessary to grant to the Administrative Agent, for the benefit of the Lender Group, a Lien on such property subject only to Permitted Liens, and (ii) take all actions necessary to cause such Liens to be duly perfected to the extent required by such Security Document in accordance with all requirements of Applicable Law, including the filing of UCC financing statements in such jurisdictions as may be requested by the Administrative Agent, the making of filings with respect to Intellectual Property, and other filings and in such jurisdictions as may be required by the Security Documents, by Applicable Law or as may be requested by the Administrative Agent. The Borrower Parties shall otherwise take such actions and execute and deliver to the Administrative Agent such documents as the Administrative Agent shall require to confirm the validity, perfection and priority of the Liens created under the Security Documents against such after-acquired property.

(b) At the time of the formation of any direct or indirect Subsidiary of any Borrower Party after the Agreement Date or the acquisition of any direct or indirect Subsidiary of any Borrower Party after the Agreement Date, the Borrower Parties, as appropriate, shall concurrently therewith (i) to the extent such Subsidiary is a Domestic Subsidiary (other than an Excluded Subsidiary or an Unrestricted Subsidiary, designated as such by the Borrower), cause such Domestic Subsidiary to provide to the Administrative Agent, for the benefit of the Lender Group, a joinder and supplement to this Agreement substantially in the form of Exhibit B (each, a "Guaranty Supplement"), pursuant to which such Domestic Subsidiary shall agree to join as a Guarantor of the Obligations under Article 3 and as a Borrower Party under this Agreement, a supplement to the Security Agreement and any other Security Document, as applicable, and such other security documents as the Administrative Agent may reasonably request, in each case in form and substance reasonably satisfactory to the Administrative Agent, (ii) to the extent such Subsidiary is a Domestic Subsidiary other than an Excluded Subsidiary, take all such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Lender Group a perfected security interest in the Collateral, including the filing of UCC financing statements in such jurisdictions as may be reasonably requested by the Administrative Agent, the making of filings with respect to Intellectual Property, and other filings and in such jurisdictions as may be required by the Security Documents, by Applicable Law or as may be reasonably requested by the Administrative Agent, (iii) provide to the Administrative Agent, for the benefit of the Lender Group, a pledge agreement and appropriate certificates and powers or UCC financing statements, pledging all direct or beneficial ownership interest in any such Subsidiary, in form and substance satisfactory to the Administrative Agent, provided, however, that with respect to any Excluded Subsidiary, such pledge shall be limited to sixty-five percent (65%) of the outstanding voting Equity Interests and one hundred percent (100%) of outstanding non-voting Equity Interests of any such Subsidiary that is a Foreign Subsidiary if such Foreign Subsidiary is a First-Tier Foreign Subsidiary and that no pledge shall be made if such Subsidiary is a Lower-Tier Excluded Subsidiary, (iv) cause such subsidiary to execute a joinder to the Master Intercompany Subordinated Note and (v) provide to the Administrative Agent, for the benefit of the Lender Group, all other documentation, including one or more opinions of counsel reasonably satisfactory to the Administrative Agent, which in its opinion is appropriate with respect to such formation and the execution and delivery of the applicable documentation referred to above. Nothing in this Section 6.20 shall authorize any Borrower Party or any Subsidiary of a Borrower Party to form or acquire any Subsidiary absent express authorization to so form or acquire such Subsidiary pursuant to Article 8. Any document, agreement or instrument executed or issued pursuant to this Section 6.20 shall be a "Loan Document" for purposes of this Agreement.

(c) Within sixty (60) days (or such later date as the Administrative Agent may agree in its sole discretion) of the acquisition of any fee interest in real property having a value of $1,000,000 or more, and of any leasehold interest in real property with an annual rent of $500,000 or more, in each case by any Borrower Party after the Agreement Date, such Borrower Party shall grant to the Administrative Agent, for the benefit of the Lender Group, a first priority security interest in such real property (subject only to Permitted Liens) and execute and deliver a Mortgage for each such item of real property encumbering the fee interest (or if such lease or a memorandum thereof is recorded, the leasehold interest) of the applicable Borrower Party in such real property, together with (i) a title insurance commitment issued by a title company acceptable to the Administrative Agent in such amount not to exceed one hundred and five percent (105%) of the fair market value of the property and insuring that each such Mortgage is a valid first priority Lien on such Borrower Party's interest in the real property described in each such Mortgage (subject only to Permitted Liens) and containing such endorsements and affirmative insurance as the Administrative Agent may require, and true copies of each document, instrument or certificate required by the terms of each such policy and/or Mortgage to be filed, recorded, executed or delivered in connection therewith; (ii) a flood certification or evidence of flood insurance, as applicable; (iii) duly authorized UCC fixture financing statements to be filed in connection with each such Mortgage; (iv) with respect to any fee interest, either (A) a current survey of the real property encumbered by each Mortgage, certified to the title company, the Administrative Agent and each of their successors and assigns, prepared by a professional and properly licensed land surveyor reasonably satisfactory to the Administrative Agent, or (B) an existing survey of the real property encumbered by each Mortgage, in form satisfactory to the Administrative Agent, in each case sufficient to allow the title insurance company to provide coverage with respect to survey matters as the Administrative Agent may reasonably require; (v) a legal opinion of local counsel to the Borrower Parties with respect to the Mortgage, addressed to the Lender Group; and (vi) an environmental indemnity agreement in favor of the Administrative Agent, for the benefit of the Lender Group, in form and substance reasonably satisfactory to the Administrative Agent, and, if requested by the Administrative Agent, a phase I environmental assessment prepared by a professional and properly licensed environmental assessor reasonably satisfactory to the Administrative Agent, which assessment shall not disclose any basis for any material liability under any Environmental Law, except as specifically disclosed in Schedule 5.1(y); provided, that the Administrative Agent may elect to waive the requirements of this Section 6.20(c) with respect to any particular property or lease.

(d) At the time of the acquisition of any leasehold interests in any real property by any Borrower Party after the Agreement Date where such leasehold property contains personal property valued at seven hundred and fifty thousand Dollars ($750,000) or more, such Borrower Party shall obtain a Collateral Access Agreement for each such location.

Section 6.21 Use of Proceeds. Each Borrower Party shall, and shall cause each of its Subsidiaries to, use the proceeds of the Loan only for the purposes set forth in Section 2.11. The Borrower shall not request any borrowing, and shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any borrowing (A) 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 Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 6.22 Post-Closing Matters. Each Borrower Party shall, or shall cause the applicable Person to, execute and deliver the documents and complete the tasks set forth on Schedule 6.22, in each case (i) in form and substance reasonably satisfactory to the Administrative Agent and (ii) within the time limits specified on such schedule (or such later time limits as the Administrative Agent shall agree to).

Section 6.23 Compensation to Officers and Employees. Parent shall cause the compensation committee of the board of directors of Parent to review and approve the compensation for actual services rendered of all officers and other members of senior management of each Borrower Party and each Subsidiary thereof.

ARTICLE 7

REPORTING COVENANTS

Until the Obligations shall have been indefeasibly paid in full in cash and the Commitments shall have been terminated, the Borrower Parties will furnish or cause to be furnished to each member of the Lender Group:

Section 7.1 Monthly and Quarterly Financial Statements and Information.

(a) Within thirty (30) days (or forty-five (45) days with respect to the last month of any fiscal quarter) after the last day of each fiscal month in each fiscal year of Parent, a completed report substantially in the form of Exhibit G (the "Monthly Report"), which shall be certified by an Authorized Signatory of the Borrower to be, in his or her opinion, complete and correct and to present fairly in accordance with GAAP, which shall be consistently applied and consistent with past practices, the financial position of the relevant Borrower Parties, as at the end of such period and the results of operations for such period, and for the elapsed portion of the year ended with the last day of such period, subject only to normal year-end adjustments and lack of footnotes.

(b) Within forty-five (45) days after the last day of each fiscal quarter in each fiscal year of Parent, the reviewed balance sheet of Parent and its Subsidiaries, in each case as at the end of such fiscal quarter, and the related reviewed statement of income and retained earnings and related reviewed statement of cash flows for such fiscal quarter which financial statements shall set forth in comparative form (i) such figures as at the end of such quarter during the previous fiscal year and for such quarter during the previous fiscal year and (ii) as contained in the relevant Borrower Parties' budget most recently delivered to the Administrative Agent for such periods, all of which shall be on a consolidated and consolidating basis, and shall be certified by an Authorized Signatory of the Borrower to be, in his or her opinion, complete and correct in all material respects and to present fairly in accordance with GAAP, which shall be consistently applied and consistent with past practices, the financial position of the relevant Borrower Parties, as at the end of such period and the results of operations for such period, subject only to normal year-end adjustments and lack of footnotes, and which shall be accompanied by a report, in form and substance satisfactory to the Administrative Agent, setting forth management's discussion and analysis of the business of the relevant Borrower Parties and their Subsidiaries during such period and comparing such period against the corresponding period during the prior year, and shall be accompanied by the certifications required by the rules and regulations of the Securities and Exchange Commission.

Section 7.2 Annual Financial Statements and Information; Certificate of No Default. Within one hundred five (105) days after the end of each fiscal year of Parent, the audited balance sheets of Parent and its Subsidiaries as at the end of such year and the related audited statements of income and retained earnings and related audited statements of cash flows for such year, all of which shall be on a consolidated basis, together with consolidating schedules for the Borrower and its Subsidiaries, which financial statements shall, in each case, set forth in comparative form such figures as at the end of and for the previous year, and shall be accompanied by an unqualified opinion of independent certified public accountants of recognized national standing satisfactory to the Administrative Agent, stating that such financial statements (including the consolidating schedules) have been prepared in all respects in accordance with GAAP, which shall be consistently applied and consistent with past practices, and fairly present the financial condition and results of operations and cash flows of Parent and its Subsidiaries in all respects, without any explanatory paragraphs, scope limitations or "going concern" or like qualifications or exceptions, and which shall be accompanied by a report, in form and substance satisfactory to the Administrative Agent, setting forth management's discussion and analysis of the business of the relevant Borrower Parties and their Subsidiaries during such period and comparing such period against the corresponding period during the prior year.

Section 7.3 Compliance Certificates. At the time the financial statements are furnished pursuant to Section 7.1(b) and Section 7.2, a Compliance Certificate:

(a) Setting forth as at the end of the relevant period, the arithmetical calculations (i) required to establish whether or not the Borrower Parties were in compliance with the requirements of the Financial Covenants as of the last day of such period, (ii) the calculation of Excess Cash Flow, and (iii) setting forth the aggregate Capital Expenditures made during such period;

(b) Stating whether any material change in GAAP or the application thereof has occurred since the date of the Borrower's audited financial statements delivered on the Agreement Date, and, if any change has occurred, specifying the effect of such change on the financial statements accompanying such certificate; and

(c) Stating that, to the best of his or her knowledge, no Default or Event of Default has occurred as at the end of such period, or, if a Default or Event of Default has occurred, disclosing each such Default and/or Event of Default, as applicable, its nature, when it occurred, whether it is continuing and what actions the Borrower has taken or propose to take with respect thereto.

Section 7.4 Access to Accountants. Each Borrower Party hereby authorizes the Administrative Agent to communicate directly with the Borrower Parties' and their Subsidiaries' independent public accountants and authorizes these accountants to disclose to the Administrative Agent any and all financial statements and other supporting financial data, including matters relating to the annual audit and copies of any management letter with respect to its business, financial condition and other affairs. The Administrative Agent will give the Borrower Parties the opportunity to participate in any discussions with the Borrower Parties' accountants.

Section 7.5 Additional Reports.

(a) Within thirty (30) days after the end of each fiscal month, copies of all material correspondence delivered in such month to any of the Borrower Parties' board of directors or board of managers, as applicable, in anticipation of a meeting of such board, including any internal financial reports (excluding daily financial reports) distributed thereto.

(b) Promptly upon (and in any event within five (5) Business Days of) receipt thereof, copies of all final reports, statements and other material correspondence, if any, submitted to any Borrower Party or any Subsidiary of a Borrower Party by such Borrower Party's or Subsidiary's independent public accountants in connection with any annual or interim audit of the Borrower Parties and their Subsidiaries, including, without limitation, any final management report prepared in connection with the annual audit referred to in Section 7.2.

(c) No later than the last day of each fiscal year, an annual budget of Parent and its Subsidiaries approved by the board of directors (or equivalent governing body) of Parent, including, without limitation, a 12 month income statement, balance sheet, statement of cash flows and availability forecast and projections for the immediately succeeding fiscal year on a month-by-month basis.

(d) At dates and times to be mutually agreed, (i) Borrower shall participate in a telephonic meeting with the Administrative Agent and the Lender Group on a monthly basis and (ii) Borrower shall participate in an in-person meeting with the Administrative Agent and members of the Lender Group, to be held at the offices of the Borrower, on a semi-annual basis.

(e) To the extent not covered elsewhere in this Article 7, promptly after (and in any event within three (3) Business Days of) the sending thereof, copies of all financial statements, reports and other information which any Borrower Party or any such Subsidiary sends to any holder of its Funded Debt permitted under any of Section 8.1(d), (f) (in respect of Guaranties of Funded Debt) or (i) (to the extent reasonably requested by the Administrative Agent) or its securities or which any Borrower Party or any such Subsidiary files with the Securities and Exchange Commission or any national securities exchange or filed pursuant to the SEA or the Securities Act.

(f) If there is a material change in GAAP after the Agreement Date that affects the presentation of the financial statements referred to in Section 7.1 or 7.2, then, in addition to delivery of such financial statements, and on the date such financial statements are required to be delivered, the Borrower Parties shall furnish the adjustments and reconciliations necessary to enable the Borrower and each Lender to determine compliance with the Financial Covenants, all of which shall be determined in accordance with GAAP consistently applied and consistent with past practices, as provided in Section 1.2.

(g) From time to time at the request of the Administrative Agent, and promptly upon (and in any event within ten (10) Business Days of) each request, such data, certificates, reports, statements, documents, or further information regarding the business, assets, liabilities, financial position, projections, results of operations, or business prospects of the Borrower Parties, such Subsidiaries, or any of them, as the Administrative Agent may reasonably request.

(h) Promptly upon (and in any event within five (5) Business Days of) any Borrower Party's or any Subsidiary's receipt thereof, copies of all notices received from any Governmental Authority or other third party regarding the termination, cancellation, revocation or taking of action with respect to any material Necessary Authorization.

(i) Promptly after the furnishing thereof, copies of any notice or other correspondence furnished to the agent or lenders under the ABL Facility pursuant to the terms of the ABL Loan Documents.

(j) Promptly upon (and in any event within five (5) Business Days after) the delivery of any documents, summaries or other materials (other than, in each case, immaterial items) to the board of directors of Holdings, the Borrower Parties shall deliver to the Administrative Agent a copy of any such materials.

Section 7.6 Notice of Litigation and Other Matters.

(a) Promptly upon (and in any event within five (5) Business Days of) any Borrower Party's obtaining knowledge of the institution of, or a written threat of, any action, suit, governmental investigation or arbitration proceeding against any Borrower Party, any Subsidiary of a Borrower Party or any Property, which action, suit, governmental investigation or arbitration proceeding, if adversely determined, could expose, in such Borrower Party's reasonable judgment, any Borrower Party or any Subsidiary of a Borrower Party to liability in an aggregate amount in excess of $750,000, such Borrower Party shall notify the Lender Group in writing of the occurrence thereof, and the Borrower Parties shall provide such additional information with respect to such matters as the Lender Group, or any of them, may request.

(b) Promptly upon (and in any event within three (3) Business Days of) any Borrower Party's obtaining knowledge of the occurrence of any default (whether or not any Borrower Party has received notice thereof from any other Person) on Funded Debt of any Borrower Party or any Subsidiary of a Borrower Party which singly, or in the aggregate, exceeds $750,000, such Borrower Party shall notify the Lender Group in writing of the occurrence thereof.

(c) Promptly upon (and in any event within five (5) Business Days of) any Borrower Party's receipt of notice of the pendency of any proceeding for the condemnation or other taking of any Property (excluding any condemnation or other taking that does not have an impact on the use or value of such Property) of any Borrower Party or any Subsidiary of a Borrower Party, such Borrower Party shall notify the Lender Group in writing of the occurrence thereof.

(d) Promptly upon (and in any event within five (5) Business Days of) any Borrower Party's receipt of notice of any event that could reasonably be expected to result in a Materially Adverse Effect, such Borrower Party shall notify the Lender Group in writing of the occurrence thereof.

(e) With the submission of any monthly financial statements pursuant to Section 7.1(a) hereof, the Borrower Parties shall provide the Administrative Agent with a copy of any amendment or change approved by the board of directors (or equivalent governing body) of the Borrower to the budget submitted to the Lender Group pursuant to Section 7.5(c).

(f) Promptly upon (and in any event within three (3) Business Days of) any Borrower Party becoming aware of any (i) Default under any Loan Document, (ii) breach under any lease under which any Borrower Party makes rental payments in excess of $750,000 in any year, or (iii) default under any other agreement (other than those referenced in clause (i) of this Section 7.6(f) or in Section 7.6(b)) to which any Borrower Party or any Subsidiary of a Borrower Party is a party or by which any Borrower Party's or any such Subsidiary's properties is bound which could reasonably be expected to have a Materially Adverse Effect, then the Borrower Parties shall notify the Lender Group in writing of the occurrence thereof giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(g) Promptly (but in any event within three (3) Business Days) following the occurrence of any ERISA Event, the Borrower Parties shall notify the Lender Group in writing of the occurrence thereof, provided such occurrence, proceeding, or failure exposes such Borrower Party or ERISA Affiliate to liability in an aggregate amount in excess of $750,000.

(h) Promptly after (and in any event within three (3) Business Days of) the occurrence of any Governmental Authority having regulatory authority over Parent or any of its Subsidiaries imposing upon any Borrower Party or Subsidiary thereof (i) restriction on the payment of dividends or other payments by Parent or any such Subsidiary to a Borrower Party or (ii) any required capital or equity contribution to such Subsidiary by a Borrower Party, the Borrower Parties shall, and shall cause their Subsidiaries to, deliver to the Lender Group copies of all such notices, reports and other information received or submitted with respect to such action.

(i) [Reserved.]

(j) Promptly after (and in any event within three (3) Business Days of) receipt of notice by any of the Borrower Parties that any warehouseman, bailee or similar person which has executed a Collateral Access Agreement in favor of the Administrative Agent, for the benefit of the Lender Group, will move or has moved Inventory of the Borrower Parties to a location no longer subject to a Collateral Access Agreement in favor of the Administrative Agent, the Borrower Parties shall (a) notify the Lender Group in writing of such fact and (b) use commercially reasonable efforts to execute and deliver to the Administrative Agent a new Collateral Access Agreement in respect of such new location and in favor of the Administrative Agent, for the benefit of the Lender Group, within thirty (30) Business Days of such relocation.

(k) Promptly upon (and in any event within five (5) Business Days of) any Borrower Party obtaining knowledge of (i) any Lien in respect of Taxes having been filed against any assets of the Borrower Parties, (ii) any tax audit (other than the tax audits disclosed on Schedule 5.1(j)) involving any Borrower Party or any of their Subsidiaries, or any of their respective businesses or operations, and (iii) any determination (whether preliminary, final or otherwise) of the Internal Revenue Service or any other Governmental Authority in respect of any tax audit of any Borrower Party or any of their Subsidiaries, or any of their respective businesses or operations (including the tax audits disclosed on Schedule 5.1(j)), the Borrower shall notify the Lender Group in writing of the occurrence thereof, and the Borrower Parties shall provide such additional information with respect to such matter as the Lender Group or any of them may request.

(l) No later than five (5) Business Days thereafter (or such later time as agreed to by the Administrative Agent in its sole discretion), the Borrower shall notify the Lender Group in writing of (i) any material license of Intellectual Property owned by the Borrower Parties or any of their Subsidiaries made to any Affiliate or outside the ordinary course of business and (ii) any default or breach asserted by any Person to have occurred under any material Intellectual Property License.

(m) Promptly upon (and in any event within three (3) Business Days of) receipt by any Borrower Party or any Subsidiary of a Borrower Party of notice from its insurance carrier of any material change in insurance coverage of any Borrower Party or any Subsidiary of a Borrower Party, the Borrower shall notify the Lender Group in writing of any such change.

ARTICLE 8

NEGATIVE COVENANTS

Until the Obligations shall have been indefeasibly paid in full in cash and the Commitments shall have been terminated:

Section 8.1 Funded Debt. No Borrower Party will, or will permit any of its Subsidiaries to, create, assume, incur, or otherwise become or remain obligated in respect of, or permit to be outstanding, any Funded Debt except:

(a) Funded Debt under this Agreement and the other Loan Documents;

(b) Funded Debt existing on the Sixth Amendment Effective Date and described on Schedule 8.1 and any extensions, renewal or refinancing thereof so long as the principal amount thereof is not increased by more than any accrued and unpaid interest refinanced and any fees and expenses incurred and financed in connection therewith;

(c) contingent obligations arising with respect to indemnification obligations in favor of purchasers in connection with dispositions permitted under Section 8.7;

(d) unsecured Funded Debt of a Borrower Party or any Subsidiary of a Borrower Party owing to a seller in respect of a Permitted Acquisition in an amount not to exceed $25,000,000 in the aggregate, so long as (i) such Funded Debt is subordinated in all respects to the Obligations on terms and subject to a subordination agreement acceptable to the Administrative Agent and (ii) the terms of such Funded Debt are otherwise acceptable to the Administrative Agent;

(e) Funded Debt of a Borrower Party or any Subsidiary of a Borrower Party that is secured by Permitted Liens described in clause (d) of the definition of Permitted Liens (including, without limitation, Capitalized Lease Obligations), not to exceed the aggregate principal amount of $1,500,000 at any time;

(f) Guaranties permitted by Section 8.2;

(g) unsecured Funded Debt of (i) any Borrower Party owed to Parent or any of its Subsidiaries and (ii) any Borrower Party owed to any other Borrower Party, in each case so long as (x) any such Funded Debt owing to a Borrower Party is subordinated in all respects to the Obligations in a manner reasonably satisfactory to the Administrative Agent, evidenced by the Master Intercompany Subordinated Note and pledged to the Administrative Agent for the benefit of the Lender Group and (y) the Borrower Party which owes such Funded Debt is a Person organized and existing under the laws of the U.S. or any state or commonwealth thereof or under the laws of the District of Columbia;

(h) obligations under Hedge Agreements entered into in the ordinary course of business but not for speculative purposes and approved by the Administrative Agent, provided that such obligations may only be secured by Liens described in clause (o) of the definition of "Permitted Liens";

(i) other unsecured Funded Debt not in excess of $500,000 in the aggregate at any time, which Funded Debt shall be subordinated to the Obligations in all respects in a manner satisfactory to the Administrative Agent;

(j) Funded Debt arising in connection with endorsements for deposit in the ordinary course of business, and in connection with netting services, overdraft protections and other like services, in each case incurred in the ordinary course of business;

(k) Funded Debt constituting obligations in respect of working capital adjustment requirements under any purchase agreement entered into in connection with a Permitted Acquisition;

(l) Funded Debt assumed in connection with a Permitted Acquisition in an aggregate principal amount not to exceed $2,500,000; provided that (x) such Funded Debt shall constitute Capitalized Lease Obligations or purchase money debt, (y) such Funded Debt was not incurred in anticipation of or in connection with such Permitted Acquisition and (z) no further borrowing may be made in respect of such Funded Debt;

(m) any Funded Debt created under the Wells Fargo Cash Management Documents; ~~and~~

(n) so long as subject to the Intercreditor Agreement and true, correct and complete copies of the ABL Loan Documents have been delivered to the Administrative Agent, Funded Debt having commitments not to exceed $10,000,000 under the ABL Facility.**;**

(o) the Winopoly Earn-Outs; provided that (x) no payment in respect of any Winopoly Earn-Out shall be made unless (I) no Default or Event of Default has occurred and is continuing hereunder at the time of such payment or would result therefrom, (II) the Borrower Parties are in compliance on a Pro Forma Basis with the Financial Covenants as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 7.1(b) or 7.2 both before and after giving effect to such payment and (III) the Liquidity of the Borrower Parties as of the Business Day immediately prior to such payment (but after giving pro forma effect to such payment) shall not be less than $5,000,000 and (y) the Borrower shall have delivered to the Administrative Agent a certificate certifying that the applicable payment meets the requirements of clause (x) at least one Business Day prior to making any such payment; and

(p) obligations arising due to the occurrence of the Winopoly Voluntary Withdrawal in accordance with the terms of the Winopoly Purchase Agreement.

Section 8.2 Guaranties. Other than Guaranties of the Obligations, no Borrower Party will, or will permit any Subsidiary of a Borrower Party to, at any time Guaranty or enter into or assume any Guaranty, or be obligated with respect to, or permit to be outstanding, any Guaranty, other than, so long as done in the ordinary course of business, (a) Guaranties by any Borrower Party of obligations of any other Borrower Party entered into in connection with the acquisition of services, supplies, and equipment or in connection with leases, (b) endorsements of instruments, (c) Guaranties of any Funded Debt permitted by Section 8.1 and (d) Guaranties of obligations of Parent under the Wells Fargo Cash Management Documents pursuant to the terms thereof.

Section 8.3 Liens. No Borrower Party will, or will permit any Subsidiary of a Borrower Party to, create, assume, incur, or permit or suffer to exist or to be created, assumed, or permitted or suffered to exist, directly or indirectly, any Lien on any of its property, real or personal, now owned or hereafter acquired, except for Permitted Liens.

Section 8.4 Restricted Payments and Purchases. No Borrower Party shall, or shall permit any Subsidiary of a Borrower Party to, directly or indirectly declare or make any Restricted Payment or Restricted Purchase, or set aside any funds for any such purpose, other than Dividends on common stock which accrue (but are not paid in cash) or are paid in kind or Dividends on preferred stock which accrue (but are not paid in cash) or are paid in kind; provided, however, that, so long as no Default or Event of Default has occurred and is continuing or would result therefrom, (a) the Borrower's Subsidiaries may make Restricted Payments to the Borrower or a wholly owned Domestic Subsidiary of the Borrower that is a Borrower Party, (b) [reserved], (c) any Subsidiary of Parent may make Restricted Payments to Parent up to the amount necessary for Parent to make payments pursuant to clause (d) below, (d) the Borrower may make Restricted Payments to Parent for Parent to pay (x) any Taxes ("Tax Distributions") (including estimated payments) owing with respect to any consolidated, combined, unitary or affiliated group tax return filed by Parent that includes the Borrower and the Borrower's applicable Subsidiaries to the extent such Taxes do not exceed the Taxes (including estimated payments) that would have been payable by the Borrower and its applicable Subsidiaries as a stand-alone consolidated, combined, unitary or affiliated group with the Borrower as the parent corporation and taking into account any net operating loss, tax credit or other tax attribute of or allocable to Parent, (y) [reserved], and (z) **and** any Restricted Payment made pursuant to clause (c), (e) cashless exercises of options, warrants and other equity-like securities shall be permitted, (f) so long as no Event of Default exists or would result therefrom, Borrower Parties may make distributions to redeem securities of the Borrower or any Guarantor held by employees of the Borrower Parties or any of their Subsidiaries either (x) upon the death or separation from employment thereof following the Sixth Amendment Effective Date, or (y) to fund payroll and withholding taxes incurred in respect of the grant of the securities as to which such redeemed securities were a part in an aggregate amount not to exceed $1,750,000 in any fiscal year of the Parent, and $6,000,000 in the aggregate during the term of the Loan, in each case, after the date hereof and (g) the Borrower may repurchase up to $5,000,000 of its Equity Interests in 2019 or 2020 pursuant to the share buyback program disclosed to the Agent prior to the Tenth Amendment Effective Date.

Section 8.5 Investments. No Borrower Party will, or will permit any Subsidiary of a Borrower Party to, make Investments, except that (a) Parent may purchase or otherwise acquire and own and may permit any of its Subsidiaries to purchase or otherwise acquire and own Cash Equivalents; (b) the Borrower Parties may hold the Investments in existence on the Sixth Amendment Effective Date and described on Schedule 5.1(c)-2; (c) the Borrower Parties may hold the Investments in existence on the Sixth Amendment Effective Date and described on Schedule 8.5; (d) so long as no Event of Default exists, the Borrower may convert any of its Accounts that are in excess of ninety (90) days past due into notes or Equity Interests from the applicable Account Debtor so long as the Administrative Agent, for the benefit of the Lender Group, is granted a first priority security interest in such Equity Interests or notes, which Lien is perfected contemporaneously with the conversion of such Account to Equity Interests or notes; (e) the Borrower Parties and their Subsidiaries may hold the Equity Interests of their respective Subsidiaries in existence as of the Sixth Amendment Effective Date or acquired in a Permitted Acquisition; provided that, prior to the satisfaction of the requirements set forth in Section 6.20(b) of the Credit Agreement with respect to any New Guarantor, (i) the Borrower Parties shall not permit any such New Guarantor to carry on material business operations, incur material liabilities or own material assets and (ii) the Borrower Parties shall not make any Investments in any such New Guarantor; (f) without limiting Section 8.2, any Borrower Party may make Investments in any other Borrower Party that is organized and existing under the laws of the U.S. or any state or commonwealth thereof or under the laws of the District of Columbia; (g) the Borrower Parties may hold Investments arising out of Hedge Agreements entered into in the ordinary course of business but not for speculative purposes and approved by the Administrative Agent; (h) the Borrower Parties may license Intellectual Property in accordance with Section 8.7(b)(v); (i) the Borrower Parties may make Investments consisting of loans or advances to employees not in excess of $750,000 in the aggregate at any time; (j) the Borrower Parties may make Permitted Acquisitions**,**; (k) the Borrower Parties may make Investments (including in joint ventures or in non-wholly-owned Subsidiaries that are not Guarantors (collectively, "Unrestricted Subsidiaries")) in an aggregate amount at any time outstanding not to exceed $1,000,000, plus the amount of Net Cash Proceeds from the issuance of Equity Interests not otherwise required to be applied to prepay the Loans (to the extent not previously applied to fund Permitted Acquisitions, other Investments or other purposes), provided that (i) no Default or Event of Default shall have occurred or be continuing at the time of such Investment, (ii) after giving effect to any such Investment, the Borrower Parties shall be in compliance, on a Pro Forma Basis, with the Financial Covenants and (iii) the Equity Interests in such Unrestricted Subsidiaries shall be pledged to the Administrative Agent as collateral security for the Obligations to the extent required under, and in accordance with, Section 6.20~~;~~; (l) ~~[reserved]~~**the Borrower Parties may make available to Winopoly the Winopoly WC Line in an aggregate principal amount not to exceed $1,250,000 at any time outstanding**; and (m) the Specified Permitted Payments to the extent accounted for as loans, as set forth on Schedule I to the First Amendment.

Section 8.6 Affiliate Transactions. No Borrower Party shall, or shall permit any Subsidiary of a Borrower Party to, enter into or be a party to any agreement or transaction with any Affiliate (other than, in the case of a Borrower Party, another Borrower Party) except to the extent such agreement or transaction (a) if entered into on or prior to the Sixth Amendment Effective Date, is described on Schedule 8.6, (b) if entered into after the Sixth Amendment Effective Date, is fully disclosed in writing to the Administrative Agent, to the satisfaction thereof, and is expressly approved by the Administrative Agent in writing, prior to the entry of the Borrower Party or the applicable Subsidiary thereof into such agreement or transaction, or (c) occurs upon fair and reasonable terms that are no less favorable to such Borrower Party or such Subsidiary than it would obtain in a comparable arm's length transaction with a Person not an Affiliate of such Borrower Party or such Subsidiary.

Section 8.7 Liquidation; Change in Ownership, Name, or Year; Disposition or Acquisition of Assets; Etc. No Borrower Party shall, or shall permit any Subsidiary to, at any time:

(a) Liquidate or dissolve itself (or suffer any liquidation or dissolution) or otherwise wind up its business, except that any Subsidiary may liquidate or dissolve into another Subsidiary or the Borrower so long as, if a Borrower Party is involved in such transaction, a Borrower Party survives such transaction, if the Borrower is involved in such transaction, the Borrower survives such transaction, and if Parent is involved in such transaction, Parent survives such transaction;

(b) Sell, lease, abandon, transfer or otherwise dispose of, in a single transaction or a series of related transactions, any assets, property or business (including any Equity Interests), except for (i) the sale of Inventory in the ordinary course of business at the fair market value thereof and for cash or Cash Equivalents, (ii) the physical assets used or consumed in the ordinary course of business, (iii) the sale of used, obsolete or worn out property, (iv) the abandonment, cancellation or other disposition of any Intellectual Property in the ordinary course of business or that, in the good faith determination of the Borrower, are uneconomical, negligible, obsolete or otherwise not material to the conduct of its business, (v) the licensing of Intellectual Property in the ordinary course of business upon fair and reasonable terms that are no less favorable to such Borrower Party or Subsidiary thereof than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate of such Borrower Party or Subsidiary thereof, (vi) so long as the purchase price therefor is paid solely in cash and the seller thereof receives not less than fair market value for such assets, the sale of other assets with a sale value not greater than $750,000 in the aggregate for all such assets sold during any fiscal year ~~or~~, (vii) the disposition of assets acquired in a Permitted Acquisition, so long as (A) the cash consideration (x) received for the assets to be so disposed is at least equal to the fair market value thereof and (y) shall not exceed $4,500,000 in any fiscal year for all such dispositions, (B) the assets to be so disposed are not used, useful or economically desirable in connection with the business of the Borrower Parties and the fair market value of the assets to be so disposed does not exceed 50% of the fair market value of the total assets acquired from such Permitted Acquisition, (C) the assets to be so disposed are readily identifiable as assets acquired pursuant to such Permitted Acquisition and (D) the proceeds from such disposition are applied as a mandatory prepayment of the Loans to the extent required by, and pursuant to the terms of, Section 2.6(c)(iii) **and (viii) dispositions of the Equity Interests of Winopoly in connection with the Winopoly Involuntary Withdrawal or the Winopoly Voluntary Withdrawal, in each case in accordance with the terms of the Winopoly Purchase Agreement**.

(c) Acquire (i) any Person, (ii) all or any substantial part of the assets, property or business of a Person, or (iii) any assets that constitute a division or operating unit of the business of any Person, except for Permitted Acquisitions and Investments permitted pursuant to Section 8.5;

(d) Merge or consolidate with any other Person, except upon not less than five (5) Business Days' prior written notice to the Administrative Agent, (i) any Subsidiary of a Borrower Party may merge or consolidate with a Borrower Party or any other wholly-owned Subsidiary of a Borrower Party, provided that a Borrower Party or such wholly-owned Subsidiary shall be the continuing or surviving entity (and, if (A) the Borrower is involved in such transaction, the Borrower shall be the continuing or surviving entity and (B) Parent is involved in such transaction, Parent shall be the continuing or surviving entity) and all actions reasonably required by the Administrative Agent, including actions required to maintain perfected Liens on the Equity Interests of the surviving entity and other Collateral in favor of the Administrative Agent, shall have been completed or (ii) to complete a Permitted Acquisition; provided, that, each of the Merger and Subsequent Merger shall be permitted hereunder;

(e) Change its legal name, state of incorporation or formation or structure without giving the Administrative Agent at least fifteen (15) Business Days' prior written notice of its intention to do so and complying with all requirements of the Administrative Agent in regard thereto;

(f) Change its year-end for accounting purposes from the fiscal year ending December 31; or

(g) Create any Subsidiary, unless such Subsidiary is a Domestic Subsidiary and the requirements set forth in Section 6.20(b) shall have been satisfied substantially concurrently therewith.

Section 8.8 Minimum EBITDA. The Borrower Parties shall not permit EBITDA of Parent and its Subsidiaries to be less than the amount specified below for the immediately preceding twelve (12) month period ended as of the date specified below. Notwithstanding anything contained herein to the contrary, (i) the Borrower Parties shall not be required to comply with the minimum EBITDA level set forth in this Section 8.8 (as in effect immediately prior to the Ninth Amendment Effective Date) for the fiscal quarter ending September 30, 2019 and (ii) following the consummation of any Permitted Acquisition, the minimum EBITDA levels required pursuant to this Section 8.8 shall be calculated on a Pro Forma Basis.

Date	Minimum EBITDA
October 31, 2019	$24,700,000
November 30, 2019	$22,200,000
December 31, 2019	$21,400,000
January 31, 2020	$20,500,000
February 29, 2020	$20,100,000
March 31, 2020	$19,200,000
April 30, 2020	$18,800,000
May 31, 2020	$18,200,000
June 30, 2020	$16,500,000
July 31, 2020	$16,400,000
August 31, 2020	$17,300,000
September 30, 2020	$18,700,000
October 31, 2020	$19,700,000
November 30, 2020	$20,500,000
December 31, 2020	$20,900,000
March 31, 2021 and each fiscal quarter thereafter	$20,800,000

Section 8.9 Total Leverage Ratio. The Borrower Parties shall not permit the Total Leverage Ratio to be greater than the ratio specified below for the immediately preceding twelve (12) month period ended as of the last day of each fiscal quarter specified below. Notwithstanding anything contained herein to the contrary, the Borrower Parties shall not be required to comply with the Total Leverage Ratio level set forth in this Section 8.9 (as in effect immediately prior to the Ninth Amendment Effective Date) for the fiscal quarter ending September 30, 2019.

Quarter Ending	Total Leverage Ratio
December 31, 2019	2.75 to 1.00
March 31, 2020	2.75 to 1.00
June 30, 2020	3.00 to 1.00
September 30, 2020	2.75 to 1.00
December 31, 2020	2.25 to 1.00
March 31, 2021 and each fiscal quarter thereafter	2.25 o 1.00

Section 8.10 Fixed Charge Coverage Ratio. The Borrower Parties shall not permit the Fixed Charge Coverage Ratio to be less than the ratio specified below for the immediately preceding twelve (12) month period ended as of the last day of each fiscal quarter specified below. Notwithstanding anything contained herein to the contrary, following the consummation of any Permitted Acquisition, the components of the Fixed Charge Coverage Ratio shall be calculated on a Pro Forma Basis.

Quarter Ending	Fixed Charge Coverage Ratio
September 30, 2019	2.06 to 1.00
December 31, 2019	1.96 to 1.00
March 31, 2020	1.79 to 1.00
June 30, 2020	1.57 to 1.00
September 30, 2020	1.82 to 1.00
December 31, 2020	2.08 to 1.00
March 31, 2021 and each fiscal quarter thereafter	2.10 to 1.00

Section 8.11 [Reserved.]

Section 8.12 [Reserved.]

Section 8.13 Conduct of Business. The Borrower Parties shall not engage in any line of business other than as conducted by the Borrower Parties and their Subsidiaries on the Sixth Amendment Effective Date except for lines of business reasonably related, ancillary or incidental thereto.

Section 8.14 Sales and Leasebacks; Operating Leases. No Borrower Party shall, or shall permit any Subsidiary of a Borrower Party to, (a) enter into any arrangement, directly or indirectly, with any third party whereby such Borrower Party or such Subsidiary, as applicable, shall sell or transfer any property, real or personal, whether now owned or hereafter acquired, and whereby such Borrower Party or such Subsidiary, as applicable, shall then or thereafter rent or lease as lessee such property or any part thereof or other property which such Borrower Party or such Subsidiary intends to use for substantially the same purpose or purposes as the property sold or transferred or (b) create, incur or suffer to exist, any obligations as lessee for the payment of rent for any real or personal property under leases or agreements to lease other than (A) Capitalized Lease Obligations permitted under Section 8.1 and (B) operating lease obligations incurred in the ordinary course of business.

Section 8.15 Amendment and Waiver. Except as permitted hereunder, no Borrower Party shall, or shall permit any Subsidiary of a Borrower Party to, (a) enter into any amendment of, or agree to or accept any waiver of, its articles or certificate of incorporation or formation and by-laws, partnership agreement or other governing documents in each case which could reasonably be expected to materially adversely affect the rights of such Borrower Party or such Subsidiary, as applicable, or **any member of** the **Administrative Agent**Lender Group, (b) permit any Material Contract to be amended, cancelled or terminated prior to its stated maturity if such amendment, cancellation or termination could reasonably be expected to have a Materially Adverse Effect, (c) except as permitted by the Intercreditor Agreement, amend, modify, waive or otherwise change, consent or agree to any amendment, supplement, modification, waiver or other change to, any of the terms of the ABL Loan Documents ~~or~~, (d) without prior written consent of the Administrative Agent, amend, modify, waive or otherwise change, consent or agree to any amendment, supplement, modification, waiver or other change to, any of the terms of the Separation Documents which could reasonably be expected to adversely affect the rights of such Borrower Party or such Subsidiary, as applicable, or **any member of the Lender Group or (e) without prior written consent of** the Administrative Agent~~,~~**, amend, modify, waive or otherwise change, consent or agree to any amendment, supplement, modification, waiver or other change to, any of the terms of the Winopoly Purchase Documents which could reasonably be expected to adversely affect the rights of such Borrower Party or such Subsidiary, as applicable, or any member of the Lender Group.**

Section 8.16 ERISA Liability. No Borrower Party shall, or shall cause or permit any ERISA Affiliate to, (a) cause or permit to occur any event that could result in the imposition of a Lien on any Borrower Party under Section 430 of the Code or Section 303 or 4068 of ERISA, or (b) cause or permit to occur an ERISA Event, that could reasonably be expected to result in a Lien on any Borrower Party or to have a Materially Adverse Effect.

Section 8.17 Prepayments. No Borrower Party shall, or shall permit any Subsidiary of a Borrower Party to, prepay, redeem, defease or purchase in any manner, or deposit or set aside funds for the purpose of any of the foregoing, make any payment in respect of principal of, or make any payment in respect of interest on, any Funded Debt (other than to prepay Capitalized Lease Obligations or purchase money debt or make payments in connection with the termination of any Hedge Agreement), except (i) the Borrower may (A) make regularly scheduled payments of principal or interest required in accordance with the terms of the instruments governing any Funded Debt permitted under Section 8.1, to the extent permitted under the Intercreditor Agreement (if applicable to such Funded Debt)**, provided that any payment in respect of Funded Debt contemplated by Section 8.1(o) or (p) shall only be permitted to be paid hereunder if expressly permitted to be paid under Section 8.1(o) or (p), as applicable,** and (B) make payments, including prepayments permitted or required hereunder, with respect to the Obligations and (ii) the Borrower Parties may make payments in respect of Funded Debt permitted under Section 8.1(d), ~~8.1~~(g)~~,~~ or ~~8.1~~(i) in each case to the extent such payments are permitted under the subordination agreement (if any) applicable to such Funded Debt.

Section 8.18 Negative Pledge. No Borrower Party shall, or shall permit any Subsidiary of any Borrower Party to, directly or indirectly, enter into any agreement (other than the Loan Documents) with any Person that prohibits or restricts or limits the ability of any Borrower Party or any such Subsidiary to create, incur, pledge, or suffer to exist any Lien upon any of its respective assets (other than agreements in respect of Funded Debt permitted under clauses (e) or (l) of Section 8.1) or restricts the ability of any Subsidiary of the Borrower to pay Dividends to the Borrower.

Section 8.19 Inconsistent Agreements. No Borrower Party shall, or shall permit any Subsidiary of any Borrower Party to, enter into any contract or agreement which would violate the terms hereof or any other Loan Document.

Section 8.20 Regulations T, U and X. No Borrower Party and no Subsidiary of a Borrower Party shall engage principally in the business, or have as one of its important activities the business of extending credit for the purpose, of purchasing or carrying and acquisition of Margin Stock. No part of the proceeds of the Loan shall be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of, or that is inconsistent with, the provisions of Regulation T, U or X or any other regulation of the Board of Governors of the Federal Reserve System.

Section 8.21 Holding Company Status. Parent shall not own or lease, directly or indirectly, any real property or any personal property, whether intangible or tangible, of any nature, other than, in any event, (w) leases of real property, (x) Equity Interests consisting of Investments permitted hereunder, (y) any cash and/or Cash Equivalents (and investments relating to the same) received in connection with the purchase of common shares of Equity Interests in Parent by officers, directors and employees of the other Borrower Parties and (z) other cash and/or Cash Equivalents (and investments relating to the same) in an aggregate amount at any one time not in excess of the amount necessary to pay the taxes and expenses of Parent, including without limitation, employee salaries and director compensation for employees and directors of Parent, and to provide administrative services to its Subsidiaries of the type customarily provided by a non-operating holding company to its Subsidiaries, provided that, in each case with respect to the exceptions listed in clauses (x), (y) and (z) above, Administrative Agent, for the benefit of the Lender Group, shall have a perfected Lien in such property, subject only to Permitted Liens, in accordance with the terms and conditions contained in the Loan Documents. Parent shall not conduct, transact or otherwise engage in any material business or operations other than, in any event, (a) the issuance of Equity Interests, (b) actions required by Applicable Law, (c) the payment of taxes and expenses of Parent, including without limitation, employee salaries and director compensation for employees and directors of Parent, (d) the provision of administrative services to its Subsidiaries of the type customarily provided by a non-operating holding company to its Subsidiaries, including, but not limited to executive services, payroll accounting and other human resources services and programs, information technology services and support, and payment or advancement to third party vendors of direct costs and expenses attributable to such Subsidiaries' operations, (e) the making of Restricted Payments, Restricted Purchases, Permitted Acquisitions, Investments and Guarantees expressly permitted to be made by Parent under this Agreement, (f) the performance of its obligations under the Loan Documents and (g) activities incidental to its existence and any of the foregoing. Parent shall not have any obligations or liabilities and shall incur no Funded Debt other than (i) under the Loan Documents and Guarantees of real property leases and (ii) in connection with the provision of administrative services as otherwise permitted under this Section 8.21.

Section 8.22 Transactions with Red Violet. Following the Sixth Amendment Effective Date, all transactions entered into between a Borrower Party or a Subsidiary of a Borrower Party, on the one hand, and a Red Violet Entity, on the other hand (including without limitation any agreements for additional services made pursuant to or in lieu of Section 4.3(b) of the Separation Agreement or Section 1.4 of the Transition Services Agreement), will be upon fair and reasonable terms that are no less favorable to such Borrower Party or such Subsidiary than it would obtain in a comparable arm's length transaction.

ARTICLE 9

DEFAULT

Section 9.1 Events of Default. Each of the following shall constitute an Event of Default, whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment or order of any court or any order, rule, or regulation of any governmental or non-governmental body:

(a) Any representation, warranty or certification made under this Agreement or any other Loan Document shall be incorrect or misleading (including by omission) in any material respect (without duplication of any materiality qualifier contained herein or therein, as applicable) when made or deemed to have been made;

(b) Any payment of principal payable hereunder or under the other Loan Documents shall not be paid on the date such payment is due, or any other amount payable hereunder or under any other Loan Document shall not be paid within 3 (three) Business Days from the date such payment is due (including, in each case, any prepayments required under the Loan Documents);

(c) Any Borrower Party shall default in the performance or observance of any agreement or covenant contained in Sections 2.11, 6.1(i), 6.1(iii), 6.5, 6.7, 6.10, 6.12, 6.15, 6.16, 6.20, 6.21,6.22, Article 7 or Article 8 **of this Agreement or Section 7 of the Eleventh Amendment**;

(d) Any Borrower Party shall default in the performance or observance of any other agreement or covenant contained in this Agreement or any other Loan Document not specifically referred to elsewhere in this Section 9.1 and such default shall continue for 30 days after the earlier of (i) the date any officer of any Borrower Party obtains actual knowledge thereof or (ii) the date notice of such default is given to the Borrower by any member of the Lender Group or any Borrower Party fails to perform or observe any agreement contained in any other Loan Document and such failure shall not be remedied within the grace period, if any, provided therefor in such Loan Document (or, if no grace period is provided therefor in such Loan Document, within 30 days after the earlier of (a) the date any responsible officer of any Borrower Party obtains actual knowledge thereof or (b) the date notice of such failure is given to the Borrower by any member of the Lender Group);

(e) There shall occur any Change In Control;

(f) (i) There shall be entered a decree or order for relief in respect of any Borrower Party or any Subsidiary of a Borrower Party under the Bankruptcy Code, or any other applicable federal or state bankruptcy law or other similar law, or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator, or similar official of any Borrower Party or any Subsidiary of a Borrower Party or of any substantial part of its properties, or ordering the winding-up or liquidation of the affairs of any Borrower Party or any Subsidiary of a Borrower Party, or (ii) an involuntary petition shall be filed against any Borrower Party or any Subsidiary of a Borrower Party and a temporary stay entered and (A) such petition and stay shall not be diligently contested, or (B) any such petition and stay shall continue undismissed for a period of sixty (60) consecutive days;

(g) Any Borrower Party or any Subsidiary of a Borrower Party shall commence an Insolvency Proceeding or any Borrower Party or any Subsidiary of a Borrower Party shall consent to the institution of an Insolvency Proceeding or to the appointment or taking of possession of a receiver, liquidator, assignee, trustee, custodian, sequestrator, or other similar official of such Borrower Party or any Subsidiary of a Borrower Party or of any substantial part of its properties, or any Borrower Party or any Subsidiary of a Borrower Party shall fail generally to pay its debts as they become due, or any Borrower Party or any Subsidiary of a Borrower Party shall take any action in furtherance of any such action;

(h) (i) A judgment or order shall be entered by any court against any Borrower Party or any Subsidiary of any Borrower Party for the payment of money not covered by insurance which exceeds, together with all such other judgments of the Borrower Parties and their Subsidiaries not covered by insurance, $750,000 in the aggregate, or (ii) a warrant of attachment or execution or similar process shall be issued or levied against property of any Borrower Party or any Subsidiary of a Borrower Party pursuant to a final judgment which, together with all other such property of the Borrower Parties and their Subsidiaries subject to other such process, exceeds in value $750,000 in the aggregate, and, in the case of each of clauses (i) and (ii), if, within thirty (30) days after the entry, issue, or levy thereof, such judgment, warrant, or process shall not have been paid or discharged or stayed pending appeal, or if, after the expiration of any such stay, such judgment, warrant, or process shall not have been paid or discharged, or (iii) a final judgment or order shall be entered by any court against any Borrower Party or any Subsidiary of any Borrower Party for the payment of money not covered by insurance which exceeds, together with all such other judgments of the Borrower Parties and their Subsidiaries not covered by insurance, $750,000 in the aggregate;

(i) There shall occur at any time an ERISA Event that either could reasonably be expected to result in a Lien on any Borrower Party or, either individually or in the aggregate with other events described therein, could reasonably be expected to result in a Materially Adverse Effect;

(j) There shall occur any default (after the expiration of any applicable grace or cure period) under (i) the ABL Loan Documents, (ii) any indenture, agreement, or instrument evidencing Funded Debt of any Borrower Party or any Subsidiary of a Borrower Party in an aggregate principal amount exceeding $750,000 (determined singly or in the aggregate with other Funded Debt) or (iii) any Hedge Agreement which would permit the counterparty under such Hedge Agreement to terminate the Hedge Agreement resulting in any Borrower Party being required to make a termination payment exceeding $750,000;

(k) All or any portion of any Loan Document shall at any time and for any reason be declared to be null and void, the effect of which is to render any such Loan Document inadequate for the practical realization of the rights and benefits afforded thereby, or a proceeding shall be commenced by any Borrower Party, any Subsidiary of a Borrower Party or any member of the Sponsor Group seeking to establish the invalidity or unenforceability thereof (exclusive of questions of interpretation of any provision thereof), or any Borrower Party, any Subsidiary of a Borrower Party or any member of the Sponsor Group shall deny that it has any liability or obligation for the payment of any Obligation provided under any Loan Document;

(l) Any provisions of the Intercreditor Agreement or any other intercreditor agreement entered into by the Administrative Agent with the agent or other authorized representative (i) under the ABL Facility or (ii) under any agreement or instrument governing any Funded Debt thereunder, shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Person shall contest in any manner the validity or enforceability of such intercreditor agreement or deny that it has any further liability or obligation thereunder, or the Obligations or the Liens securing the Obligations for any reason shall not have the priority contemplated by this Agreement or such Intercreditor Agreement;

(m) The Guaranty of any Guarantor, for any reason other than the satisfaction in full of all Obligations or otherwise in accordance with the terms thereof, shall cease to be in full force and effect or shall be declared to be null and void, or any Guarantor shall contest or deny the validity or enforceability of, deny that it has any liability under, or repudiate, revoke or attempt to revoke its obligations under, any Guaranty;

(n) Any Lien purported to be created by any Security Document shall cease to be in full force and effect, or shall cease to give the Administrative Agent, for the benefit of the Lender Group, the Liens, rights, powers and privileges purported to be created and granted under such Security Documents (including a perfected first priority security interest in and Lien on, any portion of the Collateral thereunder (except as otherwise expressly provided in this Agreement or such Security Document)) in favor of the Administrative Agent, for the benefit of the Lender Group, or shall be asserted by any Borrower Party not to be valid, perfected, first priority (except as expressly provided in this Agreement or such Security Document) security interest in or Lien on any portion of the Collateral covered thereby;

(o) Any subordinated Funded Debt permitted hereunder or the guarantees thereof shall cease, for any reason, to be validly subordinated to the Obligations of the Borrower Parties hereunder, or the holders of such subordinated Funded Debt shall so assert; or

(p) There shall occur any event which has resulted in a Materially Adverse Effect for a period of 30 days.

Section 9.2 Remedies. If an Event of Default shall have occurred and shall be continuing, in addition to the rights and remedies set forth elsewhere in this Agreement and the other Loan Documents and as otherwise available to the Lender Group, or any of them, by any Applicable Laws:

(a) With the exception of an Event of Default specified in Section 9.1(g) or (h), the Administrative Agent may in its discretion (unless otherwise instructed by the Majority Lenders), (i) declare the principal of and interest on the Loan and all other Obligations to be forthwith due and payable without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, anything in this Agreement or in any other Loan Document to the contrary notwithstanding.

(b) Upon the occurrence and continuance of an Event of Default specified in Section 9.1(g) or (h), such principal, interest, and other Obligations shall thereupon and concurrently therewith become due and payable, all without any action by the Lender Group, or any of them, and without presentment, demand, protest, or other notice of any kind, all of which are expressly waived, anything in this Agreement or in any other Loan Document to the contrary notwithstanding.

(c) The Administrative Agent may in its discretion (unless otherwise instructed by the Majority Lenders) or shall at the direction of the Majority Lenders exercise any or all of the post-default rights granted to the Lender Group, or any of them, under the Loan Documents or under Applicable Law. The Administrative Agent, for the benefit of the Lender Group, shall have the right to the appointment of a receiver for the Property of the Borrower Parties, and the Borrower Parties hereby consent to such rights and such appointment and hereby waive any objection the Borrower Parties may have thereto or the right to have a bond or other security posted by the Lender Group, or any of them, in connection therewith.

(d) The Administrative Agent may in its discretion require the Borrower Parties (i) to engage a consulting firm or chief restructuring officer chosen by the Borrower that is reasonably acceptable to the Administrative Agent and (ii) deliver to the Administrative Agent a copy of the fully-executed engagement letter with such consulting firm or chief restructuring officer, which engagement letter shall be in form and substance reasonably acceptable to the Administrative Agent, and, among other things, (A) require such consulting firm or chief restructuring officer to cooperate with any financial advisor to the Administrative Agent in regard to the monthly reporting of covenants and (B) provide for such engagement to have a term ending on or after the Maturity Date (or a shorter term if agreed to in writing by the Administrative Agent).

(e) The Administrative Agent may in its discretion require each Borrower Party to use its commercially reasonable efforts to assist the Administrative Agent in the sale of Collateral, and each Borrower Party further agrees to use its best efforts to cause such employees or agents of such Borrower Party, which Persons shall be licensed to dispose of such Collateral, as are reasonably necessary to accomplish the disposition of such Collateral to Administrative Agent’s satisfaction to assist in such disposition. In connection with the sale of such Collateral, each Borrower Party agrees to use its best efforts to obtain sales of such Collateral at commercially reasonable prices and terms.

(f) The rights and remedies of the Lender Group hereunder shall be cumulative, and not exclusive.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Notices.

(a) All notices and other communications under this Agreement shall be in writing and shall be deemed to have been given five (5) days after deposit in the mail, designated as certified mail, return receipt requested, postage-prepaid, or one (1) day after being entrusted to a reputable commercial overnight delivery service, or when delivered to the telegraph office or sent out (with receipt confirmed) by telex or telecopy addressed to the party to which such notice is directed at its address determined as in this Section 10.1. All notices sent by electronic 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 by 5 p.m. (New York time) on a Business Day for the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient. Notices delivered through electronic communications (other than electronic mail) to the extent provided in paragraph (c) below, shall be effective as provided in said paragraph (c). All notices and other communications under this Agreement shall be given to the parties hereto at the following addresses:

(i) If to any Borrower Party, to such Borrower Party in care of the Borrower at:

Fluent, LLC
33 Whitehall Street, 15th Floor
New York, NY 10004
Attn: Ryan Schulke

with a copy to:

Akerman LLP
One Southeast Third Avenue, Suite 2500
Miami, FL 33131
Attn: Teddy Klinghoffer, Esq.

(ii) If to the Administrative Agent, to it at:

~~**155 N Wacker Drive**~~
151 North Franklin Street
Suite ~~**4180**~~**2175**
Chicago, IL 60606
Attn: John Yeager
Email: jyeager@higwhitehorse.com

with a copy to:

Latham & Watkins LLP
330 North Wabash Avenue, Suite 2800
Chicago, IL 60611
Attn: Noah Weiss
Email: noah.weiss@lw.com

(iii) If to any Lender, to them at the address set forth on the signature pages of this Agreement.

(b) Any party hereto may change the address to which notices shall be directed under this Section 10.1 by giving ten (10) days' written notice of such change to the other parties.

(c) All notices and other items to be, or which may be from time to time, delivered by and among the Borrower Parties and the Administrative Agent (including the delivery of the items required by Sections 7.1, 7.2, and 7.3), may be made via Electronic Transmission. The Administrative Agent shall so post such items within a reasonable period of time after delivery thereof by Borrower. Such posting or sending via Electronic Transmission to the Lender Group shall constitute delivery of such items to the Lender Group. If any item required to be delivered under Sections 7.1, 7.2 and 7.3, shall be specified to be delivered on a day which is not a Business Day, it shall be delivered on the next succeeding day which is a Business Day.

Section 10.2 Expenses. The Borrower agrees to promptly pay or promptly reimburse (other than to the extent they constitute Excluded Taxes):

(a) All reasonable and documented out-of-pocket costs and expenses of the Administrative Agent and its Affiliates in connection with the preparation, negotiation, execution, delivery and syndication of this Agreement and the other Loan Documents, the transactions contemplated hereunder and thereunder, and the making of the Term Loan hereunder, including, but not limited to, the reasonable fees, charges and disbursements of outside counsel for the Administrative Agent and its Affiliates and costs incurred in connection with travel and due diligence;

(b) All reasonable and documented out-of-pocket costs and expenses of the Administrative Agent and its Affiliates in connection with the administration of the transactions contemplated in this Agreement and the other Loan Documents and the preparation, negotiation, execution, and delivery of any waiver, amendment, or consent by the Lenders relating to this Agreement or the other Loan Documents, including, but not limited to, all reasonable costs and expenses of the Administrative Agent and one additional Lender in connection with periodic field audits, appraisals and examinations, and the internal per diem audit charge as established by the Administrative Agent from time to time (which charge shall be reasonable and customary), per auditor, plus costs and expenses for each field audit or examination of a Borrower Party performed by personnel employed by the Administrative Agent, and the reasonable fees and disbursements of counsel for the Administrative Agent;

(c) All costs and expenses of the Administrative Agent and any Lender in connection with any restructuring, refinancing, or "work out" of the transactions contemplated by this Agreement, and of obtaining performance under this Agreement and the other Loan Documents (including in connection with the enforcement of its rights in connection with this Agreement and the other Loan Documents), and all costs and expenses of collection if default is made in the payment of the Obligations, which in each case shall include fees, charges and expenses of outside counsel for the Administrative Agent and any Lender, and the fees and expenses of any experts of the Administrative Agent, or consultants of the Administrative Agent; and

(d) All taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against any of the Collateral, any Term Loan Notes or the Obligations.

Section 10.3 Waivers. The rights and remedies of the Lender Group under this Agreement and the other Loan Documents shall be cumulative and not exclusive of any rights or remedies which they would otherwise have. No failure or delay by the Lender Group, or any of them, or the Majority Lenders in exercising any right shall operate as a waiver of such right. The Lender Group expressly reserves the right to require strict compliance with the terms of this Agreement in connection with any funding of the Term Loan. In the event the Lenders decide to fund a request for the Term Loan at a time when the Borrower is not in strict compliance with the terms of this Agreement, such decision by the Lenders shall not be deemed to constitute an undertaking by the Lenders to fund any further requests for Advances or preclude the Lenders from exercising any rights available to the Lenders under the Loan Documents or at law or equity. Any waiver or indulgence granted by the Lenders or by the Majority Lenders shall not constitute a modification of this Agreement, except to the extent expressly provided in such waiver or indulgence, or constitute a course of dealing by the Lenders at variance with the terms of the Agreement such as to require further notice by the Lenders of the Lenders' intent to require strict adherence to the terms of the Agreement in the future. Any such actions shall not in any way affect the ability of the Lenders, in their discretion, to exercise any rights available to them under this Agreement or under any other agreement, whether or not the Lenders are party, relating to the Borrower.

Section 10.4 Set-Off. In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, except to the extent limited by Applicable Law, at any time that an Event of Default exists, each member of the Lender Group and each subsequent holder of the Obligations is hereby authorized by the Borrower Parties at any time or from time to time, without notice to the Borrower Parties or to any other Person, any such notice being hereby expressly waived, to set-off and to appropriate and apply any and all deposits (general or special, time or demand, including, but not limited to, Funded Debt evidenced by certificates of deposit, in each case whether matured or unmatured, but not including any amounts held by any member of the Lender Group or any of its Affiliates in any escrow account) and any other Funded Debt at any time held or owing by any member of the Lender Group or any such holder to or for the credit or the account of any Borrower Party, against and on account of the obligations and liabilities of the Borrower Parties, to any member of the Lender Group or any such holder under this Agreement, any Term Loan Notes and any other Loan Document, including, but not limited to, all claims of any nature or description arising out of or connected with this Agreement or any other Loan Document, irrespective of whether or not (a) the Lender Group shall have made any demand hereunder or (b) the Lender Group shall have declared the principal of and interest on the Loan, any Term Loan Notes and other amounts due hereunder to be due and payable as permitted by Section 9.2 and although said obligations and liabilities, or any of them, shall be contingent or unmatured. Any sums obtained by any member of the Lender Group or by any subsequent holder of the Obligations shall be applied to the Obligations in accordance with Section 2.10(b).

Section 10.5 Assignment.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower Party without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Affiliates of the Administrative Agent) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loan at the time owing to it); provided that the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of $3,500 (unless such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund), and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.5(c), from and after the effective date specified in each Assignment and Acceptance, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 2.8(b), 2.9, 6.18, 11.3 and 11.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph 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 paragraph (d) of this Section 10.5.

(c) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loan owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for inspection by such Lender at any reasonable time and from time to time upon reasonable prior notice; information contained in the Register shall also be available for inspection by the Borrower at any reasonable time and from time to time upon reasonable prior notice. In establishing and maintaining the Register, the Administrative Agent shall serve as the Borrower's agent solely for tax purposes and solely with respect to the actions described in this Section, and the Borrower hereby agrees that, to the extent WhiteHorse Finance, Inc. serves in such capacity, WhiteHorse Finance, Inc. and its officers, directors, employees, agents, sub-agents and affiliates shall constitute "Indemnitees".

(d) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities which are not Disqualified Institutions (a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its portion of the Commitment and/or the Loan 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, (iii) the Borrower and the Lender Group shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, (iv) 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 and the Loan Documents provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 10.12(a)(i) that affects such Participant. Subject to paragraph (e) of this Section 10.5, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.8(b), 2.9, 6.18 and 11.3 as if it were the Lender, to the extent of its participation, and had acquired its interest by assignment pursuant to Section 10.5(b), provided that such Participant agrees to be subject to the provisions of Section 2.8(b), as though it were an assignee under paragraph (b) (it being understood that the documentation required under Section 2.8(b)(v)-(vii) shall be delivered to the participating Lender). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.4 as though it were a Lender, provided such Participant agrees to be subject to Section 10.4 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) A Participant shall not be entitled to receive any greater payment under Section 2.8(b) or Section 11.3 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a change in Applicable Law that occurs after the Participant acquired the applicable participation.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 10.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same agreement. In proving this Agreement or any other Loan Document in any judicial proceedings, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom such enforcement is sought. Any signatures hereto delivered by Electronic Transmission shall be deemed an original signature hereto. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

Section 10.7 Governing Law. All matters arising out of, in connection with or relating to this Agreement and the other Loan Documents, including, without limitation, their validity, interpretation, construction, performance and enforcement (including, without limitation, any claims sounding in contract or tort law arising out of the subject matter hereof or thereof and any determinations with respect to post-judgment interest), shall be construed in accordance with and governed by the laws of the State of New York.

Section 10.8 Severability. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 10.9 Headings. Headings used in this Agreement are for convenience only and shall not affect the interpretation of any provision hereof.

Section 10.10 Source of Funds. Notwithstanding the use by the Lenders of the Base Rate and the Eurodollar Rate as reference rates for the determination of interest on the Loan, the Lenders shall be under no obligation to obtain funds from any particular source in order to charge interest to the Borrower at interest rates tied to such reference rates.

Section 10.11 Entire Agreement. THIS WRITTEN AGREEMENT, TOGETHER WITH THE OTHER LOAN DOCUMENTS, REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. Each Borrower Party represents and warrants to the Lender Group that it has read the provisions of this Section 10.11 and discussed the provisions of this Section 10.11 and the rest of this Agreement with counsel for such Borrower Party, and such Borrower Party acknowledges and agrees that the Lender Group is expressly relying upon such representations and warranties of such Borrower Party (as well as the other representations and warranties of such Borrower Party set forth in this Agreement and the other Loan Documents) in entering into this Agreement.

Section 10.12 Amendments and Waivers.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by any Borrower Party therefrom, shall be effective unless the same is in writing and signed by the Administrative Agent, Majority Lenders and the Borrower, and then any such waiver shall be effective only in the specific instance and for the specific purpose for which given, except that:

(i) each of the following also shall require the consent of all Lenders (or, in the case of clauses (C) and (E), only those Lenders affected thereby:

(A) except as otherwise permitted under this Agreement, any release of, or the subordination of, the Administrative Agent's security interest in all or substantially all of the Collateral,

(B) except in connection with transactions permitted under this Agreement, any release or discharge of any Borrower Party from its Obligations under the Loan Documents,

(C) (x) any extensions, postponements or delays of the Maturity Date or the scheduled date of payment of interest, principal (other than payments of principal required to be made pursuant to Section 2.6(c)) or fees or other amounts due to the Lenders under any of the Loan Documents, or (y) any reduction of principal (without a corresponding payment with respect thereto) or reduction in the rate of interest, fees or other amounts due to the Lenders under any of the Loan Documents,

(D) any amendment of this Section 10.12 or of the definition of "Majority Lenders" or any other provision of the Loan Documents specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder,

(E) any amendment increasing or extending the Commitment of any Lender (it being understood and agreed that a waiver of any Default or Event of Default or modification of any of the defined terms contained herein (other than those defined terms specifically addressed in this Section 10.12) shall not constitute a change in the terms of any portion of the Commitment held by any Lender), and

(F) any amendment to Section 2.10;

(ii) the written consent of the Administrative Agent, the Majority Lenders and the Borrower shall be required for any amendment to Article 13;

(iii) only the consent of the Administrative Agent shall be required to amend Schedule 2.1(a) to reflect assignments of any portion of the Loan in accordance with this Agreement;

(iv) any amendment, waiver or other modification of any term or condition of the Fee Letter shall require only the consent of the Administrative Agent and the Borrower; and

(v) any change or waiver of any provision of this Agreement or any other Loan Document as the same applies to the rights, duties or obligations of any Agent shall not be effective without the written consent of such Agent.

(b) (i) Each Lender grants to the Administrative Agent the right to purchase all (but not less than all) of such Lender's Loan and all of its rights and obligations hereunder and under the other Loan Documents at a price equal to the outstanding principal amount of such Loan payable to such Lender plus any accrued but unpaid interest on such Loan, which right may be exercised by the Administrative Agent within 90 days of the date on which such Lender refuses (or fails) to execute any amendment, waiver or consent which requires the written consent of all of the Lenders and to which the Majority Lenders, the Administrative Agent and the Borrower have agreed (such Lender, a "Non-Consenting Lender"). Each Lender and the Borrower agree that, if the Administrative Agent exercises its option hereunder, (i) the Borrower shall pay the Non-Consenting Lender all outstanding fees, expenses, and other amounts then owing to such Non-Consenting Lender under this Agreement (excluding principal and interest that has been paid by the Administrative Agent), and (ii) Administrative Agent shall promptly execute and deliver an Assignment and Acceptance and other agreements and documentation necessary to effectuate such assignment. The Administrative Agent may assign its purchase rights hereunder to any assignee if such assignment complies with the requirements of Section 10.5(b).

(ii) Within 45 days of the date on which any Non-Consenting Lender has refused or failed to execute any amendment, waiver or consent which requires the written consent of all of the Lenders and to which the Majority Lenders, the Administrative Agent and the Borrower have agreed, the Borrower may, at its option, notify the Administrative Agent and such Non-Consenting Lender of the Borrower's intention to obtain, at the Borrower's expense, an Eligible Assignee to serve as a replacement Lender for such Non-Consenting Lender (a "Replacement Lender"), which Replacement Lender shall be reasonably satisfactory to the Administrative Agent. In the event the Borrower obtains a Replacement Lender within 45 days following notice of its intention to do so, the Non-Consenting Lender shall sell and assign its Loans and Commitments to such Replacement Lender, at par, provided that the Borrower has reimbursed such Non-Consenting Lender for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment. In the event that a Non-Consenting Lender does not execute an Assignment and Acceptance pursuant to Section 10.5 within five (5) Business Days after receipt by such Non-Consenting Lender of notice of replacement pursuant to this Section 10.12(b) and presentation to such Non-Consenting Lender of an Assignment and Acceptance evidencing an assignment pursuant to this Section 10.12(b), the Borrower shall be entitled (but not obligated) to execute such an Assignment and Acceptance on behalf of such Non-Consenting Lender, and any such Assignment and Acceptance so executed by the Borrower, the Replacement Lender and the Administrative Agent shall be effective for purposes of this Section 10.12(b) and Section 10.5. Upon any such assignment and payment and compliance with the other provisions of Section 10.5, such replaced Non-Consenting Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive.

(c) If any fees are paid to the Lenders as consideration for amendments, waivers or consents with respect to this Agreement, at Administrative Agent's election, such fees may be paid only to those Lenders that agree to such amendments, waivers or consents within the time specified for submission thereof, so long as all Lenders are given the opportunity to so agree and such fees are provided on a pro-rata basis to such Lenders that so agree to such amendments, waivers or consents.

Section 10.13 Other Relationships. No relationship created hereunder or under any other Loan Document shall in any way affect the ability of any member of the Lender Group to enter into or maintain business relationships with the Borrower, or any of its Affiliates, beyond the relationships specifically contemplated by this Agreement and the other Loan Documents.

Section 10.14 Pronouns. The pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto.

Section 10.15 Disclosure. The Borrower Parties consent to any member of the Lender Group's issuance of press releases and preparation and distribution of other marketing materials regarding the Commitment hereunder and the making of the Loan pursuant to the terms of this Agreement and the disclosure of such information in such member's sole discretion, subject to Section 10.16.

Section 10.16 Confidentiality. No member of the Lender Group shall disclose any material non-public confidential information regarding the Borrower Parties ("Confidential Information") to any other Person without the consent of the Borrower, other than (i) to such member of the Lender Group's Affiliates and their officers, directors, employees, agents and advisors (including, for the avoidance of doubt, accountants, auditors and attorneys), to other members of the Lender Group and to actual or prospective assignees, participants, in each case, who shall have been informed of the confidential nature of the Confidential Information and agreed to keep such information confidential, and counterparties to Hedge Agreements, and then only on a confidential basis, (ii) as required by any Applicable Law or upon the request of any Governmental Authority or otherwise as a result of judicial process, including pursuant to the order of any court or administrative agency in any pending legal, judicial or administrative proceeding, (iii) to any rating agency when required by it, provided that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Confidential Information relating to the Borrower Parties received by it from such member of the Lender Group, (iv) as requested or required by any state, federal or foreign authority or examiner regulating banks or banking, (v) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 10.16 or (B) available to such member of the Lender Group on a non-confidential basis from a source other than a Borrower Party not known by it to be subject to disclosure restrictions and (vi) in connection with the exercise of any remedy hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder. The term "Confidential Information" shall be deemed to exclude information customarily placed on 'tombstones' or similar marketing materials.

Section 10.17 Revival and Reinstatement of Obligations. If the incurrence or payment of the Obligations by the Borrower or any Guarantor, or the transfer to the Lender Group of any property, should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent conveyances, preferences or other voidable or recoverable payments of money or transfers of property (collectively, a "Voidable Transfer"), and if the Lender Group, or any of them, is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the advice of its counsel, then, as to any such Voidable Transfer, or the amount thereof that the Lender Group, or any of them, is required or elects to repay or restore, and as to all costs, expenses and attorneys' fees of the Lender Group related thereto, the liability of the Borrower or such Guarantor, as applicable, automatically shall be revived, reinstated and restored and shall exist as though such Voidable Transfer had never been made.

Section 10.18 Electronic Transmission.

(a) Authorization. Subject to the provisions of this Section 10.18(a), each of the Administrative Agent, the Lenders, the Borrower Parties and each of their Affiliates is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. The Borrower and the other Borrower Parties hereby acknowledges and agrees, and the Borrower and the other Borrower Parties shall cause each of their Subsidiaries to acknowledge and agree, that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to the terms and conditions of this Agreement, separate terms and conditions posted or referenced in such E-System and related contractual obligations executed by the Borrower Parties or the members of the Lender Group in connection with the use of such E-System.

(c) Limitation of Liability. All E-Systems and Electronic Transmissions shall be provided "as is" and "as available". None of the Administrative Agent or any of its Affiliates warrants the accuracy, adequacy or completeness of any E-Systems or Electronic Transmission, and each disclaims all liability for errors or omissions therein. No warranty of any kind is made by the Administrative Agent or any of its Affiliates in connection with any E-Systems or Electronic Transmission, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects. Each Borrower Party agrees that neither the Administrative Agent nor any of its Affiliates has any responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

Section 10.19 USA Patriot Act. The Administrative Agent and Lenders hereby notify each Borrower Party that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies such Borrower Party, which information includes the name and address of such Borrower Party and other information that will allow such Lender to identify such Borrower Party in accordance with the USA Patriot Act. Each Borrower Party shall, promptly following a request by any Agent or Lender, provide all documentation and other information that such Person 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.

ARTICLE 11

YIELD PROTECTION

Section 11.1 Eurodollar Rate Basis Determination. Notwithstanding anything contained in this Agreement which may be construed to the contrary, if with respect to any proposed Eurodollar Advance for any Eurodollar Advance Period, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (a) adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Eurodollar Advance Period or (b) is advised in writing by the Majority Lenders that the Eurodollar Basis for such Eurodollar Advance Period will not adequately and fairly reflect the cost to the Lenders of making or maintaining the Loan for such Eurodollar Advance Period, the Administrative Agent shall forthwith give notice thereof to the Borrower and the Lenders, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such situation no longer exist, the obligations of the Lenders to make Eurodollar Advances shall be suspended.

Section 11.2 Illegality. If any change in Applicable Law, any change in the interpretation or administration of any Applicable Law by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof, or any change in compliance with Applicable Law as a result of any request or directive (whether or not having the force of law) of any such authority, central bank, or comparable agency after the Agreement Date, shall make it unlawful for any Lender to make, maintain, or fund its Eurodollar Advances, such Lender shall so notify the Administrative Agent in writing, and the Administrative Agent shall forthwith give notice thereof to the other Lenders and the Borrower. Before giving any notice to the Administrative Agent pursuant to this Section 11.2, such Lender shall designate a different lending office if such designation will avoid the need for giving such notice and will not, in the judgment of such Lender, be otherwise disadvantageous to such Lender. Upon receipt of such notice, notwithstanding anything contained in Article 2, the Borrower shall repay in full (without prepayment premium) the then outstanding principal amount of each affected Eurodollar Advance of such Lender, together with accrued interest thereon, either (a) on the last day of the then current Eurodollar Advance Period applicable to such Eurodollar Advance if such Lender may lawfully continue to maintain and fund such Eurodollar Advance to such day or (b) immediately if such Lender may not lawfully continue to fund and maintain such Eurodollar Advance to such day. Concurrently with repaying each affected Eurodollar Advance of such Lender, notwithstanding anything contained in Article 2, the Borrower shall borrow a Base Rate Advance from such Lender, and such Lender shall make such Advance in an amount such that the outstanding principal amount of the Loan held by such Lender shall equal the outstanding principal amount of such Loan immediately prior to such repayment.

Section 11.3 Increased Costs.

(a) If any change in Applicable Law, any change in the interpretation or administration of any Applicable Law by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof or any change in compliance with Applicable Law as a result of any request or directive (whether or not having the force of law) of such Governmental Authority, central bank, or comparable agency after the Agreement Date (and, for purposes of this Section 11.3, each of (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (including regulations promulgated with respect thereto) and all requests, guidelines or directives in connection therewith 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 or foreign regulatory authorities, in each case in respect of this clause (ii), pursuant to Basel III, are, in the case of each of clauses (i) and (ii), deemed to have gone into effect and been adopted after the Agreement Date):

(i) Shall subject any Lender to any Taxes (other than Excluded Taxes, Indemnified Taxes and Other Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

(ii) Shall impose, modify, or deem applicable any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System, but excluding any included in an applicable Eurodollar Reserve Percentage), special deposit, assessment, or other requirement or condition against assets of, deposits (other than as described in Section 11.5) with or for the account of, or commitments or credit extended by any Lender, or shall impose on any Lender or the eurodollar interbank borrowing market any other condition affecting its obligation to make such Eurodollar Advances or its Eurodollar Advances; and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining any such Eurodollar Advances, or to reduce the amount of any sum received or receivable by such Lender under this Agreement with respect thereto, and such increase is not given effect in the determination of the Eurodollar Rate; or

(iii) Shall impose, modify, or deem applicable any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System), special deposit, assessment, or other requirement or condition against assets of, deposits (other than as described in Section 11.5) with or for the account of, or commitments or credit extended by any Lender,

then promptly upon demand by such Lender, the Borrower agrees to pay, without duplication of amounts due under Section 2.8(b), to such Lender such Additional Amount or amounts as will compensate such Lender for such increased costs. Such Lender will promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender to compensation pursuant to this Section 11.3 and will designate a different lending office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the sole judgment of such Lender, be otherwise disadvantageous to such Lender. Failure or delay on the part of such Lender to demand compensation pursuant to this Section 11.3 shall not constitute a waiver of such Lender’s right to demand such compensation

(b) A certificate of any Lender (with a copy to the Administrative Agent) claiming compensation under this Section 11.3 and setting forth the Additional Amount or amounts to be paid to it hereunder and calculations therefor shall be conclusive in the absence of manifest error. In determining such amount, such Lender may use any averaging and attribution methods. If such Lender demands compensation under this Section 11.3, the Borrower may at any time, upon at least five (5) Business Days' prior notice to such Lender, prepay in full the then outstanding affected Eurodollar Advances, together with accrued interest thereon to the date of prepayment, along with any reimbursement required under Section 2.9. Concurrently with prepaying such Eurodollar Advances, the Borrower shall borrow a Base Rate Advance, or a Eurodollar Advance not so affected, from such Lender, and such Lender shall make such Advance in an amount such that the outstanding principal amount of the Loan held by such Lender shall equal the outstanding principal amount of the Loan held by such Lender immediately prior to such prepayment.

Section 11.4 Effect On Other Advances. If notice has been given pursuant to Sections 11.1, 11.2 or 11.3 suspending the obligation of any Lender to make any, or requiring Eurodollar Advances of such Lender to be repaid or prepaid, then, unless and until such Lender notifies the Borrower and the Administrative Agent in writing that the circumstances giving rise to such repayment no longer apply, all Advances which would otherwise be made by such Lender as to the Eurodollar Advances affected shall, at the option of the Borrower, be made instead as Base Rate Advances.

Section 11.5 Capital Adequacy. If after the Agreement Date, any Lender (or any Affiliate of any Lender) shall have determined that the adoption of any Applicable Law, governmental rule, regulation or order regarding the capital adequacy of banks or bank holding companies, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by such Lender (or any Affiliate of such Lender) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency (but only if such adoption, change, request or directive occurs after the Agreement Date), has or would have the effect of reducing the rate of return on such Lender's (or any Affiliate of such Lender) capital as a consequence of the Commitment or obligations hereunder to a level below that which it could have achieved but for such adoption, change or compliance (taking into consideration such Lender's (or any Affiliate of such Lender) policies with respect to capital adequacy immediately before such adoption, change or compliance and assuming that such Lender's (or any Affiliate of such Lender) capital was fully utilized prior to such adoption, change or compliance), then, promptly upon demand by such Lender, the Borrower shall promptly pay to such Lender such Additional Amount or amounts as shall be sufficient to compensate such Lender for any such reduction actually suffered; provided, however, that there shall be no duplication of amounts paid to any Lender pursuant to this sentence and Section 11.3. A certificate of any Lender setting forth the amount to be paid to such Lender by the Borrower (with a copy to the Administrative Agent) as a result of any event referred to in this paragraph shall, absent manifest error, be conclusive. For purposes of this Section 11.5, each of (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (including regulations promulgated with respect thereto) and all requests, guidelines or directives in connection therewith 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 or foreign regulatory authorities, in each case in respect of this clause (ii), pursuant to Basel III, are, in the case of each of clauses (i) and (ii), deemed to have gone into effect and been adopted after the Agreement Date.

ARTICLE 12

JURISDICTION, VENUE AND WAIVER OF JURY TRIAL

Section 12.1 Jurisdiction and Service of Process. FOR PURPOSES OF ANY LEGAL ACTION OR PROCEEDING BROUGHT BY ANY MEMBER OF THE LENDER GROUP WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, EACH BORROWER PARTY HEREBY IRREVOCABLY SUBMITS TO THE PERSONAL JURISDICTION OF THE FEDERAL AND STATE COURTS SITTING IN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND HEREBY IRREVOCABLY DESIGNATES AND APPOINTS, AS ITS AUTHORIZED AGENT FOR SERVICE OF PROCESS IN THE STATE OF NEW YORK, THE BORROWER, OR SUCH OTHER PERSON AS SUCH BORROWER PARTY SHALL DESIGNATE HEREAFTER BY WRITTEN NOTICE GIVEN TO THE ADMINISTRATIVE AGENT. THE CONSENT TO JURISDICTION HEREIN SHALL BE EXCLUSIVE; PROVIDED THAT THE LENDER GROUP, OR ANY OF THEM, RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY BORROWER PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY SECURITY DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT. THE LENDER GROUP SHALL FOR ALL PURPOSES AUTOMATICALLY, AND WITHOUT ANY ACT ON THEIR PART, BE ENTITLED TO TREAT SUCH DESIGNEE OF EACH BORROWER PARTY AS THE AUTHORIZED AGENT TO RECEIVE FOR AND ON BEHALF OF SUCH BORROWER PARTY SERVICE OF WRITS, OR SUMMONS OR OTHER LEGAL PROCESS IN THE STATE OF NEW YORK, WHICH SERVICE SHALL BE DEEMED EFFECTIVE PERSONAL SERVICE ON SUCH BORROWER PARTY SERVED WHEN DELIVERED, WHETHER OR NOT SUCH AGENT GIVES NOTICE TO SUCH BORROWER PARTY; AND DELIVERY OF SUCH SERVICE TO ITS AUTHORIZED AGENT SHALL BE DEEMED TO BE MADE WHEN PERSONALLY DELIVERED OR THREE (3) BUSINESS DAYS AFTER MAILING BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH AUTHORIZED AGENT. EACH BORROWER PARTY FURTHER IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL TO SUCH BORROWER PARTY AT THE ADDRESS SET FORTH ABOVE, SUCH SERVICE TO BECOME EFFECTIVE THREE (3) BUSINESS DAYS AFTER SUCH MAILING. IN THE EVENT THAT, FOR ANY REASON, SUCH AGENT OR ITS SUCCESSORS SHALL NO LONGER SERVE AS AGENT OF EACH BORROWER PARTY TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK, EACH BORROWER PARTY SHALL SERVE AND ADVISE THE ADMINISTRATIVE AGENT THEREOF SO THAT AT ALL TIMES EACH BORROWER PARTY WILL MAINTAIN AN AGENT TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK ON BEHALF OF SUCH BORROWER PARTY WITH RESPECT TO THIS AGREEMENT AND ALL OTHER LOAN DOCUMENTS. IN THE EVENT THAT, FOR ANY REASON, SERVICE OF LEGAL PROCESS CANNOT BE MADE IN THE MANNER DESCRIBED ABOVE, SUCH SERVICE MAY BE MADE IN SUCH MANNER AS PERMITTED BY LAW.

Section 12.2 Consent to Venue. EACH BORROWER PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION IT WOULD MAKE NOW OR HEREAFTER FOR THE LAYING OF VENUE OF ANY SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN THE FEDERAL COURTS OF THE UNITED STATES SITTING IN NEW YORK COUNTY, NEW YORK, AND HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION, OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

Section 12.3 Waiver of Jury Trial. EACH BORROWER PARTY AND EACH MEMBER OF THE LENDER GROUP, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WAIVES, AND OTHERWISE AGREES NOT TO REQUEST, A TRIAL BY JURY IN ANY COURT AND IN ANY ACTION, PROCEEDING OR COUNTERCLAIM OF ANY TYPE IN WHICH ANY BORROWER PARTY, ANY MEMBER OF THE LENDER GROUP OR ANY OF THEIR RESPECTIVE SUCCESSORS OR ASSIGNS IS A PARTY, AS TO ALL MATTERS AND THINGS ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, AND THE RELATIONS AMONG THE PARTIES LISTED IN THIS ARTICLE 12.

ARTICLE 13

THE ADMINISTRATIVE AGENT

Section 13.1 Appointment and Authorization. Each member of the Lender Group hereby irrevocably appoints and authorizes, and hereby agrees that it will require any transferee of any of its interest in this Agreement and the other Loan Documents and its Loan and its portion of the Commitment irrevocably to appoint and authorize, the Administrative Agent to take such actions as its agent on its behalf and to exercise such powers hereunder and under the other Loan Documents as are delegated by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. Without limiting the foregoing, each member of the Lender Group hereby authorizes the Administrative Agent to execute and deliver each Loan Document to which the Administrative Agent is, or is required to be, a party. Neither the Administrative Agent nor any of its directors, officers, employees, or agents shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith, except for its own gross negligence or willful misconduct as determined by a final non-appealable order of a court of competent jurisdiction. Without limiting the foregoing, each member of the Lender Group hereby authorizes the Administrative Agent to execute and deliver, and consents to and authorizes Agent's execution and delivery of, the Intercreditor Agreement and any additional intercreditor or subordination agreements from time to time as contemplated by the terms hereof on behalf of such member of the Lender Group and agrees to be bound by the terms and provisions thereof, including any purchase option contained therein.

Section 13.2 Interest Holders. The Administrative Agent may treat each Lender, or the Person designated in the last notice filed with the Administrative Agent under this Section 13.2, as the holder of all of the interests of such Lender in this Agreement and the other Loan Documents, its Loan and its portion of the Commitment until written notice of transfer, signed by such Lender (or the Person designated in the last notice filed with the Administrative Agent) and by the Person designated in such written notice of transfer, in form and substance satisfactory to the Administrative Agent, shall have been filed with the Administrative Agent.

Section 13.3 Consultation with Counsel. The Administrative Agent may consult with legal counsel selected by it and shall not be liable to any Lender for any action taken or suffered by it in good faith in reliance on the advice of such counsel.

Section 13.4 Documents. The Administrative Agent shall not be under any duty to examine, inquire into, or pass upon the validity, effectiveness, or genuineness of this Agreement, any other Loan Document, or any instrument, document, or communication furnished pursuant hereto or in connection herewith, and the Administrative Agent shall be entitled to assume that they are valid, effective, and genuine, have been signed or sent by the proper parties, and are what they purport to be.

Section 13.5 Administrative Agent and Affiliates. With respect to the Commitment and Loan, the Administrative Agent shall have the same rights and powers hereunder as any other Lender, and the Administrative Agent and its Affiliates, as the case may be, may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower Parties or any Affiliates of, or Persons doing business with, the Borrower Parties, as if it were not the Administrative Agent or affiliated with the Administrative Agent and without any obligation to account therefor. The Lenders acknowledge that the Administrative Agent and its Affiliates have other lending and investment relationships with the Borrower Parties and their Affiliates and in the future may enter into additional such relationships.

Section 13.6 Responsibility of the Administrative Agent. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any other member of the Lender Group, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” in this Agreement with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. The Administrative Agent shall be entitled to assume that no Default exists unless it has actual knowledge, or has been notified by any Borrower Party, of such fact, or has been notified by a Lender that such Lender considers that a Default exists, and such Lender shall specify in detail the nature thereof in writing. The Administrative Agent shall provide each Lender with copies of such documents received from any Borrower Party as such Lender may reasonably request.

Section 13.7 Action by Administrative Agent; Delegation of Duties.

(a) The Administrative Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights which may be vested in it by, and with respect to taking or refraining from taking any action or actions which it may be able to take under or in respect of, this Agreement, unless the Administrative Agent shall have been instructed by the Majority Lenders to exercise or refrain from exercising such rights or to take or refrain from taking such action. The Administrative Agent shall incur no liability under or in respect of this Agreement with respect to anything which it may do or refrain from doing in the reasonable exercise of its judgment or which may seem to it to be necessary or desirable in the circumstances.

(b) The Administrative Agent shall not be liable to the Lenders, or any of them, in acting or refraining from acting under this Agreement or any other Loan Document in accordance with the instructions of the Majority Lenders (or all Lenders if expressly required by Section 10.12), and any action taken or failure to act pursuant to such instructions shall be binding on all Lenders.

(c) The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 13.8 Notice of Default. In the event that any member of the Lender Group shall acquire actual knowledge, or shall have been notified in writing, of any Default, such member of the Lender Group shall promptly notify the other members of the Lender Group, and the Administrative Agent shall take such action and assert such rights under this Agreement as the Majority Lenders shall request in writing, and the Administrative Agent shall not be subject to any liability by reason of its acting pursuant to any such request. If the Majority Lenders shall fail to request the Administrative Agent to take action or to assert rights under this Agreement in respect of any Default after their receipt of the notice of any Default from a member of the Lender Group, or shall request inconsistent action with respect to such Default, the Administrative Agent may, but shall not be required to, take such action and assert such rights (other than rights under Article 9) as it deems in its discretion to be advisable for the protection of the Lender Group, except that, if the Majority Lenders have instructed the Administrative Agent not to take such action or assert such right, in no event shall the Administrative Agent act contrary to such instructions.

Section 13.9 Responsibility Disclaimed. The Administrative Agent shall not be under any liability or responsibility whatsoever as Administrative Agent:

(a) To any Borrower Party or any other Person or entity as a consequence of any failure or delay in performance by or any breach by, any member of the Lender Group of any of its obligations under this Agreement;

(b) To any member of the Lender Group, or any of them, as a consequence of any failure or delay in performance by, or any breach by, any Borrower Party or any other obligor of any of its obligations under this Agreement or any other Loan Document; or

(c) To any member of the Lender Group, or any of them, for any statements, representations, or warranties in this Agreement, or any other document contemplated by this Agreement or any information provided pursuant to this Agreement, any other Loan Document, or any other document contemplated by this Agreement, or for the validity, effectiveness, enforceability, or sufficiency of this Agreement, any other Loan Document, or any other document contemplated by this Agreement.

Section 13.10 Indemnification. The Lenders agree to indemnify (to the extent not reimbursed by the Borrower) and hold harmless the Administrative Agent and each of its Affiliates, employees, representatives, officers and directors (each an "Administrative Agent Indemnified Person") pro rata in accordance with their Commitment Ratios or Incremental Commitment Ratios from and against any and all claims, liabilities, investigations, losses, damages, actions, demands, penalties, judgments, suits, investigations, costs, expenses (including fees and expenses of experts, agents, consultants and counsel) and disbursements, in each case, of any kind or nature (whether or not an Administrative Agent Indemnified Person is a party to any such action, suit or investigation) whatsoever which may be imposed on, incurred by, or asserted against an Administrative Agent Indemnified Person resulting from any breach or alleged breach by the Borrower Parties, or any of them, of any representation or warranty made hereunder, or otherwise in any way relating to or arising out of the Commitment, the Loan, this Agreement, the other Loan Documents or any other document contemplated by this Agreement or any action taken or omitted by the Administrative Agent under this Agreement, any other Loan Document, or any other document contemplated by this Agreement, the making, administration or enforcement of the Loan Documents and the Loan or any transaction contemplated hereby or any related matters unless, with respect to any of the above, such Administrative Agent Indemnified Person is determined by a final non-appealable judgment of a court of competent jurisdiction to have acted or failed to act with gross negligence or willful misconduct. To the extent required by Applicable Law, the Administrative Agent may withhold from any payment to any Lender under a Loan Document an amount equal to any applicable withholding Tax (including withholding Taxes imposed under Chapters 3 and 4 of Subtitle A of the Code). If the IRS or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate certification form was not delivered, was not properly executed, or fails to establish an exemption from, or reduction of, withholding Tax with respect to a particular type of payment, or because such Lender failed to notify the Administrative Agent or any other Person of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, failed to maintain a Participant Register or for any other reason), or the Administrative Agent reasonably determines that it was required to withhold Taxes from a prior payment but failed to do so, such Lender shall promptly indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Agent, including legal expenses, allocated internal costs and out-of-pocket expenses. The Administrative Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which the Administrative Agent is entitled to indemnification from such Lender under this Section 13.10. This Section 13.10 is for the benefit of each Administrative Agent Indemnified Person and shall not in any way limit the obligations of the Borrower Parties under Section 6.18. The provisions of this Section 13.10 shall survive the termination of this Agreement.

Section 13.11 Credit Decision. Each member of the Lender Group represents and warrants to each other member of the Lender Group that:

(a) In making its decision to enter into this Agreement and to make its Advances it has independently taken whatever steps it considers necessary to evaluate the financial condition and affairs of the Borrower Parties and that it has made an independent credit judgment, and that it has not relied upon information provided by the Administrative Agent or any of its Affiliates;

(b) So long as any portion of the Obligations remains outstanding, it will continue to make its own independent evaluation of the financial condition and affairs of the Borrower Parties; and

(c) Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Administrative Agent, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower Parties which may come into the possession of any of the Administrative Agent or any Affiliates of the Administrative Agent.

Section 13.12 Successor Administrative Agent. Subject to the appointment and acceptance of a successor Administrative Agent as provided below, the Administrative Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower. Upon any such resignation, the Majority Lenders shall have the right to appoint a successor Administrative Agent (with the consent of the Borrower if no Event of Default then exists). If no successor Administrative Agent shall have been so appointed by the Majority Lenders, and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be any Lender or a Person organized under the laws of the U.S., a State or any political subdivision thereof which has combined capital and reserves in excess of $250,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges, duties, and obligations of the retiring Administrative Agent (other than any rights to indemnity payments or other amounts owed to the retiring Administrative Agent as of the effective date of its resignation), and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article 13 and Sections 2.8(c), 6.18 and 10.2 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by it while any of them was acting as the Administrative Agent.

Section 13.13 Administrative Agent May File Proofs of Claim. The Administrative Agent may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent, its agents, financial advisors and counsel), and the Lenders allowed in any judicial proceedings relative to any Borrower Party, or any of their respective creditors or property, and shall be entitled and empowered to collect, receive and distribute any monies, securities or other property payable or deliverable on any such claims and any custodian in any such judicial proceedings is hereby authorized by each Lender 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, to pay to the Administrative Agent any amount due to the Administrative Agent for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent, its agents, financial advisors and counsel, and any other amounts due the Administrative Agent under Section 10.2. Nothing contained in this Agreement or the Loan Documents shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting this Agreement, the Term Loan Notes or the rights of any holder thereof, or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 13.14 Collateral. The Administrative Agent is hereby authorized by each Lender to hold all Collateral pledged pursuant to any Loan Document and to act on behalf of the Lender Group, in its own capacity and through other agents appointed by it, under the Security Documents; provided, that the Administrative Agent shall not agree to the release of any Collateral except in accordance with the terms of this Agreement. The Lender Group acknowledges that the Loan and all interest, fees and expenses hereunder constitute one Funded Debt, secured by all of the Collateral. The Administrative Agent hereby appoints each Lender as its agent (and each Lender hereby accepts such appointment) for the purpose of perfecting the Administrative Agent's Liens in assets which, in accordance with the UCC, can be perfected by possession. Should any Lender obtain possession of any such Collateral, subject to the limitations set forth in the Blocked Account Agreements, such Lender shall, promptly upon the Administrative Agent's request therefore, deliver such Collateral to the Administrative Agent or in accordance with the Administrative Agent's instructions. The Administrative Agent may purchase, in any public or private sale conducted under the provisions of the UCC (including pursuant to sections 9-610 and 9-620 of the UCC), the provisions of the Bankruptcy Code (including pursuant to section 363 of the Bankruptcy Code) or at any sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with Applicable Law, all or any portion of the Collateral. Each member of the Lender Group hereby irrevocably authorizes the Administrative Agent to Credit Bid (in an amount and on such terms as the Administrative Agent may determine) and purchase at any such sale (either directly or through one or more acquisition vehicles) all or any portion of the Collateral on behalf of and for the benefit of the Lender Group (but not as agent for any individual Lender or Lenders, unless the Majority Lenders shall otherwise agree in writing). Each Lender hereby agrees that, except with the prior written consent of the Administrative Agent, it will not exercise any right that it might otherwise have to Credit Bid at any sales of all or any portion of the Collateral conducted under the provisions of the UCC or the Bankruptcy Code, foreclosure sales or other similar dispositions of Collateral.

Section 13.15 Release of Collateral.

(a) Each Lender hereby directs, in accordance with the terms of this Agreement, the Administrative Agent to release any Lien held by the Administrative Agent for the benefit of the Lender Group:

(i) against all of the Collateral, upon final and indefeasible payment in full in cash of the Obligations and termination of the Commitment; or

(ii) against any part of the Collateral sold, transferred or disposed of by the Borrower Parties to Persons that are not Parent or any of its Subsidiaries if such sale, transfer or other disposition is permitted by Section 8.7 or is otherwise consented to by the requisite Lenders for such release as set forth in Section 10.12, as certified to the Administrative Agent by the Borrower in a certificate of an Authorized Signatory of the Borrower.

(b) Each Lender hereby directs the Administrative Agent to execute and deliver or file or authorize the filing of such termination and partial release statements and do such other things as are necessary to release Liens to be released pursuant to this Section 13.15 promptly upon the effectiveness of any such release. Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Administrative Agent's authority to release particular types or items of Collateral pursuant to this Section 13.15.

(c) Each Lender hereby directs, in accordance with the terms of this Agreement, the Administrative Agent to release any Subsidiary of the Borrower from its guaranty of any Obligation if all of the Equity Interests of such Subsidiary owned by a Borrower Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent), to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty the Obligations pursuant to Section 6.20.

Section 13.16 Additional Agents. None of the Lenders or other entities identified on the facing page of this Agreement as a "Lead Arranger", "Co-Syndication Agents", or "Documentation Agent" shall have any right, power, obligation, liability, responsibility or duty under this Agreement or any other Loan Document other than those applicable to all Lenders as such if such entity is also a Lender. Without limiting the foregoing, none of the Lenders or other entities so identified shall have or be deemed to have any fiduciary relationship with any other Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other entities so identified in deciding to enter into this Agreement or any other Loan Document or in taking or not taking action hereunder or thereunder.

[Signature pages omitted]

~~***[Remainder of page intentionally blank.]***~~

Exhibit 10.2

AMENDMENT NO. 12 TO CREDIT AGREEMENT

This AMENDMENT NO. 12 TO CREDIT AGREEMENT (this "Amendment") is entered into as of May 19, 2020 by and among FLUENT, INC., a Delaware corporation, as parent (the "Parent"), FLUENT, LLC, a Delaware limited liability company (the "Borrower"), the other borrower parties party hereto (together with the Parent and the Borrower, the "Borrower Parties"), WHITEHORSE FINANCE, INC., as the Administrative Agent (in such capacity, together with its successors and assigns, the "Administrative Agent"), and the lenders party hereto (collectively, the "Lenders"). Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Amended Credit Agreement (as defined below).

RECITALS

A. The Borrower, the Parent, the Administrative Agent and the Lenders, together with the persons party thereto from time to time as Guarantors, are party to that certain Credit Agreement, dated as of December 8, 2015, as amended by that certain Limited Consent and Amendment No. 1 to Credit Agreement, dated as of June 8, 2016, that certain Limited Consent and Amendment No. 2 to Credit Agreement, dated as of September 30, 2016, that certain Amendment No. 3 to Credit Agreement, dated as of January 19, 2017, that certain Amendment No. 4 to Credit Agreement, dated as of August 7, 2017, that certain Amendment No. 5 to Credit Agreement, dated as of November 3, 2017, that certain Limited Consent and Amendment No. 6 to Credit Agreement, dated as of March 26, 2018, that certain Amendment No. 7 to Credit Agreement, dated as of September 10, 2018, that certain Amendment No. 8 to Credit Agreement, dated as of October 12, 2018, that certain Limited Consent and Waiver to Credit Agreement, dated as of June 17, 2019, that certain Amendment No. 9 to Credit Agreement, dated as of November 8, 2019, that certain Amendment No. 10 to Credit Agreement, dated as of November 19, 2019, and that certain Limited Consent and Amendment No. 11 to Credit Agreement, dated as of April 1, 2020 (the "Credit Agreement" and, as amended by this Amendment, the "Amended Credit Agreement").

B. The Borrower Parties have requested that the Majority Lenders and the Administrative Agent, and the Majority Lenders and the Administrative Agent have agreed to, amend certain provisions of the Credit Agreement, in each case on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the terms, covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Amendments to Credit Agreement. Subject to the conditions set forth below, and in reliance on the representations, warranties, covenants and other agreements contained herein, the Administrative Agent and the Lenders party hereto (together, the "Lender Parties") hereby agree that:

(a) The definition of Permitted Liens in Section 1.1 of the Credit Agreement is hereby amended by (i) deleting the word "and" at the end of clause (p) thereof, (ii) replacing the period at the end of clause (q) thereof with "; and" and (iii) adding a new clause (r) as follows:

(r) Liens on insurance policies and the proceeds thereof securing Funded Debt permitted to be incurred pursuant to Section 8.1(q).

(b) Section 8.1 of the Loan Agreement is hereby amended by (i) deleting the word "and" at the end of clause (o) thereof, (ii) replacing the period at the end of clause (p) thereof with "; and" and (iii) adding a new clause (q) as follows:

(q) Funded Debt incurred in the ordinary course of business to finance insurance premiums.

SECTION 2. [Reserved].

SECTION 3. [Reserved].

SECTION 4. [Reserved].

SECTION 5. Representations and Warranties of the Borrower Parties. The Borrower Parties represent and warrant that:

(a) The Borrower Parties have the power and have taken all necessary action, corporate or otherwise, to authorize them to execute, deliver, and perform their respective obligations under this Amendment, the Amended Credit Agreement and all Loan Documents executed in connection herewith (collectively, the "Amendment Documents") in accordance with the terms hereof and thereof and to consummate the transactions contemplated hereby and thereby.

(b) The Amendment Documents have been duly executed and delivered by the Borrower Parties, and each is a legal, valid and binding obligation of the Borrower Parties, enforceable in accordance with its terms except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditor's rights generally or by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(c) All of the representations and warranties of the Borrower Parties under the Amendment Documents and the other Loan Documents are true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) as of the date hereof, except for such representations and warranties made as of a specific date, which are true and correct in all material respects (without duplication of any materiality qualifier contained herein or therein, as applicable) as of such date, and there exists no Default or Event of Default, in each case after giving effect to this Amendment.

(d) The execution, delivery, and performance of the Amendment Documents in accordance with their respective terms by the Borrower Parties and the consummation of the transactions contemplated hereby, and the performance of the Amendment Documents by the Borrower Parties, do not and will not (i) violate any Applicable Law in any material respect, (ii) conflict with, result in a breach of or constitute a default under the certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents of any Borrower Party or under any Material Contract, or (iii) result in or require the creation or imposition of any Lien upon or with any assets or property of any Borrower Party except Permitted Liens. Additionally, each Borrower Party and each Subsidiary of a Borrower Party is otherwise in compliance, in all material respects, with all Applicable Laws and with all of the provisions of its certificate of incorporation or formation, by-laws, partnership agreement, operating agreement or other governing documents.

SECTION 6. **Effectiveness**. This Amendment shall be effective at the time that each of the conditions precedent set forth in this Section 6 shall have been met (such date, the "Eleventh Amendment Effective Date"):

(a) Amendment. The Administrative Agent shall have received duly executed counterparts of this Amendment signed by the Borrower Parties and Lenders constituting the Majority Lenders.

(b) Representations and Warranties. The representations and warranties contained herein shall be true, correct and complete.

(c) No Default or Event of Default. No Default or Event of Default shall exist or would result after giving effect to this Amendment.

(d) Payment of Fees and Expenses. The Borrower Parties shall have paid all reasonable and documented out-of-pocket fees and expenses of the Administrative Agent and its professional advisors (including, without limitation, Latham & Watkins LLP) due and payable pursuant to Section 10.2 of the Amended Credit Agreement.

SECTION 7. **Reference to and Effect upon the Loan Documents**.

(a) Except as expressly modified hereby, all terms, conditions, covenants, representations and warranties contained in the Amended Credit Agreement and the other Loan Documents, and all rights of the Lender Parties and all of the Obligations, shall remain in full force and effect. Each of the Borrower Parties hereby confirms that the Amended Credit Agreement and the other Loan Documents are in full force and effect and that, as of the date hereof, no Borrower Party has any right of setoff, recoupment or other offset or any defense, claim or counterclaim with respect to any of the Obligations, the Amended Credit Agreement or any other Loan Document.

(b) Except as expressly provided herein, the execution, delivery and effectiveness of this Amendment shall not directly or indirectly (i) constitute a consent or waiver of any past, present or future violations of any provisions of the Amended Credit Agreement, this Amendment or any other Loan Document or (ii) amend, modify or operate as a waiver of any provision of the Amended Credit Agreement or any other Loan Documents or any right, power or remedy of any Lender Party.

(c) From and after the date hereof, (i) the term "Agreement" in the Amended Credit Agreement, and all references to the Credit Agreement in any Loan Document, shall mean the Amended Credit Agreement and (ii) the term "Loan Documents" in the Amended Credit Agreement and the other Loan Documents shall include, without limitation, this Amendment and any agreements, instruments and other documents executed and/or delivered in connection herewith.

(d) Neither the Administrative Agent nor any other Lender Party has waived, is by this Amendment waiving or has any intention of waiving (regardless of any delay in exercising such rights and remedies) any Default or Event of Default which may be continuing on the date hereof or any Default or Event of Default which may occur after the date hereof, and no Lender Party has agreed to forbear with respect to any of its rights or remedies concerning any Defaults or Events of Default, which may have occurred or are continuing as of the date hereof, or which may occur after the date hereof.

(e) This Amendment shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of the Amended Credit Agreement or any other Loan Document.

SECTION 8. General Release; Indemnity; Covenant Not To Sue.

(a) In consideration of, among other things, the execution and delivery of this Amendment by the Administrative Agent and Lenders signatory hereto, the Borrower Parties, on behalf of themselves and their respective agents, representatives, officers, directors, advisors, employees, subsidiaries, affiliates, successors and assigns (collectively, "Releasors"), hereby forever waive, release and discharge, to the fullest extent permitted by law, each Releasee (as hereinafter defined) from any and all claims (including, without limitation, crossclaims, counterclaims, rights of set-off and recoupment), actions, causes of action, suits, debts, accounts, interests, liens, promises, warranties, damages and consequential damages, demands, agreements, bonds, bills, specialties, covenants, controversies, variances, trespasses, judgments, executions, costs, expenses or claims whatsoever (collectively, the "Claims") that such Releasor now has or hereafter may have, of whatsoever nature and kind, whether known or unknown, whether now existing or hereafter arising, whether arising at law or in equity, against any or all members of the Lender Group, any of the foregoing parties in any other capacity and each of their respective affiliates, subsidiaries, shareholders and "controlling persons" (within the meaning of the federal securities laws), and their respective successors and assigns and each and all of the officers, directors, employees, agents, attorneys and other representatives of each of the foregoing (collectively, the "Releasees"), in each case based in whole or in part on facts, whether or not now known, existing on or before the date hereof, in each case that relate to, arise out of or otherwise are in connection with: (i) any or all of the Loan Documents or transactions contemplated thereby or any actions or omissions in connection therewith, (ii) any aspect of the dealings or relationships between or among the Borrower and the other Borrower Parties, on the one hand, and any or all members of the Lender Group, on the other hand, relating to any or all of the documents, transactions, actions or omissions referenced in clause (i) hereof, or (iii) any aspect of the dealings or relationships between or among any or all of the equity holders of the Borrower Parties, on the one hand, and the members of the Lender Group, on the other hand, but only to the extent such dealings or relationships relate to any or all of the documents, transactions, actions or omissions referenced in clause (i) hereof. The receipt by the Borrower or any other Borrower Party of any Loans or other advances made by any member of the Lender Group after the date hereof shall constitute a ratification, adoption and confirmation by such party of the foregoing general release of all Claims against the Releasees which are based in whole or in part on facts, whether or not now known or unknown, existing on or prior to the date of receipt by the Borrower or any other Borrower Party of any such Loans or other advances.

(b) The Borrower hereby agrees that it shall be obligated to indemnify and hold the Releasees harmless with respect to any and all liabilities, obligations, losses, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever incurred by the Releasees, or any of them, whether direct, indirect or consequential, arising from or in connection with the negotiation, preparation, execution, delivery, performance, administration and enforcement of the Amended Credit Agreement, the other Loan Documents, this Amendment or any other document executed and/or delivered in connection herewith or therewith; provided that the Borrower shall have no obligation to indemnify or hold harmless any Releasee hereunder with respect to liabilities to the extent they result from the gross negligence or willful misconduct of that Releasee as determined by a court of competent jurisdiction by a final and nonappealable judgment. If and to the extent that the foregoing undertaking may be unenforceable for any reason, the Borrower agrees to make the maximum contribution to the payment and satisfaction thereof which is permissible under applicable law.

(c) In entering into this Amendment, the Borrower Parties have consulted with, and have been represented by, legal counsel and expressly disclaims any reliance on any representations, acts or omissions by any of the Releasees made on or before the date hereof and hereby agree and acknowledge that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity hereof.

(d) The Borrower Parties hereby absolutely, unconditionally and irrevocably covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged pursuant to Section 8(a) hereof. If any Releasor violates the foregoing covenant, the Borrower agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and out-of-pocket expenses incurred by any Releasee as a result of such violation.

(e) The provisions of this Section 8 shall survive the termination of this Amendment, the Amended Credit Agreement, the other Loan Documents and payment in full of the Obligations.

SECTION 9. Construction. This Amendment and all other agreements and documents executed and/or delivered in connection herewith have been prepared through the joint efforts of all of the parties hereto. Neither the provisions of this Amendment or any such other agreements and documents nor any alleged ambiguity therein shall be interpreted or resolved against any party on the ground that such party or its counsel drafted this Amendment or such other agreements and documents, or based on any other rule of strict construction. Each of the parties hereto represents and declares that such party has carefully read this Amendment and all other agreements and documents executed in connection herewith, and that such party knows the contents thereof and signs the same freely and voluntarily. The parties hereto acknowledge that they have been represented by legal counsel of their own choosing in negotiations for and preparation of this Amendment and all other agreements and documents executed in connection herewith and that each of them has read the same and had their contents fully explained by such counsel and is fully aware of their contents and legal effect. If any matter is left to the decision, right, requirement, request, determination, judgment, opinion, approval, consent, waiver, satisfaction, acceptance, agreement, option or discretion of any member of the Lender Group or its employees, counsel or agents in the Amended Credit Agreement or any other Loan Documents, unless otherwise expressly set forth in the Amended Credit Agreement or such Loan Document, such action shall be deemed to be exercisable by such member of the Lender Group or such other Person in its sole and absolute discretion and according to standards established in its sole and absolute discretion. Without limiting the generality of the foregoing, "option" and "discretion" shall be implied by the use of the words "if" and "may."

SECTION 10. **Costs and Expenses**. As provided in Section 10.2 of the Amended Credit Agreement, the Borrower Parties agree to reimburse the Administrative Agent for all reasonable and documented out-of-pocket costs and expenses, including the reasonable fees and disbursements of counsel, incurred by the Administrative Agent in connection with this Amendment.

SECTION 11. **Governing Law**. All matters arising out of, in connection with or relating to this Amendment, including, without limitation, its validity, interpretation, construction, performance and enforcement (including, without limitation, any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest), shall be construed in accordance with and governed by the laws of the State of New York.

SECTION 12. **Consent to Jurisdiction**. FOR PURPOSES OF ANY LEGAL ACTION OR PROCEEDING BROUGHT BY ANY MEMBER OF THE LENDER GROUP WITH RESPECT TO THIS AMENDMENT, EACH BORROWER PARTY HEREBY IRREVOCABLY SUBMITS TO THE PERSONAL JURISDICTION OF THE FEDERAL AND STATE COURTS SITTING IN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND HEREBY IRREVOCABLY DESIGNATES AND APPOINTS, AS ITS AUTHORIZED AGENT FOR SERVICE OF PROCESS IN THE STATE OF NEW YORK, THE BORROWER, OR SUCH OTHER PERSON AS SUCH BORROWER PARTY SHALL DESIGNATE HEREAFTER BY WRITTEN NOTICE GIVEN TO THE ADMINISTRATIVE AGENT. THE CONSENT TO JURISDICTION HEREIN SHALL BE EXCLUSIVE; PROVIDED THAT THE LENDER GROUP, OR ANY OF THEM, RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY BORROWER PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY SECURITY DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT. THE LENDER GROUP SHALL FOR ALL PURPOSES AUTOMATICALLY, AND WITHOUT ANY ACT ON THEIR PART, BE ENTITLED TO TREAT SUCH DESIGNEE OF EACH BORROWER PARTY AS THE AUTHORIZED AGENT TO RECEIVE FOR AND ON BEHALF OF SUCH BORROWER PARTY SERVICE OF WRITS, OR SUMMONS OR OTHER LEGAL PROCESS IN THE STATE OF NEW YORK, WHICH SERVICE SHALL BE DEEMED EFFECTIVE PERSONAL SERVICE ON SUCH BORROWER PARTY SERVED WHEN DELIVERED, WHETHER OR NOT SUCH AGENT GIVES NOTICE TO SUCH BORROWER PARTY; AND DELIVERY OF SUCH SERVICE TO ITS AUTHORIZED AGENT SHALL BE DEEMED TO BE MADE WHEN PERSONALLY DELIVERED OR THREE (3) BUSINESS DAYS AFTER MAILING BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH AUTHORIZED AGENT. EACH BORROWER PARTY FURTHER IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL TO SUCH BORROWER PARTY AT THE ADDRESS SET FORTH IN THE AMENDED CREDIT AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE THREE (3) BUSINESS DAYS AFTER SUCH MAILING. IN THE EVENT THAT, FOR ANY REASON, SUCH AGENT OR ITS SUCCESSORS SHALL NO LONGER SERVE AS AGENT OF EACH BORROWER PARTY TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK, EACH BORROWER PARTY SHALL SERVE AND ADVISE THE ADMINISTRATIVE AGENT THEREOF SO THAT AT ALL TIMES EACH BORROWER PARTY WILL MAINTAIN AN AGENT TO RECEIVE SERVICE OF PROCESS IN THE STATE OF NEW YORK ON BEHALF OF SUCH BORROWER PARTY WITH RESPECT TO THIS AMENDMENT AND ALL OTHER LOAN DOCUMENTS. IN THE EVENT THAT, FOR ANY REASON, SERVICE OF LEGAL PROCESS CANNOT BE MADE IN THE MANNER DESCRIBED ABOVE, SUCH SERVICE MAY BE MADE IN SUCH MANNER AS PERMITTED BY LAW.

SECTION 13. **Consent to Venue**. EACH BORROWER PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION IT WOULD MAKE NOW OR HEREAFTER FOR THE LAYING OF VENUE OF ANY SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT BROUGHT IN THE FEDERAL COURTS OF THE UNITED STATES SITTING IN NEW YORK COUNTY, NEW YORK, AND HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION, OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

SECTION 14. **Waiver of Jury Trial**. EACH BORROWER PARTY, THE ADMINISTRATIVE AGENT AND EACH LENDER PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WAIVES, AND OTHERWISE AGREES NOT TO REQUEST, A TRIAL BY JURY IN ANY COURT AND IN ANY ACTION, PROCEEDING OR COUNTERCLAIM OF ANY TYPE IN WHICH ANY BORROWER PARTY, ANY MEMBER OF THE LENDER GROUP OR ANY OF THEIR RESPECTIVE SUCCESSORS OR ASSIGNS IS A PARTY, AS TO ALL MATTERS AND THINGS ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AMENDMENT AND THE RELATIONS AMONG THE PARTIES LISTED IN THIS AMENDMENT.

SECTION 15. **Headings**. Headings used in this Amendment are for convenience only and shall not affect the interpretation of any provision hereof.

SECTION 16. **Reaffirmation**. Each Borrower Party, as debtor, grantor, mortgagor, pledgor, guarantor, assignor, or in other similar capacities in which such Borrower Party grants liens or security interests in its properties or otherwise acts as accommodation party, guarantor or indemnitor, as the case may be, in any case under the Loan Documents, hereby (i) acknowledges, ratifies and confirms that all Obligations constitute valid and existing "Obligations" under the Amended Credit Agreement, and (ii) ratifies and confirms that (x) any and all Loan Documents to which it is a party and (y) all of its respective payment and performance obligations, contingent or otherwise, and all of its guarantees, pledges, grants of security interests and other similar rights or obligations, as applicable, under each of the Loan Documents to which it is party, remain in full force and effect notwithstanding the effectiveness of this Amendment to secure all of the Obligations arising under or pursuant to and as defined in the Amended Credit Agreement. Without limiting the generality of the foregoing, each Credit Party further agrees (A) that any reference to "Obligations" contained in any Loan Documents shall include, without limitation, the "Obligations" as such term is defined in the Amended Credit Agreement and (B) that the related guarantees and grants of security contained in such Loan Documents shall include and extend to such Obligations.

SECTION 17. **Severability**. Any provision of this Amendment which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 18. **Counterparts**. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same agreement. In proving this Amendment or any other Loan Document in any judicial proceedings, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom such enforcement is sought. Any signatures hereto delivered by Electronic Transmission shall be deemed an original signature hereto.

SECTION 19. **Assignments; No Third Party Beneficiaries**. This Amendment shall be binding upon and inure to the benefit of the Borrower, the other Borrower Parties, each member of the Lender Group and their respective successors and assigns; provided that the Borrower shall be entitled to delegate any of its duties hereunder or assign any of its rights or remedies set forth in this Amendment without the prior written consent of Administrative Agent in its sole discretion. No Person other than the Borrower, the other Borrower Parties and the Lender Group and, in the case of Section 8 hereof, the Releasees, shall have any rights hereunder or be entitled to rely on this Amendment and all third-party beneficiary rights (other than the rights of the Releasees under Section 8 hereof) are hereby expressly disclaimed.

[Signature pages to follow]

IN WITNESS WHEREOF, each of the undersigned has caused this Amendment to be duly executed and delivered as of the date first above written.

BORROWER PARTIES:

FLUENT, LLC,
as the Borrower

By: /s/ Ryan

Name: Ryan

Title: CEO

FLUENT, INC.,
as the Parent

By: /s/ Ryan

Name: Ryan

Title: CEO

Schulke

Schulke

PRIZE CENTER LLC

TECHNOLOGY LLC

JOBS, LLC

MEDIA LABS, LLC

ZONE USA LLC

LLC

SAVINGS, LLC

WORKS MEDIA, LLC

SAVINGS LLC

LLC

MEDIA, LLC

MEDIA, LLC

LLC

JOBS, LLC

STUDIOS, LLC

LLC

LLC

VENTURES, LLC

LLC,

Subsidiary Guarantor

AMERICAN

DELIVER

FIND DREAM

FLUENT

REWARD

REWARDSFLOW

SAMPLES &

SEARCH

SEA OF

EASE WINS,

MAIN SOURCE

BIG PUSH

HVGUS, LLC

INBOX PAL,

HUNT FOR

VESEY

CLICKGEN,

NETCREATIONS,

BXY

ADPARLOR,

each as a

By: /s/ Ryan

Name: Ryan

Title: CEO

Schulke

Schulke

FINANCE, INC.,

Administrative Agent

Thomas_____

Thomas

Signatory

WHITEHORSE

as

By: __/s/ Joyson

Name: Joyson

Title: Authorized

WHITEHORSE TRINITY CREDIT, LLC,

Richard Siegel_____

Siegel

Signatory

H.I.G.

as a Lender

By: __/s/

Name: Richard

Title: Authorized

FINANCE CREDIT I, LLC,

Thomas_____

Thomas

Signatory

WHITEHORSE

as a Lender

By: __/s/ Joyson

Name: Joyson

Title: Authorized

CAPITAL HYS PRIVATE DEBT FUND L.P,

Richard Siegel_____

Siegel

Signatory

SWISS

as a Lender

By: __/s/

Name: Richard

Title: Authorized

ONSHORE CREDIT OPPORTUNITIES I SPV, LLC,

Richard Siegel_____

Siegel

Signatory

WHITEHORSE

as a Lender

By: __/s/

Name: Richard

Title: Authorized

OFFSHORE CREDIT OPPORTUNITIES I, LLC,

Richard Siegel_____

Siegel

Signatory

WHITEHORSE SMA, L.P.,

Richard Siegel_____

Siegel

Signatory

WHITEHORSE

as a Lender

By: __/s/

Name: Richard

Title: Authorized

H.I.G.

as a Lender

By: __/s/

Name: Richard

Title: Authorized

Exhibit 31.1

CERTIFICATIONS

I, Ryan Schulke, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q of Fluent, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

August 10, 2020

By: /s/ Ryan Schulke
Ryan Schulke
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATIONS

I, Alex Mandel, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q of Fluent, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

August 10, 2020

By: /s/ Alex Mandel
Alex Mandel
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT
TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the accompanying Quarterly Report on Form 10-Q of Fluent, Inc. for the quarter ended June 30, 2020 (the "Report"), the undersigned hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge and belief, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Fluent, Inc.

August 10, 2020

By: /s/ Ryan Schulke
Ryan Schulke
Chief Executive Officer
(Principal Executive Officer)

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of Fluent, Inc. or the certifying officers.

Exhibit 32.2

CERTIFICATION PURSUANT
TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the accompanying Quarterly Report on Form 10-Q of Fluent, Inc. for the quarter ended June 30, 2020 (the "Report"), the undersigned hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge and belief, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Fluent, Inc.

August 10, 2020

By: /s/ Alex Mandel
Alex Mandel
Chief Financial Officer
(Principal Financial and Accounting Officer)

The certification set forth above is being furnished as an Exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Report or as a separate disclosure document of Fluent, Inc. or the certifying officers.